IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF NEW MEXICO

NAVAJO NATION, a federally recognized Indian Tribe, on its own behalf, by Ethel B. Branch, Attorney General of the Navajo Nation, and as *parens patriae* on behalf of the Navajo people,

Plaintiff,

vs.

Case No. 1:17-cv-01219-JAP-SCY

WELLS FARGO & COMPANY; WELLS FARGO BANK, N.A.; and DOES 1-10,

Defendants.

DEFENDANTS' REPLY IN SUPPORT OF MOTION TO DISMISS PLAINTIFF'S CLAIMS OR, IN THE ALTERNATIVE, TO STAY PLAINTIFF'S *PARENS PATRIAE* CLAIMS

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I. INTRODUCTION

The Opposition elides inconvenient facts and ignores or misstates unhelpful authority. Plaintiff argues that the Consent Order the CFPB issued with respect to Wells Fargo must be construed as a contract, failing to acknowledge that the Order itself says it may not be. The CFPB issued the Consent Order as a final order, utilizing its adjudicatory authority, and nothing in the document suggests that other governmental authorities can bring redundant claims under the CFPA. Seeking to avoid *res judicata* based on the *Jabbari* case, Plaintiff suggests that it will collaterally attack the adequacy of notice or representation—which it cannot do. Plaintiff contends it has the quasi-sovereign interest needed for its common law *parens patriae* claims because it seeks penalties and injunctive relief—but Plaintiff does not seek those remedies for its common law claims, and standing must be assessed on a claim-by-claim basis. As for the statutory *parens patriae* claims, the Opposition mischaracterizes case after case in an effort to escape the governing law: that the language of the statute controls whether a government entity has standing. Plaintiff cannot cite any statutory authorization that confers on Plaintiff a right to sue on behalf of its tribal members. Plaintiff similarly overlooks the actual text of the Equal Credit Opportunity Act in arguing that it has stated a claim, and erroneously asserts that it does not need to meet the pleading requirements of Rule 9(b). The Complaint should be dismissed.

II. ARGUMENT

A. Plaintiff's Claims Under the CFPA Are Barred by the Consent Order.

1. Traditional Preclusion Principles Must Be Applied to the Consent Order, Which Is a Final Administrative Order.

Because no "single model" exists for determining whether an administrative agency acted in a judicial capacity for purposes of *res judicata*, courts must look to the "procedural framework" under which the agency action took place and the manner in which the agency

ultimately formulated its decision. *See Amoco Prod. Co. v. Heimann*, 904 F.2d 1405, 1417 (10th Cir. 1990). The existence of a party's consent is not dispositive of whether the order at issue constitutes a consent decree. *See Saline River Props., LLC v. Johnson Controls, Inc*., 823 F. Supp. 2d 670, 675 (E.D. Mich. 2011) (holding that, although the defendant consented to the agency's directive, the "order [was] issued by the EPA," and distinguishing cases involving consent decrees that resolved pending court cases). Here, the CFPB specifically invoked its adjudicatory authority under 12 U.S.C. § 5563 and included findings of fact and conclusions of law in the Consent Order. *See* Consent Order ¶ 2. As set forth in 12 C.F.R. § 1081.200(d), the CFPB's filing of a stipulation and Consent Order served only to "commence[]" a proceeding before the CFPB; the proceeding could conclude only upon the Director's final action. Confirming that it is not a consent decree, the Consent Order states that it is a "final" order and is not to be construed as a contract. [1] Consent Order ¶ 86.

Moreover, the fact of the parties' consent does not automatically trigger the displacement of preclusion principles in favor of contractual ones. *Satsky v. Paramount Commc'ns, Inc.*, 7 F.3d 1464 (10th Cir. 1993), is inapposite because that case involved a consent decree resolving claims asserted before the United States District Court—a tribunal separate from the administrative body. *Id*. at 1467. In that situation, (i) the district court is not determining the issues—the parties have written and submitted the consent decree for signature; and (ii) the agency is not issuing the order in its judicial capacity—the judge is the district judge. Here, the CFPB, acting in its judicial role, could (and did) issue an adjudicatory decision. The preclusive effect of such a decision is based on "ordinary preclusion principles." 18A Charles Alan Wright, Arthur R. Miller, & Edward H. Cooper, Federal Practice & Procedure § 4443 (2d ed. 2018)

[1] The Consent Order would not, however, have collateral estoppel effect, which requires that the specific question was "actually litigated." *See Arizona v. California*, 530 U.S. 392, 414 (2000).

(hereinafter "Federal Practice & Procedure") ("ordinary preclusion principles" apply where a consent judgment involves a hybrid of consent and some form of judicial resolution) (citing *Riddick by Riddick v. Sch. Bd. of City of Norfolk*, 784 F.2d 521, 530 (4th Cir. 1986)). Even if *Satsky* were applicable, it used contract interpretation only to guide whether the consent decree was a final judgment on the merits; thereafter, the court returned to traditional preclusion law to evaluate the other elements of *res judicata*, and determined that the consent decree barred a non-party's duplicative suit over the same "common public rights." 7 F.3d at 1468–1470; *see also N.M. ex rel. King v. Capital One Bank (USA) N.A.*, 980 F. Supp. 2d 1346, 1352 (D.N.M. 2013) (in settlement context, analyzing privity based on traditional, non-contract principles). Under either contractual or preclusion law, the Consent Order is a final judgment on the merits. Consent Order ¶ 86. Plaintiff's suggestion that contractual principles apply to the other elements of *res judicata* is incorrect.

Plaintiff's argument that the Consent Order contemplates CFPA enforcement actions by other governmental entities (Pl.'s Opp'n to Mot. to Dismiss [Doc. 32] ("Opp'n") at 5) is also mistaken. The Consent Order releases claims for all violations the "Bureau has *or might have asserted* based on the practices described." Consent Order ¶ 85 (emphasis added). Those would, of course, include CFPA claims. *See id.* at 1 (asserting that CFPA was violated). The Consent Order release does not carve out "Related Consumer Actions" that seek to enforce the CFPA; it merely contemplates that other governmental entities may have non-CFPA claims arising from the same facts that the CFPB *could not* have asserted and therefore fall outside the release.[2] For

[2] The Consent Order's references to "Related Consumer Action" merely provide that penalties paid to the CFPB should not be used to offset amounts that may be paid in such a case and settlements or judgments must be reported to the CFPB. *Id.* ¶¶ 61, 65.

instance, a state Attorney General, but not the CFPB, might be authorized to bring a claim for penalties under state law.

2. For Its CFPA Claims, Plaintiff Is in Privity with the CFPB.

Plaintiff claims *Taylor v. Sturgell*, 553 U.S. 880, 892–93 (2008), sets forth the "only" exceptions to the rule against non-party preclusion. (Opp'n at 7). But the *Taylor* decision itself emphasized that its list of exceptions was not "a definitive taxonomy" and that "the established grounds for nonparty preclusion could be organized differently." *Id*. at n.6. Among the "established grounds" for nonparty preclusion is where "the relationships established by a special statutory scheme" between governmental entities warrant a finding that their interests are sufficiently aligned. Federal Practice & Procedure § 4458; *see Nash Cty. Bd. of Ed. v. Biltmore Co.*, 464 F. Supp. 1027, 1036 (E.D.N.C. 1978), *aff'd*, 640 F.2d 484 (4th Cir. 1981).

When the CFPB brings an action under the CFPA, it serves as an effective representative of state and tribal Attorneys' General secondary interest in enforcing that same law. A central purpose of the CFPB is to ensure that "federal consumer financial law is enforced consistently." 12 U.S.C. § 5511(b)(4). The law requires close coordination between the CFPB and state Attorneys General and firmly places the CFPB in the driver's seat. As a secondary enforcer, a state Attorney General must provide notice to the CFPB before initiating an enforcement action; and the CFPB may intervene in any such action, be heard on all matters arising in the action, and appeal any resulting order or judgment.[3] (*See* Defs.' Mot. to Dismiss [Doc. 25] ("Mot.") at 7).

The CFPB's broader interests in overseeing federal consumer financial law make it an effective representative of Plaintiff's secondary interests in prosecuting the same law over the

[3] In implementing the notice procedures, the CFPB specifically stated that it is the "primary agency responsible" for enforcing the law. *See* State Official Notification Rules, 76 Fed. Reg. 45174–45175 (July 28, 2011)(to be codified at 12 C.F.R. § 1082.1).

same conduct. This circumstance differs materially from that in *United States v. Power Eng'g Co.*, 303 F.3d 1232 (10th Cir. 2002), where the court declined to bar the EPA from prosecuting a claim under federal hazardous waste law based on a similar prior action by the State of Colorado. *Id*. at 1241. There, the enforcement scheme devised by Congress supported the EPA's follow-up action, as Congress had delegated only "limited" enforcement authority to the states. *Id*. The court also relied on a line of precedent, inapplicable here, that specifically restricts the assertion of a preclusion defense against the United States government. *See id.* at 1240. Here, in contrast, Plaintiff's effort to bring duplicate claims seeking duplicate remedies *undermines* the Congressional mandate of consistent enforcement of the CFPA. *See* 12 § U.S.C. 5511(b)(4).

3. Plaintiff's Claims and the Consent Order Arise from the Same Transactions.

As detailed in the Motion, (Mot. at 10–11), Plaintiff's claims and the Consent Order arise from the same allegedly unauthorized account openings, the same time period, the same locations, and the same motive, thereby satisfying the "same cause of action" element under the governing transactional approach. *See* Restatement (Second) of Judgments § 24 (1982). The Opposition mischaracterizes that test—wrongly adding in a requirement that the transactions be the "exact same"—and points to no allegations in the Complaint that arise out of a factual grouping separate from the sales practices described in the CFPB's Consent Order. [4] The heart of Plaintiff's claims is Wells Fargo's opening of unauthorized accounts, and Plaintiff cannot

[4] In fact, it is abundantly clear from Plaintiff's briefing that its claims arise from the exact same factual basis that the CFPB identified in issuing the Consent Order. *Compare* Opp'n at 1 ("… Wells Fargo employees created bank accounts with consumers' knowledge or authorization, opened customer accounts based on falsified information, and duped customers into creating accounts they neither wanted nor needed"), *with* Consent Order at 1 (finding that Wells Fargo "opened unauthorized deposit accounts for existing customers … without their customers' knowledge or consent . . . .").

avoid the Consent Order's preclusive effect merely "by dressing up claims already litigated in new legal theories." *Capital One Bank (USA) N.A.*, 980 F. Supp. 2d at 1354.

B. Plaintiff's Putative *Parens Patriae* Claims Should Be Stayed.

As an alternative to dismissal, this Court should briefly stay adjudication of the *parens patriae* claims, pending final approval of the *Jabbari* class action settlement. "It is well settled that a class action judgment is binding on all class members." *Pelt v. Utah*, 539 F.3d 1271, 1284 (10th Cir. 2008). All individuals—including tribal members—"for whom Wells Fargo . . . affiliates, principals, officers, directors or employees opened an Unauthorized Account or submitted an Unauthorized Application" fall within the class. (RJN Ex. 5 at 5).

Plaintiff may not avoid *res judicata* by speculating that *Jabbari* could have constitutionally deficient representation and notice to class members. Once *Jabbari* finally decides "that the due process protections did occur for a particular class member or group of class members, the issue may not be relitigated." *In re Diet Drugs Prod. Liab. Litig.*, 431 F.3d 141, 146 (3d Cir. 2005); *see also Epstein v. MCA, Inc.*, 179 F.3d 641, 648 (9th Cir. 1999) ("Simply put, the absent class members' due process right to adequate representation is protected not by collateral review, but by the certifying court initially, and thereafter by [direct] appeal."). There is good reason why "such [collateral] attacks should not be encouraged. The policy behind the class action device is, of course, to facilitate the final determination of numerous claims in one suit. This policy is not furthered by allowing subsequent collateral attacks by class members." *Garcia v. Bd. of Ed., Sch. Dist. No. 1, Denver, Colo.*, 573 F.2d 676, 679 (10th Cir. 1978). While collateral review of the adequacy of representation and notice may be tolerated in Rule 23(b)(1) and (b)(2) actions, which lack mandatory notice requirements and opportunity to opt out, class actions certified under Rule 23(b)(3)—like the *Jabbari* action—are not similarly

subject to such review. *Pelt*, 539 F.3d at 1285; *Wallace B. Roderick Revocable Living Tr. v. XTO Energy, Inc.*, 679 F. Supp. 2d 1287, 1307 (D. Kan. 2010) (noting that "Rule 23(b) procedures play an important role in ensuring the existence of due process" and refusing to withhold application of *res judicata* to a prior Rule 23(b)(3) class action settlement).

C. Plaintiff Lacks Standing to Assert Its *Parens Patriae* Claims.

1. Plaintiff Lacks *Parens Patriae* Standing for Its Common Law Claims.

Plaintiff does not dispute that the relief it seeks in connection with its common law claims for fraud and unjust enrichment[5]—monetary damages allegedly suffered by tribal members in the form of fees and penalties—is based on "injuries to purely private interests" that do not implicate a quasi-sovereign interest. *New Mexico v. Gen. Elec. Co.*, 335 F. Supp. 2d 1185, 1241 n.121 (D.N.M. 2004); *see Alfred L. Snapp & Son, Inc. v. Puerto Rico, ex rel. Barez*, 458 U.S. 592, 602 (1982). Plaintiff incorrectly suggests that it has standing to pursue its *common law* claims for money damages because it seeks *statutory* penalties and an order "enjoining Defendants from *further [statutory] violations from the [asserted] consumer protection laws*." (Compl. at 54 [Prayer for Relief] (emphasis added)). In other words, Plaintiff asks this Court to manufacture standing for its common law claims based on wholly separate statutory claims. But "[s]tanding is not dispensed in gross"; a plaintiff instead "must demonstrate standing for each claim [it] seeks to press." *Davis v. Fed. Election Comm'n*, 554 U.S. 724, 733–34 (2008); *see also New York v. Seneci*, 817 F.2d 1015, 1017 (2d Cir. 1987) (no *parens patriae* standing after New York Attorney General's request for injunctive relief was rendered moot and only monetary relief "for injury to the business and property of the state's citizens" was sought); *Illinois v. Life of Mid-America Ins. Co.*, 805 F.2d 763, 765–66 n.5 (7th Cir. 1986) (rejecting Illinois Attorney

[5] Plaintiff has withdrawn its claim for conversion. (Opp'n at 2 n.1).

General's attempt to establish a quasi-sovereign interest in pursuing a claim for restitution by pointing to its requested relief for a *different* claim).[6]

Every case on which Plaintiff relies involved *statutory* claims asserted in a *parens patriae* capacity. *See, e.g.*, *Illinois v. SDS West Corp.*, 640 F. Supp. 2d 1047, 1050 n.1, n.2 (C.D. Ill. 2009) (Illinois Attorney General had *parens patriae* standing under state consumer protection statute with an "express standing provision," thereby alleviating "*Snapp* difficulties [in establishing *parens patriae* standing]"); *In re Hemingway,* 39 B.R. 619, 622 (N.D.N.Y. 1983) (holding *parens patriae* standing "requires a finding that individuals could not obtain complete relief through a private suit," and observing "that private individuals could not, as a matter of law, have pressed the consumer fraud claims in the state courts" because "[s]uch a function was entrusted by the Legislature solely to the Attorney General.")). These cases are inapposite because standing was provided by an express statutory grant, not by common law *parens patriae*.

2. Plaintiff Lacks Standing to Assert Statutory Claims as *Parens Patriae.*

In determining *parens patriae* standing for statutory claims, courts look to whether the legislature intended to grant such standing. *Connecticut v. Physicians Health Serv. of Conn. Inc.*, 287 F.3d 110, 120 (2d Cir. 2002); *see also Illinois*, 805 F.2d at 766 (stating that it would not find standing even if the Illinois Attorney General had "sufficiently allege[d] an injury to the state in its quasi-sovereign capacity, [because] it [wa]s not clear . . . that Congress, in enacting the RICO statute, intended to permit such a *parens patriae* proceeding."). The statutes Plaintiff asserts in its *parens patriae* claims expressly specify certain governmental entities that are authorized to enforce them—and the Nation's Attorney General is conspicuously absent from the lists,

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[6] In *Colo. Civil Rights Comm'n v. Wells Fargo Bank & Co.*, 2011 WL 2610205 (D. Colo. July 1, 2011), the court observed that "all remedies sought [by the Colorado Civil Rights Commission as *parens patriae*] are tied to all of the claims," and "the pertinent statutes upon which the claims are based expressly provide for all of the remedies requested." *Id.* at *5–6.

triggering a negative implication canon: "The expression of one thing implies the exclusion of others (*expressio unius est exclusio alterius*)." *Jennings v. Rodriguez*, 138 S. Ct. 830, 844 (2018) (citing A. Scalia & B. Garner, Reading Law 107 (2012)).

The Second Circuit distinguished the case law Plaintiff cites on the ground that such cases all involve broad civil enforcement provisions permitting suit by any person "aggrieved" or "injured." *Connecticut*, 287 F.3d at 121. Although Plaintiff contends that the statutes it invokes fit that description (Opp'n at 17), that is simply incorrect—as shown by the very statutory text Plaintiff quotes. Regardless of whether it is injured or aggrieved, Plaintiff as *parens patriae* is not an "aggrieved applicant" because it is not an applicant. Nor is it "any consumer" (because it is not a consumer) or a person who suffered a "loss of money or property." This statutory language is exactly like the portion the Clayton Act that the Supreme Court found defeated *parens patriae* standing in *Hawaii v. Standard Oil Co. of Cal.*, 405 U.S. 251, 260 (1972). Hawaii may have been a "person", but the statute granted a claim only to a "person who shall be injured in his business or property."[7] *Id.* at 263; *see In re Gen. Motors Corp. Engine Interchange Litig.*, 594 F. 2d 1106, 1127–28 & n.33 (7th Cir. 1979). Here, Plaintiff is not a consumer, nor is it an applicant for credit or a person who suffered a loss of money or property.[8]

D. Plaintiff Fails to Plausibly Allege *Parens Patriae* Claims.

1. Plaintiff Does Not Allege a Discrimination Claim Under the ECOA.

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[7] In *California v. Infineon Technologies*, the court again looked to the text of California's consumer protection statute and concluded that where the statute empowered the Attorney General "to bring a damages action . . . for violation(s) of the Cartwright Act, it is only the *California* Attorney General who is so empowered." 531 F. Supp. 2d at 1133. *Infineon* does not stand for the proposition that the Nation qualifies as an "in-state government entity" for purposes of enforcing Arizona and New Mexico's consumer protection statutes. (Opp'n at 18).

[8] Even if these statutes permitted Plaintiff to bring *parens patriae* claims, it could not pursue damages caused to consumers because that relief would be available to those consumers. (*See* Mot. at 15–16).

Plaintiff erroneously claims that Wells Fargo singularly argues the ECOA prohibits only the discriminatory denial of credit. Wells Fargo's motion explains that the ECOA claim fails because Plaintiff cannot allege that tribal members were subject to the type of adverse action—discrimination regarding any aspect of a "credit transaction"—that is actionable under the statute and implementing regulations. (Mot. at 20–21). A credit transaction is defined as every aspect of either "an application for credit or an *existing* extension of credit . . . ." 12 C.F.R. § 1002.2(m) (emphasis added). Thus, the ECOA precludes discriminatory adverse action relating to (1) the plaintiff's application or request for credit or (2) the plaintiff's already existing credit. (Mot. at 20). The conduct alleged in the Complaint—that is, issuing new credit to individuals who did not apply or request it—does not fall within the scope of ECOA. Moreover, Plaintiff does not allege that the terms of that credit—like the interest rate—were "grossly unfavorable" or discriminatory. *M&T Mortg. Corp. v. White*, 736 F. Supp. 2d 538, 575 (E.D.N.Y. 2010) (loan based on "grossly inflated appraisal" may be actionable under ECOA). For that reason, and because the issued credit here does not relate to tribal members' applications or existing credit, the cases cited by Plaintiff are distinguishable. *See Martinez v. Freedom Mortg. Team, Inc.*, 527 F. Supp. 2d 827, 834 (N.D. Ill. 2007) (minority-plaintiff applied for a loan and was subjected to a higher interest rate than that on comparable loans to non-minorities); *Hargraves v. Capital City Mortg. Corp.*, 140 F. Supp. 2d 7, 20–21 (D.D.C. 2000) (plaintiffs seeking loans received "equity-stripping" loans designed to fail with exorbitant interest rates); *Matthews v. New Century Mortg. Corp.*, 185 F. Supp. 2d 874, 879, 887–88 (S.D. Ohio 2002) (plaintiff received loan that depleted the equity in her home).

2. Plaintiff Has Not Sufficiently Pled Its *Parens Patriae* Fraud Claim.

The Opposition does not identify any specific Wells Fargo employees; describe with particularity their alleged representations, intent, and knowledge; or name a single tribal member

who was allegedly harmed. Rather, Plaintiff attempts to save its fraud claim by suggesting Rule 9(b)'s particularity requirements do not apply where the affirmative misrepresentations were part of a complex scheme. That the Complaint alleges a "pervasive scheme" does not excuse Plaintiff from identifying specific Wells Fargo employees and describing with particularity the misrepresentations of fact that they allegedly made. *See U.S. ex rel. Schwartz v. Coastal Healthcare Grp., Inc.*, 232 F.3d 902 (10th Cir. 2000) (plaintiff's mere description of a general fraud scheme "without identifying any person, place or time when an actual false claim or other illegal activity occurred . . . is simply insufficient under Rule 9(b)"); *see also U.S. ex rel. Harris v. Bernad*, 275 F. Supp. 2d 1, 8–9 (D.D.C. 2003) (complex fraud scheme properly alleged where the government named individual defendants and proffered 12 specific patient files identifying the discrepancy between reported and actual treatment).

Likewise, Plaintiff misstates the law regarding the applicability of Rule 9(b) vis-à-vis fraud claims based on omissions. *See Monus v. Colo. Baseball 1993, Inc.*, 103 F.3d 145 (10th Cir. 1996) (evaluating plaintiff's fraud claim and concluding the "omissions averred failed to meet the requirements of Rule 9(b)"); *S2 Automation LLC v. Micron Tech., Inc.*, 281 F.R.D. 487, 495 (D.N.M. 2012) ("[T]he plaintiff must plead to satisfy rule 9(b) 'the type of facts omitted, where the omitted facts should have been stated, and the way in which the omitted facts made the representations misleading.'"). While plaintiff's pleading burden for a fraud-by-omission claim is "slightly" more relaxed, Rule 9(b) still applies—a proposition that is supported by the very cases Plaintiff cites. *In re Arizona Theranos, Inc., Litig.*, 256 F. Supp. 3d 1009, 1023, 1028 (D. Ariz. 2017); *see also Falk v. Gen. Motors Corp.*, 496 F. Supp. 2d 1088, 1098–99 (N.D. Cal. 2007) (acknowledging that a plaintiff in a fraud by omission suit may not be able to plead "*as precisely as would a plaintiff in a false representation claim*" but holding that "[a]llegations of

fraud must meet the heightened pleading standards of Rule 9(b)" (emphasis added)). Unlike the plaintiffs in *In re Arizona Theranos*, who "alleg[d] a litany of [omitted] information" and "provided representative samples of websites, press releases, . . . and other marketing materials" that omitted material information, Plaintiff offers no comparable details in support of its fraud claim. 256 F. Supp. 3d at 1028. Despite the investigation that Plaintiff claims it conducted (and for which it claims expenses), it has not identified a single Wells Fargo employee who had knowledge of material facts but failed to disclose them or a single tribal member who claims to have an unauthorized account as a result of his or her reasonable reliance on such an omission.

E. Plaintiff Fails to State a Fraud Claim in Its Proprietary Capacity.

Plaintiff does not identify (1) a cognizable injury that is suffered (2) *as a result* of its reasonable reliance on the alleged misrepresentations in the January 3, 2017 letter—two essential elements of a fraud claim. (Mot. at 23); *see In re Arizona Theranos*, 256 F. Supp. 3d at 1023. Plaintiff's contention that "it incurred expenses investigating Wells Fargo and in bringing this lawsuit to recover for Wells Fargo's fraud" does not save its fraud claim for two reasons. (Opp'n at 23). *First*, the Complaint does not allege that Plaintiff incurred investigation expenses because of the alleged misrepresentation that it otherwise would not have incurred; rather, Plaintiff's contention is that it would have performed a more robust investigation *earlier* but for the alleged misrepresentation. (*See* Compl. ¶ 72 ("Due to Wells Fargo's deliberate misrepresentations . . . the Navajo Nation still has not been able to fully investigate the scope of Wells Fargo's wrongdoing.").) *Second*, Plaintiff fails to refute the case law holding that a delay in litigation—the injury alleged here—does not constitute a cognizable injury supporting a fraud claim.

III. CONCLUSION

For the foregoing reasons, Defendants respectfully request dismissal of the Complaint.

RODEY, DICKASON, SLOAN, AKIN & ROBB, P.A.

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that on April 30, 2018, the foregoing *Defendants' Reply in Support of the Motion to Dismiss Plaintiff's Claims or, In the Alternative, to Stay Plaintiff's* Parens Patriae *Claims* was electronically filed with the Clerk of Court using the CM/ECF system, which will send notification of such filing to the following:

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