



IN THE CIRCUIT COURT OF JEFFERSON COUNTY, ALABAMA

CITY OF BIRMINGHAM, a municipal corporation,)
)

Plaintiff)

v.)

CIVIL ACTION NO:

ARGENT MORTGAGE COMPANY, L.L.C.;)
COUNTRYWIDE MORTGAGE VENTURES, L.L.C.;)
COUNTRYWIDE KB HOME LOANS;)
COUNTRYWIDE FINANCIAL CORPORATION;)
WELLS FARGO FINANCIAL ALABAMA,)
INC.; WELLS FARGO BANK, N.A.; REGIONS)
BANK; REGIONS FINANCIAL CORPORATION;)
REGIONS MORTGAGE, INC.; FICTITIOUS)
DEFENDANT NUMBER ONE (1))

whether singular or plural, that entity or those entities, that)
person or those persons who or which were in the business of)
providing loan products in a manner creating the basis of this)
suit; **FICTITIOUS DEFENDANT NUMBER TWO (2)** whether)
singular or plural, that entity or those entities, that person or)
those persons who or which had the duty to supervise the)
person or persons who were in the business of providing loan)
products in a manner creating the basis of this suit;)
FICTITIOUS DEFENDANT NUMBER THREE (3) whether)
singular or plural, that entity or those entities who or which)
were the parent company and/or managing company having)
the right to and did control the methods and manner in)
which the business was transacted and as such had the right)
to and did control the method and manner in which loan)
products were provided creating the basis of this suit;)
FICTITIOUS DEFENDANT NUMBER FOUR (4) \whether)
singular or plural, plaintiff hereby intending to designate that)
entity or those entities other than those entities described above,)
whose conduct contributed to cause the occurrence made the)
basis of this lawsuit; **FICTITIOUS DEFENDANT NUMBER**)
FIVE (5) whether singular or plural, that entity or those)
entities, that person or those persons who or which offered)
loan products on subprime terms to individuals qualifying)
for prime rates; **FICTITIOUS DEFENDANT NUMBER SIX (6)**)
whether singular or plural, plaintiff hereby intending to)
designate that entity or those entities other than those entities)
described above which was the predecessor corporation of any)
of the entities described above; **FICTITIOUS DEFENDANT**)

NUMBER SEVEN (7) whether singular or plural, that entity)
 or those entities who or which afforded any insurance)
 coverage to any of the entities who's conduct made the basis)
 of this lawsuit; **FICTITIOUS DEFENDANT NUMBER**)
EIGHT (8) whether singular or plural, that entity or those)
 entities who or which provided financial research or data to)
 the named entities and related to the conduct forming the basis)
 of this lawsuit; **FICTITIOUS DEFENDANT NUMBER NINE**)
(9) whether singular or plural, that entity or those entities who)
 or which negligently hired or trained individuals entrusted)
 with providing loan products in an ethical and proper)
 manner; **FICTITIOUS DEFENDANT NUMBER TEN (10)**)
 whether singular or plural, that entity or those entities other)
 than those entities described above, which is the successor in)
 interest of any of those entities described above; **FICTITIOUS**)
DEFENDANT NUMBER ELEVEN (11) whether singular or)
 plural, that entity or those entities other than those entities)
 described above, which was the predecessor corporation of)
 any of the entities described above. Plaintiff avers that the)
 identities of the fictitious parties defendant is otherwise)
 unknown to plaintiff at this time, or if their names are known)
 to plaintiff at this time their identities as proper parties)
 defendant is not known to plaintiff at this time, but their true)
 names will be substituted by amendment when ascertained,)
)
)
Defendants,)

COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF AND DAMAGES

NATURE OF THE ACTION

1. The City of Birmingham ("City" and/or "Birmingham") is facing an unprecedented crisis of residential mortgage foreclosures. The foreclosure crisis has caused severe economic damage to the City. The high rate of foreclosures has resulted in lost revenue in property taxes; additional costs in social services and police and fire protection; and significant administrative and legal costs.

2. In Birmingham, the foreclosure crisis has hit African-American neighborhoods and homeowners the hardest. Foreclosure rates are significantly higher in Birmingham's minority neighborhoods, due in large part to the practice of "reverse

redlining." In contrast to "redlining," which involves denying *prime* credit to specific geographic areas because of the racial or ethnic composition of the area, reverse redlining involves the targeting of an area for the marketing of deceptive, predatory or otherwise unfair lending practices because of the race or ethnicity of the area's residents. Reverse redlining has repeatedly been held to violate the federal Fair Housing Act.

3. Defendants are some of the largest mortgage lenders dominating the Birmingham market. Together, they represent the leading causes of the disproportionately high rate of foreclosures in Birmingham's African-American neighborhoods through their general practices of issuing subprime loans where prime loans could have been issued to qualified applicants.

4. Defendants' disproportionately high foreclosure rate in Birmingham's African-American neighborhoods is the result of reverse redlining. These lenders have been, and continue to be, engaged in a pattern or practice of unfair, deceptive and discriminatory lending activity in Birmingham's minority neighborhoods that have the effect and purpose of placing inexperienced and underserved borrowers in loans they cannot afford. These practices maximize short-term profit to the Defendants without regard to the borrower's best interest, the borrower's ability to repay, or the financial health of underserved minority neighborhoods.

5. Defendants' lending practices, targeted in this manner at Birmingham's underserved and vulnerable minority neighborhoods, have resulted in the disproportionately high rate of foreclosure in Birmingham's African-American communities, caused substantial and irreparable damage to these neighborhoods, and caused direct and continuing financial harm to the City of Birmingham.

6. This suit is brought pursuant to the Fair Housing Act of 1968, as amended, 42

U.S.C. §§ 3601 *et seq.*, by the City of Birmingham to seek redress for the injuries and damages caused by Defendants' pattern or practice of illegal reverse redlining. Specifically, Birmingham seeks to recover damages for the injuries caused by the foreclosures in the City's minority neighborhoods as a result of the unlawful, irresponsible, unfair, deceptive, and discriminatory lending practices of these Defendants, and to obtain injunctive and declaratory relief. Absent judicial relief, the extent of the City's injuries and damages resulting from Defendants' actions will continue - and potentially accelerate - as the housing market continues to decline.

PARTIES

7. The City of Birmingham, is a municipal corporation, which is organized pursuant to the laws of the State of Alabama.

8. Defendant **Argent Mortgage Company, L.L.C** is organized as a national banking association under the laws of the United States. Upon information and belief, its regional headquarters are located in Atlanta, Georgia. Argent maintains multiple home mortgage offices in the State of Alabama and in Birmingham for the purposes of soliciting applications for and making residential mortgage loans and engaging in other business activities.

9. Defendant **Countrywide Mortgage Ventures, L.L.C.**, as a part of Countrywide Financial Corporation, is organized as a national banking association under the laws of the United States. Upon information and belief, its corporate headquarters are located in California. Countrywide maintains home mortgage offices in the State of Alabama and in Birmingham for the purposes of soliciting applications for and making residential mortgage loans and engaging in other business activities.

10. Defendant **Countrywide KB Home Loans**, as a part of Countrywide

Financial Corporation, is organized as a national banking association under the laws of the United States. Upon information and belief, its corporate headquarters are located in California. Countrywide maintains home mortgage offices in the State of Alabama and in Birmingham for the purposes of soliciting applications for and making residential mortgage loans and engaging in other business activities.

11. Defendant **Countrywide Financial Corporation** is organized as a national banking association under the laws of the United States. Upon information and belief, its corporate headquarters are located in California. Countrywide maintains home mortgage offices in the State of Alabama and in Birmingham for the purposes of soliciting applications for and making residential mortgage loans and engaging in other business activities.

12. Defendant **Wells Fargo Financial Alabama, Inc.**, is associated with Wells Fargo Bank N.A. and Wells Fargo Financial Leasing, and is organized as a national banking association under the laws of the United States. Upon information and belief, its principal place of business is Montgomery, Alabama.

13. Defendant **Wells Fargo Bank, N.A.** is organized as a national banking association under the laws of the United States. Upon information and belief, its corporate headquarters are located in California. Wells Fargo Bank, N.A. maintains multiple home mortgage offices in the State of Alabama and in Birmingham for the purposes of soliciting applications for and making residential mortgage loans and engaging in other business activities.

14. Defendant **Regions Bank** is organized as a national banking association under the laws of the State of Alabama. Upon information and belief, its corporation headquarters are located in Alabama. Regions Bank maintains

multiple home mortgage offices in the State of Alabama and in Birmingham for the purposes of soliciting applications for and making residential mortgage loans and engaging in other business activities.

15. Defendant **Regions Financial Corporation** is organized as a national banking association under the laws of the State of Alabama. Upon information and belief, its corporation headquarters are located in Alabama. Regions Financial Corporation maintains multiple home mortgage offices in the State of Alabama and in Birmingham for the purposes of soliciting applications for and making residential mortgage loans and engaging in other business activities.

16. Defendant **Regions Mortgage, Inc.** is organized as a national banking association under the laws of the State of Alabama. Upon information and belief, its corporation headquarters are located in Alabama. Regions Mortgage, Inc. maintains multiple home mortgage offices in the State of Alabama and in Birmingham for the purposes of soliciting applications for and making residential mortgage loans and engaging in other business activities.

17. Fictitious Defendants One (1) through Eleven (11) are those persons, corporations or other entities named or described in the style of this action.

18. All Defendants have and continue to make loans, and solicit for loans, in Birmingham at a comparable pace.

19. Each Defendant, in acting or omitting to act as alleged in this Complaint, was acting in the course and scope of its actual and/or apparent authority pursuant to its agents and representative , and/or the alleged acts or omissions of each Defendant as agent were subsequently ratified and adopted by each agent as principal.

JURISDICTION AND VENUE

20. This Court has jurisdiction over this matter pursuant to 42 U.S.C. § 3613(a)(1)(A) which provides that an aggrieved person may commence suit pursuant to a violation of the Fair Housing Act within two (2) years of the violation and in either a U.S. District Court or a State Court of general jurisdiction. In Alabama, general jurisdiction falls to the appropriate Circuit Court where the amount in controversy exceeds \$10,000.

21. Venue is proper in the Circuit Court of Jefferson County under Alabama Code § 6-3-7 (1975) because each Defendant conducts business in this county and Jefferson County is the location where a substantial number of the matters and events occurred that give rise to this action.

FACTUAL BACKGROUND

A. The Foreclosure Crisis and Birmingham

22. Like many cities across the country, Birmingham is facing an unprecedented crisis of residential mortgage foreclosures. Of the 44 million active mortgages throughout the country currently tracked by the Mortgage Bankers Association ("MBA"), approximately 343,000 entered foreclosure during the third quarter of 2007. This is the highest rate of foreclosures in more than 35 years. Overall, nearly 450,000 properties tracked by the MBA were in some stage of foreclosure during the third quarter of 2007, up 30% from the second quarter.

23. Nationwide, the foreclosure crisis is worsening rapidly and is expected to deteriorate further. The number of foreclosure filings nearly doubled from the third quarter of 2006 to the third quarter of 2007. One out of every seventeen mortgage holders is no longer able to make payments on time, the highest rate in over twenty years. Delinquent payments are a strong indicator of near-term foreclosure filings. Equally

important, approximately 150,000 adjustable rate loans are resetting to higher interest rates every month. In 2008, \$362 billion in subprime loans will reset to higher rates. As the housing market continues to decline, many of these adjustments will result in foreclosures. The Joint Economic Committee of Congress predicts that from 2007 to 2009 there could be nearly 2 million foreclosures nationwide on homes purchased with subprime loans.

24. Foreclosures have multiple and far-reaching impacts on the cities in which they occur, especially when they are concentrated in distressed neighborhoods that are already struggling with issues of economic development and poverty. Foreclosures in these neighborhoods frequently lead to abandoned and vacant homes. Concentrated vacancies driven by foreclosures cause neighborhoods, especially ones already struggling, to decline rapidly.

25. One example of how foreclosures and consequent vacancies harm neighborhoods is by reducing the property values of nearby homes. In Birmingham, as in cities around the country, foreclosures are responsible for the loss of hundreds of millions of dollars in the value of homes. As a result, the City's revenues from property taxes are greatly reduced. Foreclosures in the City make it harder for the City to borrow funds because the value of the property tax base, used to qualify for loans, is severely impaired.

26. Cities with high rates of foreclosure, like Birmingham, also lose revenue from real estate transfer taxes because foreclosures depress the market for home sales. These cities, including Birmingham, must spend additional funds for services related to foreclosures, including the costs of securing vacant homes, holding administrative hearings, and conducting other administrative and legal procedures. The funds expended by these cities, including Birmingham, also include the costs of providing additional police

and fire protection as vacant properties become centers of dangerous and illicit activities.

B. The Role of Sub prime Lending

27. The growing crisis of foreclosures in Birmingham and in cities across the nation is due in large part to the rapid expansion of subprime lending. Subprime lending developed in the mid-1990s as a result of innovations in risk-based pricing and in response to the demand for credit by borrowers who were denied prime credit by traditional lenders.

28. Prior to the emergence of subprime lending, most mortgage lenders made only "prime" loans. Prime lending offered uniformly priced loans to borrowers with good credit. Individuals with blemished credit were not eligible for prime loans. Although borrowers with blemished credit might still represent a good mortgage risk at the right price, prime lending did not provide the necessary flexibility in price or loan terms to serve these borrowers.

29. In the early 1990s, technological advances in automated underwriting allowed lenders to predict with improved accuracy the likelihood that a borrower with blemished credit will successfully repay a loan. This gave lenders the ability to adjust the price of loans to match the different risks presented by borrowers whose credit records did not meet prime standards. Lenders found that they could now accurately price loans to reflect the risks presented by a particular borrower. When done responsibly, this made credit available much more broadly than had been the case with prime lending.

30. As the technology of risk-based pricing developed rapidly in the 1990s, so did the market in subprime mortgages. Subprime loans accounted for only 10% of mortgage loans in 1998, but within five years grew to 23% of the market. Currently, outstanding subprime mortgage debt stands at \$1.3 trillion, up from \$65 billion in 1995

and \$332 billion in 2003. These subprime loans have allowed millions of borrowers to obtain mortgages, at marginally increased prices, even though their credit profiles do not qualify them for lower-cost prime loans. They have opened the door to homeownership to many people, especially low- to moderate-income and minority consumers, who otherwise would have been denied mortgages. At the same time, subprime lending has created opportunities for unscrupulous lenders to engage in irresponsible lending practices that result in loans that borrowers cannot afford. This, in turn, has led directly to defaults and foreclosures.

31. Enticed by the prospect of short-term profits resulting from exorbitant origination fees, points, and related pricing schemes, many irresponsible subprime lenders, including these defendants, took advantage of a rapidly rising real estate market to convince borrowers to enter into loans that they could not afford. Often this was accomplished with the help of deceptive practices and promises to refinance at a later date. These abusive subprime lenders did not worry about the consequences of default or foreclosure to their business because once made, the loans were sold on the secondary market.

32. As the subprime market grew, the opportunities for abusive practices grew with it. These practices, which in recent years have become the target of prosecutors, legislators and regulators, include the following:

- a. Failing to prudently underwrite hybrid adjustable rate mortgages (ARMs), such as 2/28s and 3/27s. After the borrower pays a low "teaser rate" for the first two or three years, the interest rate on these loans resets to a much higher rate that can continue to rise based on market conditions. Subprime lenders often underwrite these loans based only on

consideration of whether the borrower can make payments during the initial teaser rate period, without regard to the sharply higher payments that will be required for the remainder of a loan's 30-year term. Irresponsible lenders aggressively market the low monthly payment that the borrower will pay during the teaser rate period, misleading borrowers into believing that they can afford that same low monthly payment for the entire 30-year term of the loan, or that they can refinance their loan before the teaser rate period expires.

b. Failing to prudently underwrite refinance loans, where borrowers substitute unaffordable mortgage loans for existing mortgages that they are well-suited for and that allow them to build equity. Such refinanced loans strip much or even all of that equity by charging substantial new fees, often hiding the fact that the high settlement costs of the new loan are also being financed. Lenders that aggressively market the ability of the borrower to pay off existing credit card and other debts by refinancing mislead borrowers into believing that there is a benefit to consolidating all of their debt into one mortgage loan, obscuring the predictable fact that that the borrower will not be able to repay the new loan. The refinanced loans are themselves often refinanced repeatedly with ever-increasing fees and higher interest rates, and with ever-decreasing equity, as borrowers seek to stave off foreclosure.

c. Allowing mortgage brokers to charge "yield spread premiums" for qualifying a borrower for an interest rate that is higher than

the rate the borrower qualifies for and can actually afford.

d. Failing to underwrite loans based on traditional underwriting criteria such as debt-to-income ratio, loan-to-value ratio, FICO score, reserves, and work history. These criteria ensure that a borrower is obtaining a loan that he or she has the resources and assets to repay, and ignoring these criteria results in many loans that bear no relation to borrowers' ability to repay them. This allows the lender to make a quick profit from the origination, but sets the borrower up for default and foreclosure.

e. Requiring substantial prepayment penalties that prevent borrowers whose credit has improved from refinancing their subprime loan to a prime loan. Prepayment penalties not only preclude borrowers from refinancing to a more affordable loan, but reduce the borrowers' equity when a subprime lender convinces borrowers to needlessly refinance one subprime loan with another.

f. Charging excessive points and fees that are not associated with any increased benefits for the borrower.

33. As long as housing prices continued to rise, the deleterious effect of these practices was delayed and thus, hidden. When the real estate bubble burst earlier in 2007, foreclosure rates began their dramatic rise. Bent on maximizing short-term profits and protected by the ability to sell their loans on the secondary market, irresponsible subprime lenders have left countless homeowners saddled with mortgage debts they cannot afford and no way to save their homes in a declining housing market.

C. The Foreclosure Crisis in Birmingham Hits African-American Neighborhoods the Hardest

34. In Birmingham, the impact of the foreclosure crisis is felt most acutely in minority communities. This is because of the prevalence of the practice of "reverse redlining." As used by Congress and the courts, the term "reverse redlining" refers to the practice of targeting residents in certain geographic areas for credit on unfair terms due to the racial or ethnic composition of the area. In contrast to "redlining," which is the practice of denying *prime* credit to specific geographic areas because of the racial or ethnic composition of the area, reverse redlining involves the targeting of an area for the marketing of deceptive, predatory or otherwise deleterious lending practices because of the race or ethnicity of the area's residents. This practice has repeatedly been held by the Courts to violate the federal Fair Housing Act.

35. Reverse redlining typically flourishes in cities where two conditions are met. First, the practice afflicts cities where minorities historically have been denied access to credit and other banking services. The legacy of historic discrimination, or redlining, often leaves the residents of minority communities desperate for credit, and without the knowledge or experience required to identify loan products and lenders offering products with the most advantageous terms for which they might qualify. Instead, residents of underserved minority communities often respond favorably to the first offer of credit made, without regard to the fairness of the product. This makes them especially vulnerable to irresponsible subprime lenders who, instead of underwriting carefully to ensure that the loans they offer are appropriate for their customers, engage in the unscrupulous lending practices described in paragraph 26 above.

36. Reverse redlining arises in cities, including Birmingham, where there are racially segregated residential living patterns. This means that the people who are most

vulnerable to abusive lending practices are geographically concentrated and therefore easily targeted by lenders.

37. These conditions exist and are present in Birmingham. The City's minority communities historically have been victimized by traditional redlining practices. Through much of the twentieth century the federal government, mortgage lenders, and other private participants in the real estate industry acted to deny homeownership opportunities and choices to the City's African Americans.

38. The location of foreclosures in Birmingham is consistent with the existence of a nationwide pattern and practice of reverse redlining by lenders, including these defendants, who were providing mortgages to residents of the City.

D. Defendant Lenders Target Birmingham's African-American Neighborhoods for Improper and Irresponsible Lending Practices

39. Defendants' failure to underwrite loans in minority and underserved communities in a responsible manner has been the subject of public attention and concern for years. For example, its practice of one Defendant was the focus of a 2004 report from the Center for Responsible Lending. The report concluded that the company's customers "too often face the loss of their home or financial ruin as a result" of its "predatory practices."

40. Defendants' pattern or practice of failing to follow responsible underwriting practices in Birmingham's African-American neighborhoods is evident from the type of loans that result in foreclosure filings in those neighborhoods. There is no legitimate reason for the obvious difference in foreclosure rates by race by the defendant lenders named in this action.

41. Unlike adjustable rate loans, where the price may fluctuate with changing

market conditions, the performance of fixed rate loans is relatively easy to predict using automated underwriting models and loan performance data because monthly payments do not vary during the life of the loan. Using these sophisticated risk assessment tools, and relying on traditional underwriting criteria such as FICO scores, debt-to-income ratios, loan-to-value ratios, and cash reserves, any lender engaged in responsible underwriting practices designed to identify qualified borrowers can predict with statistical certainty the likelihood of delinquency and/or default.

42. Lenders engaged in marketing fixed rate loans in a fair and responsible manner should have no difficulty sorting out unqualified borrowers, or borrowers whose loans would likely result in delinquency, default and/or foreclosure.

43. Because the percentage of fixed rate loans is so high and the same in both African-American and white neighborhoods, Defendants should, if they utilize proper underwriting, have comparable foreclosure rates in both communities. The fact that Defendants' underwriting decisions result in foreclosures nearly four times as often in respect to African-American neighborhoods as compared to white neighborhoods, means that Defendants are not following fair or responsible underwriting practices with respect to African-American customers.

44. Upon information and belief, and as set out below, Defendants engage in these and similarly inappropriate practices when making loans to African Americans and in African-American neighborhoods. This pattern or practice of targeted activities fully explains the disparate rates of foreclosure.

45. The fact that high-cost loans involving all of Defendants' loan products are more heavily concentrated in Birmingham's African-American neighborhoods is consistent with the practice of reverse redlining and, upon information and belief, has

contributed significantly to the disproportionately high rate of foreclosures in Birmingham's African-American communities. Within the subset of high-cost loans, however, the fact that a disproportionately large percentage of Defendants' high-cost loans in African-American neighborhoods are refinance loans is particularly significant, for it is both consistent with and indicative of a deceptive and predatory subprime practice that involves encouraging minority borrowers who already have loans to refinance at excessive cost with little benefit. This increases the likelihood of foreclosure and, upon information and belief, has contributed to the disproportionately high rate of foreclosures in Birmingham's African-American communities.

46. Upon information and belief, the discriminatory pricing reflected in Defendants' pricing sheets is consistent with unfair practices associated with reverse redlining and has contributed significantly to the disproportionately large number of foreclosures found in Birmingham's African-American communities.

E. Investigation of Defendants' Pricing Practices in Other Markets Around the Country Further Demonstrates the Defendants are Targeting the African-American Community for Unfair and Improper Lending Practices

47. Discriminatory pricing observed in Defendants' loan data in Birmingham is consistent with findings drawn from data obtained in litigation brought against lenders in other areas of the country including Philadelphia, Baltimore, San Diego, and Cincinnati. An expert report produced in a pending lawsuit confirms that "African American borrowers, and borrowers residing in African American neighborhoods (i.e., census tracts), pay more than comparable non-African Americans and residents of communities in which White people predominate."

48. Upon information and belief, Defendants' pricing practices in other cities are consistent with their practices in Birmingham, and provide further evidence that these companies are engaged in a pattern and practice of unfair lending that contributes significantly to the disproportionately high rate of foreclosures found in Birmingham's African-American neighborhoods.

F. Defendants Underwrite Adjustable Rate Loans in Birmingham's African-American Neighborhoods That Borrowers Cannot Afford

49. Each Defendant frequently originates, adjustable rate mortgages to borrowers from predominantly African-American neighborhoods in Birmingham. Approximately thirty percent of the collective foreclosures by the Defendants from 2000 to 2006 involved such loans. Unless properly underwritten, adjustable rate mortgage loans are destined to fail.

50. Upon information and belief, Defendants do not properly underwrite these loans when made to African Americans and in African-American neighborhoods.

51. Neither do the Defendants adequately consider the borrowers' ability to repay these loans, especially after the teaser rate expires and the interest rate increases. The fact that these loans would result in delinquency, default and foreclosure for many borrowers was, or should have been, clearly foreseeable to each Defendant at the time the loans were made.

INJURY TO CITY OF BIRMINGHAM CAUSED BY DEFENDANTS' DISCRIMINATION IN MORTGAGE LENDING

52. Defendants have engaged in a pattern and practice of reverse redlining that has resulted in a disproportionately high rate of foreclosure on loans to African Americans and in Birmingham's majority African-American neighborhoods. As these lenders continue to engage in this discriminatory patterns and practices, similar and continuing

deleterious consequences for Birmingham's African-American neighborhoods will continue.

53. The foreclosures caused by Defendants' discriminatory reverse redlining practices have caused, and continue to cause, multiple types of injuries and damages to Birmingham, including, but not limited to:

- a. A significant decline in the value of nearby homes, resulting in a decrease in property tax revenue for the City;
- b. An increase in the number of abandoned and vacant homes in the City;
- c. An increase in criminal and gang activity in the City as abandoned and vacant homes become centers for squatting, drug use, drug distribution, prostitution, and other unlawful activities;
- d. Increased expenditures by the City for police and fire protection;
- e. Increased expenditures by the City to secure abandoned and vacant homes;
- f. Additional expenditures by the City to acquire and rehabilitate vacant properties;
- g. Additional expenditures by the City for administrative, legal, and social services; and
- h. a decrease in net revenues to the City.

54. Damages suffered by the City of Birmingham, as a result of Defendants' foreclosures, are fully capable of empirical quantification. Recent studies demonstrate that the precise financial impacts of the different types of injuries caused by foreclosures are quantifiable. A study published by the Fannie Mae Foundation, using Chicago as an

example, determined that each foreclosure is responsible for an average decline of approximately 1% in the value of each single-family home within a quarter of a mile.

55. Other studies have focused on the impact of abandoned homes on surrounding property values. For example, a recent study in Philadelphia, found that each home within 150 feet of an abandoned home declined in value by an average of \$7,627; homes within 150 to 299 feet declined in value by \$6,810; and homes within 300 to 449 feet declined in value by \$3,542.

56. The costs of increased municipal services that are necessary because of foreclosures have also been analyzed empirically. A study commissioned by the Homeownership Preservation Foundation isolated twenty-six types of costs incurred by fifteen government agencies in response to foreclosures in Chicago. It then analyzed the amount of each cost based on different foreclosure scenarios, such as whether the home is left vacant, whether and to what degree criminal activity ensues, and whether the home must be demolished. The study found that the total costs ran as high as \$34,199 per foreclosure.

57. The injuries and damages to Birmingham because of the foreclosures caused by Defendants' discriminatory lending practices, including but not limited to those described above, are in the tens of millions of dollars.

58. Defendants' actions set forth herein constitute a pattern and practice of discriminatory lending and a continuing violation of law.

59. Unless enjoined, Defendants will continue to engage in the unlawful pattern and practice described herein.

60. Birmingham has been, and continues to be, adversely affected to its detriment by the acts, policies, and practices of Defendants, their employees and agents.

61. The extent of Birmingham's injuries will increase unless and until Defendants cease to discriminate against African Americans and borrowers in majority African-American neighborhoods.

62. Defendants' unlawful actions and omissions described above were intentional, willful, negligent and/or wanton and were carried out with a callous and reckless disregard for the federally protected rights of the City of Birmingham.

FIRST CAUSE OF ACTION

FAIR HOUSING ACT

63. Plaintiff realleges and incorporates by reference all allegations contained in Paragraphs 1 through 62 as if fully set forth herein.

64. Defendants' acts, policies, and practices constitute reverse redlining and other illegal acts or omissions in violation of the Fair Housing Act, as amended, 42 U.S.C. §§ 3604 and 3605:

a. Defendants' acts, policies, and practices have made and continue to make housing unavailable on the basis of race and/or color, in violation of 42 U.S.C. § 3604(a);

b. Defendants' acts, policies, and practices have provided and continue to provide different terms, conditions, and privileges of sale of housing, as well as different services and facilities in connection therewith, on the basis of race, and/or color, in violation of 42 U.S.C. § 3604(b);

c. Defendants' published policies and statements have expressed and continue to express a preference on the basis of race and/or color, in violation of 42 U.S.C. § 3604(c); and

d. Defendants' acts, policies, and practices have provided and continue to provide different terms, conditions and privileges on the basis of race and/or color in connection with the making of residential real estate-related transactions, in violation of 42 U.S.C. § 3605.

65. As a proximate consequence of the Defendants' negligence, the City was injured and damaged as alleged herein.

SECOND CAUSE OF ACTION

NEGLIGENCE

66. Plaintiff realleges and incorporates by reference all allegations contained in Paragraphs 1 through 64 as if fully set forth herein.

67. Defendants owed a duty to loan applicants in Birmingham, and to the City, to deal with them fairly and in a reasonable manner, Defendants negligently breached their duty as set out above.

68. Defendants negligently offered subprime loan products to applicants that qualified for loans offered at prime rates.

69. Defendants knew, or reasonably should have known, that these practices would create an additional burden on loan applicants receiving these loans.

70. Defendants negligently offered these subprime products disproportionately to African American applicants and in predominantly African American neighborhoods in Birmingham.

71. As a proximate consequence of the Defendants' negligence, the City was injured and damaged as alleged herein.

THIRD CAUSE OF ACTION

WANTONNESS

72. Plaintiff realleges and incorporates by reference all allegations contained in Paragraphs 1 through 71 as if fully set forth herein.

73. Defendants owed a duty to loan applicants in Birmingham, and to the City, to deal with them fairly and in a reasonable manner, Defendants negligently breached their duty as set out above.

74. Defendants wantonly offered subprime loan products to applicants that qualified for loans offered at prime rates.

75. Defendants knew, or reasonably should have known, that these practices would create an additional burden on loan applicants receiving these loans.

76. Defendants wantonly offered these subprime products disproportionately to African American applicants and in predominantly African American neighborhoods in Birmingham.

77. As a proximate consequence of the Defendants' wantonness, the City was injured and damaged as alleged herein.

FOURTH CAUSE OF ACTION

MISREPRESENTATION

78. Plaintiff realleges and incorporates by reference all allegations contained in Paragraphs 1 through 77 as if fully set forth herein.

79. Defendants committed a violation of Alabama Code § 6-5-101 by misrepresenting material facts so as to willfully or recklessly deceive loan applicants by concealing their qualification information. Loan applicants were offered subprime loan products when they would have qualified for prime rates, and were never

informed of this material fact.

80. This fraudulent behavior was undertaken by Defendants so as to turn a better profit with the higher interest rates on subprime mortgages.

81. Defendants fraudulently offered these subprime products disproportionately to African American applicants and in predominantly African American neighborhoods in Birmingham, and as a direct result of Defendants actions, the City has been damaged as set out in this Complaint.

82. As a proximate consequence of Defendants' misrepresentations, the City was injured and damaged as alleged herein.

FIFTH CAUSE OF ACTION

OUTRAGE

83. Plaintiff realleges and incorporates by reference all allegations contained in Paragraphs 1 through 82 as if fully set forth herein.

84. Defendants acted in an extreme and outrageous manner by offering subprime mortgage products to individuals that qualified for products at prime rates in the attempt to increase corporate profits.

85. This intentional or reckless conduct on the part of the Defendants did cause severe emotional distress to applicants throughout the loan process and up to and including foreclosures, and should not be tolerated in a civilized society such as Birmingham, Alabama.

86. As a proximate consequence of Defendants' outrageous conduct, the City was injured and damaged as alleged herein.

PRAYER FOR RELIEF

The City hereby demands judgment against the Defendants as follows:

a. The Court is requested to enter a declaratory judgment that the foregoing acts, policies, and practices of Defendants violate 42 U.S.C. §§ 3604 and 3605;

b. The Court is requested to enter a permanent injunction enjoining Defendants and their directors, officers, agents and employees from continuing to publish, implement, and enforce the illegal, discriminatory conduct described herein and directing Defendants and their directors, officers, agents and employees to take all affirmative steps necessary to remedy the effects of the illegal, discriminatory conduct described herein and to prevent additional instances of such conduct or similar conduct from occurring in the future;

c. The jury is requested to award compensatory damages to the City in an amount to be determined by the jury that would fully compensate the City for its injuries and damages caused by the conduct of Defendants alleged herein;

d. The jury is requested to award punitive and/or treble damages to the City in an amount to be determined by the jury to punish Defendants for the conduct alleged herein and to effectively deter similar conduct in the future;

e. The Court and/or jury is requested to award the City its reasonable attorneys' fees and costs pursuant to 42 U.S.C. § 3613(c)(2); and

f. The Court is requested to award such other and different relief as this Court deems just and equitable and as allowed by law.

/s Jere L. Beasley

JERE L. BEASLEY (BEA020)

/s Joseph H. "Jay" Aughtman

JOSEPH H. "JAY" AUGHTMAN (AUG001)

/s Dagney Johnson Walker

DAGNEY JOHNSON WALKER (Joh180)

OF COUNSEL:

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Birmingham, Alabama 35203
(205) 254-3927

PLAINTIFF DEMANDS A JURY FOR THE TRIAL OF THIS ACTION

/s Jere L. Beasley _____