

UNPUBLISHED**UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT**

No. 21-1646

RALEIGH ROGERS,

Plaintiff - Appellant,

v.

WELLS FARGO,

Defendant - Appellee.

Appeal from the United States District Court for the Western District of North Carolina, at Statesville. Robert J. Conrad, Jr., District Judge. (5:19-cv-00006-RJC)

Submitted: November 18, 2021

Decided: November 19, 2021

Before MOTZ, THACKER, and HARRIS, Circuit Judges.

Affirmed by unpublished per curiam opinion.

Raleigh Rogers, Appellant Pro Se.

Unpublished opinions are not binding precedent in this circuit.

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NORTH CAROLINA
STATESVILLE DIVISION
5:19-cv-6-RJC

RALEIGH ROGERS,)
)
Plaintiff,)
)
 vs.) ORDER
)
WELLS FARGO,)
)
Defendant.)
)

THIS MATTER comes before the Court on Defendant's Motion to Dismiss or in the alternative to Stay Action, (Doc. No. 4), Plaintiff's pro se Response, (Doc. No. 6), and related pleadings.

In the Complaint, *pro se* Plaintiff filed several causes of action under North Carolina law, seeking damages allegedly resulting from Defendant's opening an unauthorized account in his name.¹ (Doc. No. 1-1: Complaint at 1-3). Plaintiff acknowledges that he was notified of the "ongoing Wells Fargo unauthorized account settlement," but asserts he did not join it. (*Id.* at 1). Defendant filed a Motion to Dismiss or in the Alternative to Stay the Action on February 14, 2019. This Court stayed this matter on August 9, 2019, pending appeal of the Final Approval Order in Jabbari v. Wells Fargo & Co., N.D. Cal. Case No. 3:15-cv-2159. (Doc. No. 9). On July 20, 2020, the United States Court of Appeals for the Ninth Circuit issued its decision

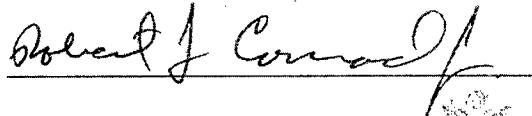
¹ Plaintiff filed the Complaint in Caldwell County (North Carolina) Superior Court, but Defendant removed it to this Court based on diversity jurisdiction. (Doc. No. 1: Notice of Removal at 1).

class members who timely opted out, (Doc. No. 4-2, Exs. A and B), and Plaintiff's primary argument that he opted out is simply that his failure to opt in meant, de facto, that he opted out. This argument is insufficient given the explicit Jabbari class opt out procedures that Plaintiff did not follow here.

Therefore, because Plaintiff meets the Jabbari class description and had actual notice of the settlement, but did not affirmatively opt out as required to avoid preclusive effect, "Plaintiff's claims lie exclusively under the jurisdiction of the United States District Court for the Northern District of California, pursuant to the Final Order in the Jabbari case . . ." Muhammad v. Scharf, No. CV RDB-20-3020, 2021 WL 1198168, at *4 (D. Md. Mar. 30, 2021) (citing the Jabbari Court as holding that the "Court reserves jurisdiction over the Class Representatives, the Settlement Class, and Defendants as to all matters concerning the administration, consummation, and enforcement of the Settlement Agreement"). This Court lacks jurisdiction over Plaintiff's claims, as the U.S. District Court for the Northern District of California retains exclusive jurisdiction over the released claims and parties in question.

IT IS, THEREFORE, ORDERED that Defendant's Motion to Dismiss, (Doc. No. 4), is **GRANTED**. The Clerk of Court is hereby directed to close the case.

Signed: May 3, 2021



Robert J. Conrad, Jr.
United States District Judge

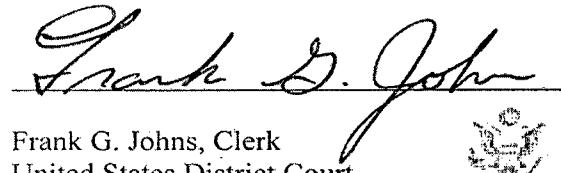
United States District Court
Western District of North Carolina
Statesville Division

Raleigh Rogers,)	JUDGMENT IN CASE
)	
Plaintiff(s),)	5:19-cv-00006-RJC
)	
vs.)	
)	
Wells Fargo,)	
Defendant(s).)	

DECISION BY COURT. This action having come before the Court and a decision having been rendered;

IT IS ORDERED AND ADJUDGED that Judgment is hereby entered in accordance with the Court's May 3, 2021 Order.

May 3, 2021



Frank G. Johns, Clerk
United States District Court



FILED: January 3, 2022

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O R D E R

The petition for rehearing en banc was circulated to the full court. No judge requested a poll under Fed. R. App. P. 35. The court denies the petition for rehearing en banc.

For the Court

/s/ Patricia S. Connor, Clerk

**Additional material
from this filing is
available in the
Clerk's Office.**