

Theodore H. Frank (SBN 196332)
HAMILTON LINCOLN LAW INSTITUTE
CENTER FOR CLASS ACTION FAIRNESS
1629 K Street NW, Suite 300
Washington, DC 20006
Voice: 202-331-2263
Email: ted.frank@hlli.org

Attorneys for Objector John Cashman

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

IN RE WELLS FARGO & COMPANY
SHAREHOLDER DERIVATIVE LITIGATION,

Case No. 3:16-cv-05541-JST

This Document Relates to:
ALL ACTIONS

Judge: Hon. Jon S. Tigar
Courtroom: 9, 19th Floor
Date: August 1, 2019
Time: 2:00 P.M.

DECLARATION OF THEODORE H. FRANK

1 I, Theodore H. Frank, declare as follows:

2 1. I have personal knowledge of the facts set forth herein and, if called as a witness,
3 could and would testify competently thereto.

4 2. My business address is Hamilton Lincoln Law Institute (“HLLI”), 1629 K Street
5 NW, Suite 300, Washington, DC 20006. My telephone number is (703) 203-3848. My email address
6 is ted.frank@hlli.org.

7 **Exhibits to Objection**

8 3. Attached as Exhibit 1 is a true and correct copy of a press release from the Board of
9 Governors of the Federal Reserve System (“Fed”) dated February 2, 2018, entitled “Responding to
10 widespread consumer abuses and compliance breakdowns by Wells Fargo, Federal Reserve restricts
11 Wells’ growth until firm improves governance and controls. Concurrent with Fed action, Wells to
12 replace three directors by April, one by year end,” and available online at:
13 <https://www.federalreserve.gov/newsevents/pressreleases/enforcement20180202a.htm>.

14 4. Attached as Exhibit 2 is a true and correct copy of a letter dated February 2, 2018
15 from Michael S. Gibson, Fed Director of the Division of Supervision and Regulation to former
16 Wells Fargo Director Stephen Sanger, available online at:
17 <https://www.federalreserve.gov/newsevents/pressreleases/files/enf20180202a3.pdf>.

18 5. Attached as Exhibit 3 is a true and correct copy of the Declaration of Mark C.
19 Molumphy filed in support of preliminary approval of the derivative settlement proposed in *In re*
20 *Wells Fargo & Company Auto Insurance Derivative Litigation*, No. CGC 17-561118 (S.F. Super.) on June
21 21, 2019 and the first two attachments of this declaration, namely the settlement agreement itself
22 and Exhibit A to the settlement agreement purporting to recount “Corporate Governance
23 Reforms.” (Exhibit A refers to additional exhibits, but they do not appear to have been filed with
24 these documents.)

25 6. Attached as Exhibit 4 is a true and correct copy of the stipulation of dismissal with
26 prejudice granted by the court in *Rosenfeld v. Stumpf et al.*, C.A. No. 2017-0383-SG (Del. Ch.) on
27 May 11, 2018.

Background Concerning Injunctive Relief

7. Wells Fargo’s account fraud scandal began on September 2, 2016, when three government entities (the Consumer Financial Protection Bureau (CFPB), the Office of the Comptroller of the Currency (OCC), and the Los Angeles City Attorney) all announced settlements with Wells totaling \$185 million.

8. In the immediate aftermath, Wells’s CEO was hauled before Congress, and several prominent clients suspended or terminated financial relationships with the company.

9. The settlements with government agencies required the independent directors of the Wells board to establish an oversight committee to investigate the improper sales practices. Only after those events, on September 29, 2016, was the first of the federal shareholder cases (eventually consolidated into this action) filed. Dkt. 270-1 at 46.

10. During the period in which the oversight committee was investigating, from late September 2016 through early April 2017, the board clawed back more than \$180 million worth of compensation from certain Wells Fargo executives. *See* Independent Directors of the Board of Wells Fargo & Company Sales Practices Investigation Report (Apr. 10, 2017), at 2, *available online at* <https://www08.wellsfargomedia.com/assets/pdf/about/investor-relations/presentations/2017/board-report.pdf> (last visited July 5, 2019).

11. It appears that \$122.5 million of those forfeitures came after the filing of the derivative action, but they were not attributable to the derivative action; they were “a result of the investigation” of the oversight committee. *Id.*

12. Even if, *arguendo*, the inception of litigation here increased the pressure on the oversight committee to recommend such forfeitures, that benefit has nothing to do with the *settlement* of this action. Voluntary pre-settlement business practice changes cannot not be counted as settlement relief, even where, unlike here, those changes are precipitated by defeating a defendant’s motion to dismiss. *Koby*, 846 F.3d at 1080; *see generally* Jessica Erickson, *Corporate Governance in the Courtroom: An Empirical Analysis*, 51 WM. & MARY. L. REV. 1749, 1820-21 (2010) (observing the problem that many settlements include governance reforms that the corporation adopted well before

1 the date of settlement). *In re Galena Biopharma Securities Litigation* is directly on point. No. 14-cv-
2 00367, 2016 U.S. Dist. LEXIS 82693 (D. Or. Jun. 24, 2016). There, derivative plaintiffs argued that
3 they should be credited with the value of cancelled and reduced stock-options and severance pay. *Id.*
4 at *28-*30. But the court held that the forfeitures could not be considered a “*settlement*” benefit
5 because they had occurred “more than nine months before Derivative Plaintiffs first sent any
6 settlement demands to Defendants, more than one year before the mediation was held with the
7 Derivative parties, and 15 months before the derivative settlement was concluded.” *Id.* at *28.
8 Although it was unclear whether the resignation and accompanying forfeiture was the result of “the
9 early bad publicity that exposed Galena’s alleged misconduct, Galena’s special committee
10 investigation, the SEC investigation, the filing of one or more lawsuits, or some combination of
11 these events,” “one matter was clear: there was no evidence that the forfeitures were benefits
12 achieved through and as a result of the settlement negotiations or as even partial consideration for
13 the settlement of the Derivative Action.” *Id.* (cleaned up). The “single fact” that the forfeiture
14 occurred after the lawsuits were filed “is insufficient for the Court to include the cancellation
15 of...employment benefits in the calculation of the value attributable to the Derivative Settlement.”
16 *Id.* at *30. Here too; the one unequivocal fact is that the executive clawbacks have no relation to the
17 settlement pending before this Court.

18 13. The settling parties represent that “facts alleged in the Derivative Action were
19 significant factors taken into account...in recommending appropriate remedial steps with respect to
20 compensation reductions and forfeitures,” but this is entirely consistent with the view that the
21 derivative suits themselves had no causal connection to the committee’s decisions at all. Dkt. 270-1
22 at 47. Simply put, the “facts alleged in the Derivative Action” are none other than the facts that were
23 already exposed to public view in the wake of the governmental settlements. *Contrast In re Atmel*
24 *Corp. Derivative Litig.*, 2010 WL 9525643, at *11 (N.D. Cal. Mar. 31, 2010) (noting “representations
25 by Atmel in the record that the filing of the actions and later settlement negotiations were material
26 factors in the implementation of the measures”). As in *Oracle*, “[o]ther causative factors” such as the
27 enforcement actions, multiple class actions, and public scrutiny “were more numerous and
28

1 considerably more compelling” than derivative counsel’s story that they are responsible for 50% of
2 the value of clawbacks that occurred during inceptive period of this litigation. At that time counsel
3 were positioning for appointments, drafting a consolidated complaint, and opposing the motion to
4 dismiss. They were not engaged in substantive mediation with the defendant. And indeed, this
5 Court’s order partially denying defendants’ motion to dismiss was not entered until May 4, 2017,
6 several weeks after the last of the clawbacks. See Dkt. 129. Rather, the record reveals that Wells had
7 no shortage of independent reasons to forfeit executives’ compensation in the aftermath of the
8 public scandal. *See generally Koby v. ARS Natl. Services, Inc.*, 846 F.3d 1071, 1079 (9th Cir. 2017)
9 (holding that codifying injunctive relief business practices changes defendant already made
10 “presumably to avoid further litigation risk” has no real settlement value); *accord In re Subway Footlong*
11 *Mktg. Litig.*, 869 F.3d 551 (7th Cir. 2017).

12 14. Many of the other purported reforms appear to follow from Wells Fargo settlements
13 with the OCC and CFPB announced on September 2, 2016, and both of which required the board
14 to obtain independent consultants, which ultimately recommended many of the reforms counsel
15 now take credit for.

16 15. Most of the same reforms are also claimed by plaintiffs as a benefit from the
17 recently-proposed California derivative settlement centered on auto insurance practices. *In re Wells*
18 *Fargo & Co. Auto Ins. Derivative Litig.*, No. CGC 17-561118 (S.F. Super.) (“California CPI
19 Settlement”), attached as Exhibit 3, at 13-15.

20 16. In its 2018 annual shareholder report, Wells accurately describes the material terms
21 of the settlement: “insurance carriers will pay the Company approximately \$240 million for alleged
22 damage to the Company, and the Company will pay plaintiffs’ attorneys’ fees.” Wells Fargo & Co.,
23 Ex. 13 to Form 10-K, 217 (Dec. 31, 2018), *available at*
24 <https://www.sec.gov/Archives/edgar/data/72971/000007297119000227/wfc-12312018xex13.htm>
25 (last visited July 7, 2019). Governance reforms are notably absent from the description.

26 17. Derivative counsel note that mediation proposals include certain of these reforms,
27 but they never elucidate which of the reforms were proposed. Fee Motion 16. As in *Oclaro*, the
28

1 governance reforms here are “modest” and banal. 2014 WL 4684993. “Business and finance
2 scholars have examined the relationship between independence and firm performance from nearly
3 every angle, and they have been unable to come up with any empirical evidence linking board
4 independence with increased firm value.” Erickson, *supra*, 51 WM. & MARY. L. REV. at 1816. “A
5 similar conclusion can be drawn about [provisions] that placed limitations on the number of outside
6 boards on which the board members of the plaintiff corporations could serve.” *Id.* at 1817. “[T]he
7 empirical evidence, though sparse, suggests that such limitations do not enhance firm performance.”
8 *Id.* Any theory that such boards are better at rooting out fraud “has not been tested.” *Id.* at 1818.

9 18. The declarations of Jeffrey N. Gordon and Michael A. Santoro do not demonstrate
10 otherwise. They are prototypical efforts at the time of settlement to justify the value of inestimable
11 injunctions, efforts which do little to serve the interest of the absentees but much to serve the
12 interest of counsel. *See, e.g., Pearson v. NBTY, Inc.*, 772 F.3d 778, 786 (7th Cir. 2014) (finding report
13 “too shallow to be admissible as evidence”); *In re LivingSocial Mktg. & Sales Practices Litig.*, 298 F.R.D.
14 1, 17 n.16 (D.D.C. 2013) (rebuking a \$54 million expert valuation of injunctive relief as “of marginal
15 value” and noting that “the Court is unable to assess the reliability of the report.”); *Willner v.*
16 *Manpower Inc.*, 2015 WL 3863625, 2015 U.S. Dist. LEXIS 80697, at *20 (N.D. Cal. Jun. 20, 2015)
17 (Tigar, J.) (finding injunctive valuation “to be highly subjective at best and arbitrary at worst”);
18 *Oracle*, 132 F.R.D. at 544-45. Neither Mr. Gordon nor Mr. Santoro appear to consider that
19 implementing reforms will impose some costs on Wells, which may or may not ultimately be offset
20 by countervailing benefits. For example, the establishment of the Conduct Management Office that
21 Mr. Gordon considers among the most important reforms, will entail new costs for the company
22 (*e.g.* staffing, office space, bureaucratic efficiency costs). Similarly, Mr. Santoro considers the benefits
23 of ending product sales goals and raising the minimum hourly wage for U.S.-based employees
24 without considering the straightforward cost increase that those measures will entail. Dkt. 270-4
25 at 13.

26 19. Neither Mr. Gordon nor Mr. Santoro independently arrive at a \$20 million valuation.
27 Rather, they merely endorse the valuation that the parties proposed to them. Dkt. 278-2 at 3, 6; Dkt.
28

1 270-4 at 14. Gordon reasons that a small reduction in recurrence risk of a catastrophic event can
2 generate substantial value. Dkt. 278-2 at 7. But he provides no reason to believe that the *ex ante*
3 recurrence risk is the 5 percent he suggests or that the reforms will cut that risk in half (as he also
4 suggests). Indeed, in past testimony in support of corporate governance reforms in another
5 settlement, he admitted that “precise monetary estimates of the value added may not be possible.”
6 Declaration of Jeffrey N. Gordon, *Rubery v. Caplan*, No. 07-cv-08612, Dkt. 57 at 28-29 (S.D.N.Y.
7 May 17, 2013). To change course now and endorse derivative counsel’s \$20 million valuation here,
8 Gordon is effectively “picking a number out of the air,” something that should be avoided when
9 setting a common fund fee. *WPPSS*, 19 F.3d at 1297.

10 20. As a fallback, derivative counsel insist that “regardless of their precise value” the
11 reforms generally support the fee by providing an additional reason to buy the stock. Fee Motion 17.
12 But it remains to be seen whether the reforms are net positive, net negative, or most likely a neutral
13 reshuffling of deck chairs. If derivative counsel is correct that they provide an additional reason to
14 buy the stock one would be have expected to see the share price trend upward in the strong market
15 over the past two-and-a-half years since the reforms have been gradually implemented. *See generally*
16 Frank H. Easterbrook and Daniel R. Fischel, *The Economic Structure of Corporate Law* 17-20 (1991)
17 (stock price reflects value of corporate governance structure); *see also Oclaro*, 2014 WL 4684993, at *4
18 (citing *Maber v. Zapata*, 714 F.2d 436, 454 (5th Cir. 1983)), in which derivative plaintiffs linked their
19 reforms to a tripling of the stock price in less than two years). But after Wells stock rebounded to
20 the mid-\$50s in the immediate recovery from its nosedive in September 2016, it has trended
21 downward and now sits at around \$47 at the date of this filing. By contrast, the Dow Jones
22 Industrial Average is hitting all-time highs.

23 **Fee-ing Frenzy**

24 21. The low risk of this suit is confirmed by the parade of other plaintiffs and counsel
25 who filed largely duplicative complaints in numerous forums in an effort to win a piece of the
26 inevitable settlement.

27 22. A total of eight different plaintiffs filed federal suits between September 29 and
28

1 November 15, 2016. Dkt. 39 at 1.

2 23. Among the many derivative suits filed at least in part over the fake accounts issue in
3 federal and state court include: *In re Wells Fargo & Co. Derivative Litigation*, No. CGC 16-554407 (S.F.
4 Super.) (filed as early as Sep. 21, 2016, consolidated Nov. 22, 2016); *Gordon v. Baker*, No. CGC 16-
5 554578 (S.F. Super. Sep. 29, 2016) & C.A. No. 12877-VCG (Del. Ch. Nov. 7, 2016); *Rosenfeld v.*
6 *Stumpf*, C.A. No. 2017-0383 (Del. Ch. Dec. 20, 2016); *Mass. Laborers' Pension Fund v. Wells Fargo &*
7 *Co.*, C.A. No. 12997-VCG (Del. Ch. May 17, 2017); *Hannon v. Loughlin*, No. 3:17-cv-07236-JST
8 (N.D. Cal. Dec. 20, 2017); *Connecticut Laborers Pension & Annuity Funds v. Stumpf*, C.A. No. 2017-0380-
9 SG (Del. Ch.); *Herron v. Stumpf*, 18-civ-00466 (San Mateo Super. Jan. 30, 2018); *Feuer v. Baker*,
10 No. 3:18-cv-02866-JST (N.D. Cal. May 16, 2018); and *Himstreet v. Sloan*, No. 3:18-cv-02922-JST
11 (N.D. Cal. May 17, 2018).

12 24. Hach Rose Schirripa & Cheverie, LLP, Friedman Oster & Tetjel, Guttman Buschner
13 & Brooks PLLC, Safirstein Metcalf LLP, Pomerantz LLP, and Rosenthal, Monhait & Goddess, P.A.
14 are seeking fees for work performed in *Connecticut Laborers Pension & Annuity Funds v. Stumpf*, C.A.
15 No. 2017-0380-SG (Del. Ch.). This Settlement and the California CPI Settlement split the claims
16 from *Connecticut Laborers'*. In other words, this Settlement releases “Improper Sales Practices” claims
17 alleged under in *Connecticut Laborers'* and the California CPI Settlement releases “automobile
18 collateral protection insurance” claims alleged under the *Connecticut Laborers'*. Compare Settlement,
19 Dkt. 270-1 at 16 with California CPI Settlement at 11 (attached as an exhibit to Exhibit 3). But the
20 lodestar for those six law firms does not differentiate between work performed on those two kinds
21 of allegations. *See* Dkt. 278-12 at Exhibit 1. Thus those firms are potentially being paid twice for the
22 same work.

23 Center for Class Action Fairness

24 25. I founded the non-profit Center for Class Action Fairness (“CCAF”), a non-profit
25 public-interest law firm based out of Washington, DC, in 2009. In 2015, CCAF merged into the
26 non-profit Competitive Enterprise Institute and became a division within their law and litigation
27 unit. In January 2019, CCAF become part of the Hamilton Lincoln Law Institute, a new non-profit
28

1 public-interest law firm founded in 2018.

2 26. CCAF's mission is to litigate on behalf of class members against unfair class action
3 procedures and settlements. *See, e.g., Pearson v. NBTY, Inc.*, 772 F.3d 778, 787 (7th Cir. 2014) (praising
4 CCAF's work); *In re Dry Max Pampers Litig.*, 724 F.3d 713, 716-17 (6th Cir. 2013) (describing CCAF's
5 client's objections as "numerous, detailed and substantive") (reversing settlement approval and
6 certification); *Richardson v. L'Oreal USA, Inc.*, 991 F. Supp. 2d 181, 205 (D.D.C. 2013) (describing
7 CCAF's client's objection as "comprehensive and sophisticated" and noting that "[o]ne good
8 objector may be worth many frivolous objections in ascertaining the fairness of a settlement")
9 (rejecting settlement approval and certification). The Center has won millions of dollars for class
10 members and received national acclaim for its work. *See, e.g., Adam Liptak, When Lawyers Cut Their*
11 *Clients Out of the Deal*, N.Y. Times, Aug. 13, 2013 ("the leading critic of abusive class action
12 settlements"); Roger Parloff, *Should Plaintiffs Lawyers Get 94% of a Class Action Settlement?*, Fortune,
13 Dec. 15, 2015 ("the nation's most relentless warrior against class-action fee abuse"); The Editorial
14 Board, *The Anthem Class-Action Con*, Wall St. J., Feb. 11, 2018 (opining "[t]he U.S. could use more
15 Ted Franks" while covering CCAF's role in exposing "legal looting" in the Anthem data breach
16 MDL).

17 27. The Center has been successful, winning reversal or remand in over a dozen federal
18 appeals decided to date. *E.g., Frank v. Gaos*, 139 S. Ct. 1041 (2019); *In re Subway Footlong Mktg. Litig.*,
19 869 F.3d 551 (7th Cir. 2017); *In re Target Corp. Customer Data Sec. Breach Litig.*, 847 F.3d 608 (8th Cir.
20 2017); *In re Walgreen Co. Stockholder Litig.*, 832 F.3d 718 (7th Cir. 2016); *In re EasySaver Rewards Litig.*,
21 599 Fed. Appx. 274 (9th Cir. 2015) (unpublished); *In re BankAmerica Corp. Secs. Litig.*, 775 F.3d 1060
22 (8th Cir. 2015); *Pearson v. NBTY, Inc.*, 772 F.3d 778 (7th Cir. 2014); *Redman v. RadioShack Corp.*, 768
23 F.3d 622 (7th Cir. 2014); *In re MagSafe Apple Power Adapter Litig.*, 571 Fed. Appx. 560 (9th Cir. 2014)
24 (unpublished); *In re Dry Max Pampers Litig.*, 724 F.3d 713 (6th Cir. 2013); *In re HP Inkjet Printer*
25 *Litigation*, 716 F.3d 1173 (9th Cir. 2013); *In re Baby Products Antitrust Litigation*, 708 F.3d 163 (3d Cir.
26 2013); *Dewey v. Volkswagen*, 681 F.3d 170 (3d Cir. 2012); *Robert F. Booth Trust v. Crowley*, 687 F.3d 314
27 (7th Cir. 2012); *Nachshin v. AOL, LLC*, 663 F.3d 1034 (9th Cir. 2011); *In re Bluetooth Headset Prods.*

1 *Liab. Litig.*, 654 F.3d 935 (9th Cir. 2011). While, like most experienced litigators, we have not won
2 every appeal we have litigated, CCAF has won the majority of them.

3 28. CCAF has won more than \$200 million dollars for class members by driving the
4 settling parties to reach an improved bargain or by reducing outsized fee awards. Andrea Estes,
5 *Critics hit law firms' bills after class-action lawsuits*, Boston Globe (Dec. 17, 2016). *See also, e.g., McDonough*
6 *v. Toys "R" Us*, 80 F. Supp. 3d 626, 661 (E.D. Pa. 2015) ("CCAF's time was judiciously spent to
7 increase the value of the settlement to class members") (internal quotation omitted); *In re Citigroup*
8 *Inc. Secs. Litig.*, 965 F. Supp. 2d 369 (S.D.N.Y. 2013) (reducing fees, and thus increasing class
9 recovery, by more than \$26 million to account for a "significantly overstated lodestar"); *In re Apple*
10 *Inc. Sec. Litig.*, No. 5:06-cv-05208-JF, 2011 U.S. Dist. LEXIS 52685 (N.D. Cal. May 17, 2011) (parties
11 nullify objection by eliminating *cy pres* and augmenting class fund by \$2.5 million).

12 **Pre-empting *Ad Hominem* Attacks**

13 29. In my experience, class counsel often responds to CCAF objections by making a
14 variety of *ad hominem* attacks, often wildly false. The vast majority of district court judges do not fall
15 for such transparent and abusive tactics. In an effort to anticipate such attacks and to avoid collateral
16 litigation over a right to file a reply, I discuss and refute the most common ones below. If the Court
17 is inclined to disregard the *ad hominem* attacks, it can avoid these collateral disputes entirely.

18 30. HLLI pays me on a salary basis that does not vary with the result in any case. HLLI
19 and CCAF attorneys do not receive a contingent bonus based on success in any case, a structure that
20 would be contrary to I.R.S. restrictions.

21 31. Class counsel often try to tar CCAF as "professional objectors," and then cite court
22 opinions criticizing for-profit attorneys who threaten to disrupt a settlement unless plaintiffs'
23 attorneys buy them off with a share of attorneys' fees. But this is not the non-profit CCAF's *modus*
24 *operandi*, so the court opinions class counsel rely upon to tar CCAF are inapposite. *See* Edward
25 Brunet, *Class Action Objectors: Extortionist Free Riders or Fairness Guarantors*, 2003 U. Chi. Legal F. 403,
26 437 n. 150 (public interest groups are not professional objectors); Paul Karlsgodt & Raj Chohan,
27 *Class Action Settlement Objectors: Minor Nuisance or Serious Threat to Approval*, BNA: Class Action Litig.

1 Report (Aug. 12, 2011) (distinguishing CCAF from professional objectors). CCAF refuses to engage
2 in *quid pro quo* settlements, and has never withdrawn an objection in exchange for payment. Instead,
3 it is funded entirely through charitable donations and court-awarded attorneys' fees. The difference
4 between a for-profit "professional objector" and a public-interest objector is a material one. As the
5 federal rules are currently set up, "professional objectors" have an incentive to file objections
6 regardless of the merits of the settlement or the objection. In contrast, a public-interest objector
7 such as myself has to triage dozens of requests for *pro bono* representation and dozens of unfair class
8 action settlements, loses money on every losing objection (and most winning objections) brought,
9 can only raise charitable donations necessary to remain afloat by demonstrating success, and has no
10 interest in wasting limited resources and time on a "baseless objection." CCAF objects to only a
11 small fraction of the number of unfair class action settlements it sees.

12 32. While one district court called me a "professional objector" in a broader sense, that
13 court stated that it was not meant pejoratively, and awarded CCAF fees for a successful objection
14 and appeal that improved the settlement for the class. *Dewey v. Volkswagen*, 909 F. Supp. 2d 373, 396
15 n.24 (D.N.J. 2012). Similarly, the Seventh Circuit in *In re Subway Footlong Mktg. Litig.*, 869 F.3d 551
16 (7th Cir. 2017) referred to me non-pejoratively as a "professional objector" in an opinion agreeing
17 with my objection and reversing a settlement approval and class certification.

18 33. Indeed, CCAF feels strongly enough about the problem of bad-faith objectors
19 profiting at the expense of the class through extortionate means that it has initiated litigation to
20 require such objectors to disgorge their ill-gotten gains to the class. *See Pearson v. Target Corp.*, 893
21 F.3d 930 (7th Cir. 2018); *see generally* Jacob Gershman, *Lawsuits Allege Objector Blackmail in Class Action*
22 *Litigation*, Wall St. J., Dec. 7, 2016.

23 34. Until 2015, I had a private practice unrelated to my non-profit work. One of my
24 former clients, Christopher Bandas, is a professional objector who has settled objections and
25 withdrawn appeals for cash payments. I withdrew from representation of Mr. Bandas in 2015 when
26 he undertook steps that interfered with my non-profit work. Mr. Bandas was criticized by the
27 Southern District of New York after I ceased to represent him, and class counsel in other cases
28

1 often cites that language and attempts to attribute it to me. Class counsel in multiple cases, using
2 boilerplate language, has tried to make it seem like my paid representation of Mr. Bandas was
3 somehow scandalous, using language like “forced to disclose” and “secret.” The sneering is false: my
4 representation of Mr. Bandas was not secret, as I filed declarations in my name on his behalf in
5 multiple cases, noting under oath that I was being paid to perform legal work for him; I filed notices
6 of appearances in cases where he had previously appeared; and my declaration in the *Capital One* case
7 ending the relationship was filed voluntarily at great personal expense to myself, as I had been
8 offered and refused to take a substantial sum of money to accede to a Lieff Cabraser fee award of
9 over \$3400/hour. I only worked for Mr. Bandas in cases where I believed there was a meritorious
10 objection to be made, had no role in any negotiations he made to settle appeals, and my pay was flat-
11 rate or by the hour and not tied to his ability to extract settlements. I argued two appeals for Mr.
12 Bandas, and won both of them. There is nothing scandalous about that, unless one believes it is
13 scandalous for an attorney to be paid to perform successful high-quality legal services for a client.
14 CCAF had no attorney-client relationship with Mr. Bandas, and Mr. Bandas never paid CCAF, other
15 than for his share of printing expenses when he was an independent co-appellant representing
16 clients unrelated to CCAF. In 2019, the Northern District of Illinois recognized the quality of the
17 work I did with Mr. Bandas by awarding us substantial attorneys’ fees for our success in winning an
18 appeal over an approval of a settlement with Pella Windows that ultimately resulted in a substantially
19 improved settlement for the class.

20 35. Firms whose fees we have objected to have previously cited *City of Livonia Employees’*
21 *Ret. Sys. v. Wyeth*, No. 07 Civ 10329 (RJS), 2013 WL 4399015 (S.D.N.Y. Aug. 7, 2013), in efforts to
22 tar CCAF. While the *Wyeth* court did criticize our client’s objection (after mischaracterizing the
23 nature of that objection), it ultimately agreed with our client that class counsel’s fee request was too
24 high, and reduced it by several million dollars to the benefit of shareholder class members.

25 36. Class counsel frequently cite a nine-year-old case, *Lonardo v. Travelers Indemnity Co.*,
26 706 F. Supp. 2d 766, 804 (N.D. Ohio 2010), where the district court criticized a policy-based
27 argument by CCAF as supposedly “short on law”; however, CCAF ultimately was successful in the
28

1 Seventh and Ninth Circuits on that same argument. *See In re Bluetooth Headset Prod. Liab. Litig.*, 654
2 F.3d 935 (9th Cir. 2011) (agreeing that reversionary clauses are a problematic sign of self-dealing);
3 *Pearson v. NBTY, Inc.*, 772 F.3d 778 (7th Cir. 2014) (same). Moreover, the court in *Lonardo* stated its
4 belief that “Mr. Frank’s goals are policy-oriented as opposed to economic and self-serving” and even
5 awarded CCAF about \$40,000 in attorneys’ fees for increasing the class benefit by \$2 million.
6 *Lonardo*, 706 F. Supp. 2d at 813-17.

7 37. CCAF has no interest in pursuing “baseless objections,” because every objection we
8 bring on behalf of a class member has the opportunity cost of not having time to pursue a
9 meritorious objection in another case. We are confronted with many more opportunities to object
10 (or appeal erroneous settlement approvals) than we have resources to use, and make painful
11 decisions several times a year picking and choosing which cases to pursue, and even which issues to
12 pursue within the case. CCAF turns down the opportunity to represent class members wishing to
13 object to settlements or fees when CCAF believes the underlying settlement or fee request is
14 relatively fair. CCAF does not reflexively object to settlements, even when it otherwise objects to
15 excessive fee requests.

16 38. While I am often accused of being an “ideological objector,” the ideology of CCAF’s
17 objections is merely the correct application of Rule 23 to ensure the fair treatment of class members.
18 Likewise, I have often seen class counsel assert that I oppose all class actions and am seeking to end
19 them, not improve them. The accusation—aside from being utterly irrelevant to the legal merits of
20 any particular objection—has no basis in reality. I have been writing and speaking about class
21 actions publicly for over a decade, including in testimony before state and federal legislative
22 subcommittees, and I have never asked for an end to the class-action device, just proposed reforms
23 for ending the abuse of class actions and class-action settlements. That I oppose class-action abuse
24 no more means that I oppose class actions than someone who opposes food poisoning opposes
25 food. As a child, I admired Ralph Nader and consumer reporter Marvin Zindler (whose autographed
26 photo was one of my prized childhood possessions), and read every issue of *Consumer Reports* from
27 cover to cover. I have focused my practice on conflicts of interest in class actions because, among
28

1 other reasons, I saw a need to protect consumers that no one else was filling, and as a way to fulfill
2 my childhood dream of being a consumer advocate. I have frequently confirmed my support for the
3 principles behind class actions in declarations under oath, interviews, essays, and public speeches,
4 including a January 2014 presentation in New York that was broadcast nationally on C-SPAN and in
5 my Supreme Court briefing in *Frank v. Gaos*, No. 17-961. On multiple occasions, successful
6 objections brought by CCAF have resulted in new class-action settlements where the defendants pay
7 substantially more money to the plaintiff class without CCAF objecting to the revised settlement.
8 And I was the putative class representative in a federal class action, represented by a prominent
9 plaintiffs' firm. *Frank v. BMO Corp., Inc.*, No. 4:17-cv-870 (E.D. Mo.).

10 39. Some class counsels have accused us of improper motivation because CCAF has on
11 occasion sought attorneys' fees. While CCAF is funded entirely through charitable donations and
12 court-awarded attorneys' fees, the possibility of a fee award never factors into the Center's decision
13 to accept a representation or object to an unfair class-action settlement or fee request.

14 40. CCAF's history in requesting attorneys' fees reflects this approach. Despite having
15 made dozens of successful objections and having won over \$200 million on behalf of class
16 members, CCAF has not requested attorneys' fees in the majority of its cases or even in the majority
17 of its appellate victories. CCAF regularly passes up the opportunity to seek fees to which it is legally
18 entitled. In *Classmates*, for example, CCAF withdrew its fee request and instead asked the district
19 court to award money to the class; the court subsequently found that an award of \$100,000 "if
20 anything" "would have undercompensated CCAF." *In re Classmates.com Consol. Litig.*, No. 09-cv-0045-
21 RAJ, 2012 WL 3854501, at *11 (W.D. Wash. June 15, 2012). In other cases, CCAF has asked the
22 court for a fraction of the fees to which it would be legally entitled based on the benefit CCAF
23 achieved for the class and asked for any fee award over that fractional amount be returned to the
24 class settlement fund.

1 I declare under penalty of perjury under the laws of the United States that the foregoing is
2 true and correct.

3 Executed on July 11, 2019, in Arlington, Virginia.

4
5 

6 Theodore H. Frank

7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

Frank Decl.

EXHIBIT 1

Press Release

February 02, 2018

Responding to widespread consumer abuses and compliance breakdowns by Wells Fargo, Federal Reserve restricts Wells' growth until firm improves governance and controls. Concurrent with Fed action, Wells to replace three directors by April, one by year end

For release at 6:15 p.m. EST

Share 

Responding to recent and widespread consumer abuses and other compliance breakdowns by Wells Fargo, the Federal Reserve Board on Friday announced that it would restrict the growth of the firm until it sufficiently improves its governance and controls. Concurrently with the Board's action, Wells Fargo will replace **three** current board members by April and a fourth board member by the end of the year.

In addition to the growth restriction, the Board's consent cease and desist order with Wells Fargo requires the firm to improve its governance and risk management processes, including strengthening the effectiveness of oversight by its board of directors. Until the firm makes sufficient improvements, it will be restricted from growing any larger than its total asset size as of the end of 2017. The Board required each current director to sign the cease and desist order.

"We cannot tolerate pervasive and persistent misconduct at any bank and the consumers harmed by Wells Fargo expect that robust and comprehensive reforms will be put in place to make certain that the abuses do not occur again," Chair Janet L. Yellen said. "The enforcement action we are taking today will ensure that Wells Fargo will not expand until it is able to do so safely and with the protections needed to manage all of its risks and protect its customers."

In recent years, Wells Fargo pursued a business strategy that prioritized its overall growth without ensuring appropriate management of all key risks. The firm did not have an effective firm-wide risk management framework in place that covered all key risks. This prevented the proper escalation of serious compliance breakdowns to the board of directors.

The Board's action will restrict Wells Fargo's growth until its governance and risk management sufficiently improves but will not require the firm to cease current activities, including accepting customer deposits or making consumer loans.

Emphasizing the need for improved director oversight of the firm, the Board has sent letters to each current Wells Fargo board member confirming that the firm's board of directors, during the period of compliance breakdowns, did not meet supervisory expectations. Letters were also sent to former Chairman and Chief Executive Officer John Stumpf and past lead independent director Stephen Sanger stating that their performance in those roles, in particular, did not meet the Federal Reserve's expectations.

For media inquiries, call 202-452-2955.

 [Attachment 1 \(PDF\)](#)

[Attachment 2 \(PDF\)](#)

[Attachment 3 \(PDF\)](#)

[Attachment 4 \(PDF\)](#)

Related Content

[Board Votes](#)

Last Update: February 02, 2018

Frank Decl.

EXHIBIT 2



BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM
WASHINGTON, D. C. 20551

MICHAEL S. GIBSON
DIRECTOR, DIVISION OF SUPERVISION AND
REGULATION

February 2, 2018

Stephen Sanger

Re: *Accountability as Lead Independent Director of Wells Fargo & Company Board of Directors*

Dear Mr. Sanger:

The Federal Reserve Board is issuing this letter to you with respect to your tenure as lead independent director of the board of directors of Wells Fargo & Company (WFC) from 2012 to 2016. As lead independent director, you had a responsibility to lead other non-executive directors in forming and providing an independent view of the state of the firm and its management.

In the past year and a half, it has emerged that there were many pervasive and serious compliance and conduct failures ongoing during your tenure as lead independent director. These include the sales practices that led to the issuance of the Consent Orders from the Office of the Comptroller of the Currency and Consumer Financial Protection Bureau in 2016. Due to the scope and severity of these compliance and conduct failures, the Federal Reserve has also issued a cease-and-desist order (“Order”) against WFC requiring, among other things, that WFC strengthen board oversight of the firm and senior management. The Order also imposes limits on WFC’s growth until substantial progress on implementing the requirements of the Order has been achieved.

The Order is addressed to the current WFC board. However, the Board is issuing this letter to you because of your role as lead independent director during the time period many of these problems occurred. To fulfill that role, you needed to have sufficient information from firm management to understand and assess problems at the firm. This would require robust inquiry and demand for further information about the serious compliance problems that were occurring at the firm.

You were made aware of sales practices and other compliance issues while you were lead independent director. However, you did not appear to initiate any serious investigation or inquiry into the sales practices problems or put a proposal to do so to the WFC board. In addition, you did not appear to lead the independent directors in pressing firm management for more information

and action, even after you were aware of the seriousness of the problems. This lack of inquiry and lack of demand for additional information are not consistent with the duties and responsibilities of the Lead Director as described in the firm's Corporate Governance Guidelines between 2013 and 2016. For example, those guidelines provide that the Lead Director will facilitate communication between the WFC board and senior management, including advising WFC's Chairman and CEO of the WFC board's informational needs and approving the types and forms of information sent to the WFC board.

The Federal Reserve Board has been troubled by the sales practice abuses at WFC, and the ongoing disclosures of misconduct in other areas. A lead independent director is appointed to serve the interests of the firm and, to that end, provide an alternative view of, and (when necessary) check on, executive directors of the board and the management of the firm. Your performance in that role is an example of ineffective oversight that is not consistent with the Federal Reserve's expectations for a firm of WFC's size and scope of operations.

Sincerely,

/s/

Michael S. Gibson

Frank Decl.

EXHIBIT 3

1 JOSEPH W. COTCHETT (36324)
jcotchett@cpmlegal.com
2 MARK C. MOLUMPY (168009)
mmolumphy@cpmlegal.com
3 GINA STASSI (261263)
gstassi@cpmlegal.com
4 ANYA N. THEPOT (318430)
athepot@cpmlegal.com
5 **COTCHETT, PITRE & McCARTHY, LLP**
840 Malcolm Road, Suite 200
6 Burlingame, CA 94010
Telephone: (650) 697-6000

7 *Attorneys for Plaintiff Donna Maxwell*
8
9

ELECTRONICALLY
FILED

Superior Court of California,
County of San Francisco

06/21/2019
Clerk of the Court

BY: VANESSA WU
Deputy Clerk

10
11 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
12 **COUNTY OF SAN FRANCISCO**

13 IN RE WELLS FARGO & COMPANY AUTO) Lead Case No. CGC-17-561118
14 INSURANCE DERIVATIVE LITIGATION)
15 _____) **DECLARATION OF MARK C. MOLUMPY**
16) **IN SUPPORT OF PLAINTIFFS' RENEWED**
17) **MOTION FOR PRELIMINARY APPROVAL**
18) **OF SETTLEMENT**
19)
20 This Document Relates To:) Date: July 3, 2019
21 ALL ACTIONS) Time: 10:00 a.m.
22) Dept. 613
23) Hon. Teri L. Jackson
24)
25)
26)
27)
28)

1 I, Mark C. Molumphy, declare as follows:

2 1. I am an attorney duly admitted to practice before all courts of the State of California. I
3 am a partner with Cotchett, Pitre & McCarthy, LLP, (“CPM”), Co-Counsel for CPI Plaintiffs in this
4 action. I submit this declaration in support of Plaintiff’s Renewed Motion for Preliminary Approval of
5 the Proposed Settlement. This Declaration is based upon my personal knowledge and if called to testify,
6 I could and would do so competently as to the matters set forth herein.

7 2. Attached hereto as **Exhibit 1** is a true and correct copy of the fully executed Stipulation
8 and Agreement of Compromise, Settlement and Release (“Settlement”) between the Parties in this
9 Action.

10 3. This declaration serves to provide support for the assertions made in Plaintiffs’ motion
11 for preliminary approval of the Settlement, including an explanation of the potential value of the
12 derivative claims and the legal and factual risks of recovery given the applicable Delaware and
13 California law and rulings of the Court. As discussed below, taking into account these factors, the
14 Settlement is unquestionably fair, reasonable, and adequate, and warrants preliminary approval.

15 4. In addition to my declaration, Plaintiffs also separately submitted (1) the Declaration of
16 Professor Daniel Morrissey describing the value of the consideration received, including the
17 implementation of Corporate Governance Reforms estimated to be worth at least \$100 million to
18 Wells Fargo, (2) the Honorable Daniel Weinstein (Ret.), addressing the arms-length process of the
19 negotiations and the basis for his mediator’s proposal in this Action, and (3) the Declaration of Anya
20 Thepot, describing modifications to the proposed notices to address the Court’s stated concerns and
21 providing support for the proposed manner of publication notice.

22 **I. OVERVIEW OF THE DERIVATIVE LITIGATION**

23 **A. Initial Complaints Seeking Relief Including Governance Reforms**

24 5. On September 5, 2017, the first of several shareholder derivative complaints were filed
25 in San Francisco County Superior Court against the Director and Officer Defendants and Wells Fargo
26 (as nominal defendant), alleging, among other things, unlawful conduct impacting auto and home loan
27 customers of Wells Fargo, and that certain of the Director and Officer Defendants breached their
28 fiduciary duties to Wells Fargo in connection with these actions or omissions, and engaged in insider

1 trading and were unjustly enriched with respect to this alleged conduct. Plaintiffs also alleged that the
 2 Company's Board failed to act on alleged "red flag" warnings of illegal conduct and to exercise
 3 appropriate risk management and oversight of the Bank.

4 6. The derivative complaints alleged the conduct occurred through at least 2016, and that
 5 Wells Fargo allegedly worked with a third party auto insurance company, National General Insurance
 6 Company ("National General"), to solicit its auto loan customers to purchase auto insurance, allegedly
 7 resulting in significant damages to the Bank, including fines and penalties paid to federal regulators
 8 and exposure to class action plaintiffs. Plaintiffs sought various forms of relief, including monetary
 9 damages, restitution, and disgorgement of unearned compensation by the Director and Officer
 10 Defendants from the challenged practices. Plaintiffs' prayers for relief also sought corporate
 11 governance reforms at Wells Fargo to address the Bank's practices and improve Board oversight.¹

12 **B. Consolidated Amended Complaint**

13 7. The derivative actions were ultimately deemed to be complex under California Rules of
 14 Court and singly assigned to the Honorable Curtis E.A. Karnow in this Court.

15 8. The derivative actions were cooperatively organized by Plaintiffs' Counsel and, on
 16 November 17, 2017, after negotiations between Plaintiffs' and Defendants' Counsel, the Court entered
 17 a stipulation and order consolidating the derivative actions as *In re Wells Fargo & Company Auto*
 18 *Insurance Derivative Litigation*, Lead Case. No. CGC-17-561118. The Court also set a schedule for
 19 filing a Consolidated Complaint, as well as for any demurrers to the Consolidated Complaint.

20 9. On December 11, 2017, Plaintiffs filed an 87-page Consolidated Complaint which
 21 alleged that Wells Fargo had unlawfully solicited and overcharged its Bank customers for auto loan
 22 insurance and mortgage lock-in fees. Plaintiffs also alleged that the Company's Board failed to act on
 23 alleged warnings of illegal conduct and to exercise appropriate risk management and oversight of
 24

25 ¹ On December 18, 2017, plaintiffs Connecticut Laborers' Pension and Annuity Funds, John Reynolds,
 26 Pompano Beach Police and Firefighters Retirement System and MSS 12-09 Trust filed a Verified
 27 Amended Shareholder Derivative Complaint in the Delaware Chancery Court making similar claims
 28 as in *In re Wells Fargo & Company Auto Insurance Derivative Litigation*, as well as other claims. In
 2019, the Massachusetts Laborers' Pension Fund and the Employees' Retirement System for the City
 of Providence served books and records demands on Wells Fargo pursuant to 8 Del. C. § 220
 (collectively with the plaintiffs in the Verified Amended Shareholder Derivative Complaint in the
 Delaware Chancery Court the "Delaware CPI Plaintiffs").

1 Wells Fargo. Plaintiffs alleged damages to Wells Fargo based on harm to goodwill, as well as fines
2 and penalties paid to federal regulators, restitution owed to Bank customers, and exposure to class
3 action plaintiffs.

4 10. As with the original complaints, Plaintiffs' Consolidated Complaint asserted causes of
5 action for (1) breach of fiduciary duty; (2) unjust enrichment; (3) insider trading in violation of
6 California Corporations Code section 25402, and (4) insider trading in violation of Delaware law.
7 Plaintiffs also added National General as a new defendant, alleging it aided and abetted the
8 Defendants' breaches of their fiduciary duties. Plaintiffs again sought extensive monetary and non-
9 monetary relief, including a constructive trust over executive compensation, restitution of unearned
10 equity awards, and reforms to the Bank's governance.

11 **C. First Round of Demurrers**

12 11. In January 2018, Wells Fargo filed a demurrer to Plaintiffs' Consolidated Complaint,
13 asserting that Plaintiffs should have made a pre-suit demand on the Board to evaluate their claims and
14 that Plaintiffs had not sufficiently alleged why a pre-suit demand would have been futile. Wells Fargo
15 further asserted that its charter exculpated the Director Defendants from liability for breach of
16 fiduciary duty of care claims, pursuant to Delaware General Corporations Law section 102(b)(7). The
17 Director and Officer Defendants separately filed demurrers to Plaintiffs' claims, arguing that none had
18 been sufficiently alleged pursuant to Delaware's strict pleading requirements. In all, there were eight
19 separate demurrers and supporting memoranda.

20 12. Plaintiffs researched and prepared extensive opposition memoranda, including (1) an
21 omnibus opposition to the demurrers filed by the Officer Defendants, Stumpf, Sloan, Modjtabai, Harp,
22 Codel and Tolstedt, (2) a separate opposition to the Director Defendants' demurrers, and (3) an
23 opposition to Wells Fargo's demurrer premised on demand futility.

24 13. On May 3, 2018, this Court held a hearing and considered extensive oral argument on
25 the various demurrers. On May 8, 2018, the Court issued a detailed, 34-page Order sustaining
26 Defendants' first set of demurrers with leave to amend as to demand futility and the underlying causes
27 of action for breach of fiduciary duty, aiding and abetting breach of fiduciary duty, unjust enrichment,
28

1 and insider trading under Delaware law. The Court sustained the demurrer and dismissed without
2 leave to amend the claim for insider trading under California Corporations Code § 25402, which the
3 Court held was governed by Delaware law under the internal affairs doctrine.

4 **D. First Amended Complaint**

5 14. On May 30, 2018, Plaintiffs filed their 106-page First Amended Complaint (“Amended
6 Complaint”) in this Action. The Amended Complaint added allegations that the Director and Officer
7 Defendants had contemporaneous knowledge of the auto insurance and mortgage loan-lock practices
8 and recklessly or intentionally failed to stop them, in breach of their fiduciary duties. The Amended
9 Complaint also included factual allegations based on a class action lawsuit filed by Bank home loan
10 customers, a whistle-blower lawsuit filed by a mortgage banker at the Bank, Wells Fargo’s alleged
11 admissions in its public filings describing actions taken by the Consumer Financial Protection Bureau
12 (“CFPB”) and the Office of the Comptroller of the Currency (“OCC”) relating to the same conduct,
13 including \$1 billion in civil penalties, and an internal report prepared for Wells Fargo’s Board.

14 **E. Demurrers to Amended Complaint**

15 15. Wells Fargo, the Director and Officer Defendants, and National General, filed a new
16 round of separate demurrers to Plaintiffs’ Amended Complaint in June and July 2018. Defendants
17 argued that Plaintiffs failed to adequately plead demand futility or any claims against the Director and
18 Officer Defendants, noting that Board members did not receive reports of the CPI issues, which were
19 focused on the Bank’s lending operations in Southern California. Plaintiffs filed a 46-page omnibus
20 opposition to Wells Fargo’s and the Director and Officer Defendants’ demurrers, as well as a separate
21 opposition to National General’s demurer.

22 16. On September 25, 2018, after hearing oral argument on all the demurrers, the Court
23 issued an order sustaining the demurrers with leave to amend, though indicating that it was unlikely to
24 grant further leave to amend in the future.

25 **F. Shareholder Inspection Demand for Books and Records**

26 17. On October 5, 2018, following the Court’s demurrer order, Plaintiff Donna Maxwell
27 served a shareholder inspection demand for certain books and records of Wells Fargo pursuant to
28 California Corporations Code Section 1601. Plaintiff Maxwell’s inspection demand was extensive and

1 covered Board minutes and other materials relating to Wells Fargo’s auto insurance sales practices as
2 well as training, monitoring, and internal controls at the Bank dating back to 2005. The demand
3 included the Board’s internal report conducted by Oliver Wyman, internal audits conducted by the
4 Bank in 2013 and 2018, and communications with federal regulators relating to the CPI issues. Ms.
5 Maxwell also sought records relating to Wells Fargo’s risk management practices, public disclosures,
6 and executive compensation. After negotiations, Wells Fargo identified and agreed to produce some,
7 but not all of the requested documents.

8 **G. Second Amended Complaint**

9 18. After conducting additional research, completing the books and records inspection, and
10 gathering discovery information disclosed in a putative consumer class-action litigation concerning
11 CPI, CPI Plaintiffs filed their 139-page Second Amended Consolidated Complaint on November 26,
12 2018. The Second Amended Complaint added factual allegations regarding and relating to, *inter alia*,
13 (i) management reports to the Board and Executive Risk Committee regarding internal controls and
14 CPI issues; (ii) internal Consumer Financial Protection Bureau documents concerning the Bureau’s
15 investigation of Wells Fargo revealing new facts regarding the Board’s knowledge of “red flags” and
16 inadequate remediation of “Matters Requiring Attention” issued by the Office of the Comptroller of
17 Currency; (iii) Wells Fargo’s announced “record” stock buybacks in its Form 10-Q; and (iv) the
18 November 2018 Federal Reserve Supervision and Regulation Report noting ongoing “Supervisory
19 Issues at Wells Fargo.”

20 **H. Settlement Negotiations**

21 19. Beginning in October 2018, the Parties engaged in extensive, arm’s-length negotiations
22 regarding a potential resolution of the Action, using the assistance of the Honorable Daniel Weinstein
23 (ret.) and Mr. Jed Melnick, Esq., who also oversaw the mediation of federal and state court derivative
24 actions challenging Wells Fargo’s sales practices (the “Improper Sales Practices Actions”).

25 20. As a result of the Parties’ settlement negotiations, on December 20, 2018, the Parties
26 stipulated that Defendants’ time to file demurrers or responses to the Second Amended Complaint was
27 suspended pending such negotiations.

28

1 21. The negotiations continued for months. Ultimately, Judge Weinstein made mediators’
2 proposals for settlements of both the Improper Sales Practices Actions and this CPI Action, which
3 included as components certain corporate governance reforms at Wells Fargo (the “Corporate
4 Governance Reforms”) designed, in part, to address the alleged improper CPI practices. The
5 mediators’ proposals also required the contemporaneous (but unconnected) resolution of the Improper
6 Sales Practices Actions.

7 22. After further discussion, and fully informed of the strength and weaknesses of the
8 claims and defenses, the Parties accepted the mediators’ proposals.

9 23. As detailed in the Stipulation, I am informed and understand that, on May 10, 2019,
10 counsel for the Delaware CPI Plaintiffs (“Delaware CPI Plaintiffs’ Counsel”) commenced discussions
11 with Wells Fargo regarding the corporate governance reforms being implemented by the Company and
12 potential settlement of the Delaware Actions. As further detailed in the Stipulation, following the
13 negotiations that ensued, Wells Fargo agreed to implement certain corporate governance
14 enhancements, which are further described in Exhibit A to this Stipulation. The Delaware CPI
15 Plaintiffs have agreed to resolve their claims and join in this Settlement.

16 **II. THE SETTLEMENT TERMS**

17 24. In the Settlement, CPI Plaintiffs, Delaware CPI Plaintiffs, and Wells Fargo agreed to
18 reforms and improvements to the Bank’s corporate governance and internal procedures to comply with
19 applicable laws and to protect the Company and its shareholders from a future occurrence of the
20 improper CPI practices alleged in the Action, a primary form of relief sought by Plaintiffs in their
21 original pleadings in this Action.

22 25. Indeed, as acknowledged by Wells Fargo in the Settlement, facts alleged in the
23 complaints in the Action and subsequent amendments thereto, as well as proposals made by Plaintiffs
24 in connection with the prosecution and proposed resolution of the Action, were significant and
25 contributing factors taken into account by Wells Fargo in implementing the corporate governance
26 reforms. These reforms, fully outlined in Exhibit A to the Stipulation, include: (i) the separation of the
27 roles of Board Chair and CEO; (ii) the addition of several new directors to the Board; (iii) the
28 appointment of new directors to serve on (and new leaders to chair) its key committees, including the

1 Risk Committee, Human Resources Committee (“HRC”), and the Governance and Nominating
2 Committee; (iv) changes to the Risk Committee’s makeup and oversight responsibilities (with a new
3 subcommittee formed for oversight of compliance); (v) a new policy limiting the number of public
4 company boards on which its directors may serve; (vi) ending product sales goals for retail banking
5 team members in branches and call centers; (vii) the implementation of new compensation and
6 performance management programs in the Community Bank focused on the customer experience; and
7 (viii) the Audit and Examination Committee (“A&E Committee”) and Risk Committee are the
8 principal recipients of regularly scheduled reports and those reports are received or discussed when
9 appropriate.

10 26. The Settlement also includes several Reforms unique to the CPI Action and, as a term
11 of the Settlement, are required to be implemented, maintained and funded going forward. For
12 example, the Settlement requires that before Wells Fargo can re-enter the CPI market, it must perform
13 an analysis of its risk controls, conducted by an independent advisor selected in consultation with the
14 CPI Plaintiffs’ Counsel. In addition, if the Bank does re-enter the business within the next two years,
15 its Chief Risk Officer will be required to make quarterly reports to its full Board on its auto lending
16 program and the adequacy of the risk controls and procedures relating to its CPI program, with
17 executive sessions by the Audit & Examination or Risk Committees to consider those reports.

18 27. In addition, the Reforms require Wells Fargo to implement and fund new internal
19 controls and enhance existing ones to be sure automatic placement programs like CPI are properly
20 authorized and disclosed to the Bank’s customers. These improvements include investment in
21 automated technical enhancements for risk control, most prominently a new “Enterprise Data
22 Management” function responsible for the infrastructure, business source systems and governance of
23 all Bank data and analysis. This function will improve the Bank’s ability to promptly identify and
24 understand data trends so they can be resolved or escalated for resolution. This is a Reform that all
25 Parties agree is a significant technological improvement that will immediately reduce the likelihood of
26 future errors similar to the CPI practices at issue in this Action.

27 28. The CPI Settlement also calls for an External Stakeholder Advisory Council (“Advisory
28 Council”) that will meet with the Bank’s management about matters raised in this Action. Plaintiffs’

1 governance expert has opined that this Reform is perhaps the most far sighted and tied directly to
2 improving a firm's governance and profitability. The Advisory Council will represent groups that
3 focus on issues such as consumer rights, fair lending, and governance, and will be charged with
4 providing direct feedback to Well Fargo's Board and senior executives on how the Bank's programs
5 are impacting underserved or vulnerable communities, many of whom were harmed by the CPI
6 practices. The Advisory Council will improve board oversight by giving outsiders access and input in
7 the Bank's operations. Under the CPI Settlement, the Advisory Council will be maintained for at least
8 three years and meet multiple times each year. Members of the Advisory Council will include
9 representatives from such groups as the Interfaith Center on Corporate Responsibility, the National
10 Urban League, the Centre for Responsible Lending, and the Director of Corporate Governance of the
11 California State Teachers' Retirement System.

12 29. Pursuant to the CPI Settlement, Wells Fargo's Board will now use a new specially
13 created committee, the Regulatory Compliance Oversight Committee, to provide Board-level
14 oversight of the compliance process for consent orders and other regulatory enforcement actions. This
15 Reform is important to Wells Fargo, as it will directly help to address issues raised in the Action
16 related to the Board's alleged failure to monitor and ensure compliance with regulatory orders which
17 allowed its wrongful conduct to continue.

18 30. Finally, and unique to the CPI Settlement, Wells Fargo's ability to monitor and reduce
19 its enterprise-wide risk exposure will be improved by the creation of a new Technology/Information
20 Security/Data Management subcommittee of the Board's Risk Committee. This subcommittee will
21 have the delegated responsibility to address operational risk issues, to meet monthly, and to report
22 back to the Board. Given the information management issues that lie at the heart of the alleged CPI
23 conduct, this Reform is extremely valuable to the Bank going forward.

24 31. In addition to the foregoing, Wells Fargo also agreed to implement certain corporate
25 governance enhancements that emphasize the Company's commitment to ethical behavior, including
26 fair dealing, good faith, and suitability. These enhancements are fully outlined in Exhibit A to the
27 Stipulation.

28

1 **III. THE SETTLEMENT PROVIDES VALUABLE RELIEF IN THE FACE OF**
2 **SIGNIFICANT LEGAL RISK, AND MERITS PRELIMINARY APPROVAL**

3 **A. The Settlement Was Reached Following Substantial Investigation By Counsel**
4 **Who Had Extensive Experience In Complex Derivative Litigation**

5 32. My firm, which served as Co-Counsel in this Action, has extensive experience
6 litigating shareholder derivative actions, and has served as lead counsel in some of the largest
7 derivative actions in United States and California history against public corporations, including actions
8 involving PG&E (relating to the San Bruno gas explosion and fire, killing several residents and
9 devastating an entire neighborhood), Hewlett Packard (relating to the multi-billion dollar Autonomy
10 acquisition), and Yahoo (relating to two of the largest customer data breaches in history). A true and
11 correct copy of my firm’s resume is attached hereto as **Exhibit 2**.

12 33. In addition to my firm’s experience, we were aided by prominent litigators serving as
13 Co-Counsel, including Frank Bottini and William Parish, who collectively have decades of experience
14 in shareholder derivative and class litigation. We applied our backgrounds and experience, and our
15 extensive knowledge of the unique issues in a derivative action – including Delaware corporate law –
16 to the Action. Ultimately, Plaintiffs’ Counsel agreed to a Settlement that confers significant benefits
17 upon Wells Fargo.

18 34. We concluded that the proposed Settlement is fair, reasonable, and in the best interests
19 of Wells Fargo and its current shareholders following substantial investigation, analysis, and
20 evaluation, including a careful evaluation of the facts, claims, defenses and damages, described in
21 more detail below.

22 35. In reaching this determination, Plaintiffs’ Counsel reviewed and analyzed data from
23 many sources, including: (1) Wells Fargo’s public filings with the SEC, press releases, announcements,
24 transcripts of investor conference calls, and news articles; (2) the Company’s internal “books and
25 records” produced to Plaintiffs pursuant to an inspection demand served under California law; (3)
26 securities analyst, business, and financial media reports about Wells Fargo; (4) filings in related class
27 actions; (5) disclosures in regulator settlements or consent decrees. Plaintiffs’ Counsel also analyzed
28 the following legal sources, including: (1) researched the applicable law with respect to the claims
asserted (or which could be asserted) in the Action and the potential defenses thereto; (2) researched,

1 drafted, and filed complaints, and oppositions to demurrers; and (3) prepared for and participated in
2 extensive settlement discussions with counsel for the Settling Defendants. Thus, we were able to fully
3 assess the strengths and weaknesses of the claims in the Action.

4 **B. Plaintiffs Took Into Account the Strengths of the Claims and the Litigation Risks**
5 **to Prevailing**

6 36. In its prior Tentative Ruling, the Court requested a more developed record regarding
7 the value of the claims and risks of recovery.

8 37. As Lead Counsel, we carefully considered the value of the claims and risks of recovery,
9 taking into account the relevant factual and legal arguments made by both sides and, most importantly,
10 the applicable Delaware state law and prior rulings by this Court on key legal issues, including the
11 ability to satisfy the demand requirement or establish demand futility. As the detailed procedural
12 chronology above illustrates, this was a case of extreme litigation risk.

13 38. First, every shareholder derivative action is, by its very nature, uniquely complex and
14 fraught with risk to a shareholder plaintiff. As the Ninth Circuit has recognized, “the odds of winning
15 [a] derivative lawsuit [are] extremely small” because “derivative lawsuits are rarely successful.” *In re*
16 *Pac. Enters. Sec. Litig.* (9th Cir. 1995) 47 F.3d 373, 378.

17 39. Second, in a shareholder derivative action, the shareholder asserts claims that belong to
18 a corporation, and is bound by the laws in the state where the corporation is incorporated. Here, like
19 many public corporations, Wells Fargo was incorporated in Delaware, where its corporation code is
20 perceived to be more protective of the interests of corporations and corporate management, and its
21 courts have developed case law governing seminal issues in derivative actions including the pleading
22 standards for demand futility, demand refusal, special litigation committees and the business judgment
23 rule.

24 40. Third, under Delaware law, a corporation is permitted to adopt provisions in its charter
25 or bylaws that eliminate or limit a director's liability for breach of his or fiduciary duty of care. These
26 “exculpation” provisions essentially preclude shareholder derivative claims for breach of the duty of
27 care, and limit liability to breaches of the duty of loyalty, a much more difficult standard to allege and
28 prove, arguably requiring evidence of conscious wrongdoing. Indeed, Delaware courts have referred
to the type of claims asserted here, involving a breach of the duty of oversight, as “the most difficult

1 theory in corporation law upon which a plaintiff might hope to win a judgment.” *In re Caremark Int’l*
2 *Inc. Deriv. Litig.*, 698 A.2d 959, 967 (Del. Ch. 1996).

3 41. Here, Wells Fargo’s Restated Certificate of Incorporation, as permitted under Delaware
4 law, includes an exculpation provision protecting its directors from liability for breach of fiduciary
5 duty of care. See Certificate at ¶14 (“Elimination of Certain Liability of Directors”). A true and
6 correct copy of Wells Fargo’s Restated Certificate of Incorporation, which was also cited and provided
7 to the Court during the demurrer stages of this case, is attached hereto as **Exhibit 3**.

8 42. Fourth, separate and apart from alleging and proving the underlying claims, a
9 shareholder must additionally overcome standing challenges to bring the suit in the first place. Under
10 Delaware law, a board of directors typically control the decision whether to bring a lawsuit. In order
11 for a shareholder to step in the shoes of the corporation, he or she must either make a demand on the
12 Board to bring a suit or establish that demand is futile. Notably, by making a demand on the Board,
13 the shareholder arguably concedes that the Board is capable of evaluating the demand – precluding
14 that shareholder from later challenging their independence. Conversely, in order to establish demand
15 futility, a shareholder must show that a majority of the Board at the time the complaint is filed is
16 incapable of independently evaluating a demand. However, demand futility is evaluated at the time a
17 complaint is filed, and when an amended complaint is filed, the issue of demand futility is reassessed
18 based on the composition of the Board at the time the amended complaint is filed.

19 43. Here, the Court previously ruled against Plaintiffs on the issue of demand futility in two
20 prior rounds of demurrers in this case. On May 8, 2018, after extensive briefing and argument, the
21 Court sustained Defendants’ first round of demurrers with leave to amend, finding allegations of
22 demand futility and the underlying causes of action for breach of fiduciary duty, unjust enrichment and
23 insider trading were insufficient. The Court also sustained the demurrers without leave to amend
24 relating to the claim for insider trading under California Corporations Code § 25402, which the Court
25 held was governed by Delaware law under the internal affairs doctrine. Wells Fargo, the Director and
26 Officer Defendants, and National General filed a second round of demurrers to Plaintiffs’ Amended
27 Complaint and, on September 25, 2018, the Court issued an order sustaining the demurrers with leave
28 to amend.

1 44. Fifth, a shareholder's ability to establish demand futility or contest action on any
 2 demand, as well as liability going forward, was particularly challenging since a majority of directors
 3 had joined in or after 2017 – and thus, did not personally participate in the CPI conduct that reportedly
 4 ended in 2016. Thus, Plaintiffs had to take into account the fact that, if the Settlement were not
 5 reached and this Action moved forward in litigation, Plaintiffs would then need to file a new amended
 6 complaint and establish demand futility against a majority of the current 2019 Board – even though a
 7 majority of the current Wells Fargo Board joined after the CPI conduct at issue had ended. A chart of
 8 the tenure of current Wells Fargo directors is provided below:

	Current Board of Directors
1.	Charles H. Noski (Jun 2019)
2.	C. Allen Parker (Mar 2019)
3.	Wayne M. Hewett (Jan 2019)
4.	Celeste A. Clark (Jan 2018)
5.	Theodore F. Craver, Jr. (Jan 2018)
6.	Maria R. Morris (Jan 2018)
7.	Juan A. Pujades (Sep 2017)
8.	Ronald L. Sargent (Feb 2017)
9.	Suzanne M. Vautrinot (Feb 2015)
10.	Elizabeth A. Duke (Jan 2015)
11.	James H. Quigley (Oct 2013)
12.	John D. Baker II (Jan 2009)
13.	Donald M. James (Jan 2009)

18 45. Sixth, even if Plaintiffs were able to prevail on demand futility, they still had to
 19 overcome the Individual Defendants' individual demurrers, all of which relied on the protections
 20 available to corporate executives under Delaware corporate law. As noted above, Wells Fargo's
 21 directors were protected from liability for all but the most egregious types of duty of loyalty claims
 22 due to the exculpation provisions. Wells Fargo's officers were protected by the business judgment
 23 rule and presumption that they acted in the best interest of the corporation. Plaintiffs also had to
 24 overcome National General's separate demurrer, challenging allegations that it knowingly aided and
 25 abetted the breaches of fiduciary duties of the Individual Defendants.

26 46. Seventh, we also had to take into account the possibility, indeed probability, that had
 27 Plaintiffs survived pleadings challenges, Wells Fargo's Board could have then convened a special
 28 litigation committee ("SLC") – composed of independent directors who had joined after the lawsuits

1 were commenced – to independently evaluate the lawsuit. Delaware law, like California law,
2 recognizes the right of an independent SLC to file a motion to take over or dismiss a derivative action,
3 even after it has survived pleading challenges, upon a proper investigation.

4 47. Finally, assuming survival of pleading motions and a SLC motion to dismiss, Plaintiffs
5 would still need to establish liability and prevail at trial, and then again on any likely appeal. Given
6 the complex issues of liability and damages, the trial and post-trial stages posed additional risks to
7 recovery.

8 **C. Plaintiffs Took Into Account the Value of the Claims and the Consideration**
9 **Received**

10 48. Plaintiffs' Counsel also took into account the value of the claims were they to prevail
11 past the pleadings motions, SLC motions, trial and appeal.

12 49. Here, the potential maximum recovery were Plaintiffs to prevail on the claims being
13 released in the Settlement is approximately \$1.5 billion, based on the out-of-pocket costs incurred by
14 Wells Fargo attributable to the CPI Practices and related damages incurred.

15 50. The estimated damages of \$1.5 billion include (1) \$1 billion paid by Wells Fargo in
16 regulatory fines, penalties and payments to the CFPB and OCC, (2) \$386 million proposed to be paid
17 by Wells Fargo for the CPI class action settlement with shareholders (the settlement is pending court
18 approval); (3) additional estimated costs related to investigations, litigation, and remediation to
19 customers. Of course, this maximum recovery was assessed against the litany of risk factors and
20 defenses described above.

21 51. In consideration for releasing these claims, the Settlement provides significant non-
22 monetary relief. As described above, and in more detail in the Settlement, Wells Fargo is benefitting
23 from the implementation, maintenance and continued funding of extensive reforms meant to address
24 the alleged CPI Practices and improve its risk management and governance going forward, including:

- 25 • Discontinuation of the CPI auto market completely, and going forward a requirement that
26 before Wells Fargo can re-enter the CPI market, it must perform an analysis of its risk controls,
27 conducted by an independent advisor selected in consultation with the CPI Plaintiffs' Counsel;
- 28 • If the Bank re-enter the CPI market within the next two years, an additional requirement that its
Chief Risk Officer be required to make quarterly reports to its full Board on its auto lending

1 program and the adequacy of the risk controls and procedures relating to its CPI program, with
2 executive sessions by the Audit & Examination or Risk Committees to consider those reports;

- 3 • New internal controls to ensure automatic placement programs like CPI are properly
4 authorized and disclosed to the Bank’s customers, including automated technical enhancements
5 for risk control, most prominently a new “Enterprise Data Management” function responsible
6 for the infrastructure, business source systems and governance of all Bank data and analysis;
- 7 • A new External Stakeholder Advisory Council that will meet with the Bank’s management
8 about matters raised in this Action, with representatives from groups that focus on consumer
9 rights, fair lending, and governance and charged with providing direct feedback to Well
10 Fargo’s Board and senior executives on how the Bank’s programs are impacting underserved
11 or vulnerable communities, many of whom were harmed by the CPI practices;
- 12 • A new specially created committee, the Regulatory Compliance Oversight Committee, to
13 provide Board-level oversight of the compliance process for consent orders and other
14 regulatory enforcement actions;
- 15 • A new Technology/Information Security/Data Management subcommittee of the Board’s Risk
16 Committee, delegated responsibility to address operational risk issues, to meet monthly, and to
17 report back to the Board;
- 18 • Separation of the roles of the Board Chair and CEO;
- 19 • Requiring the Board Chair and Vice Chair, if any, be independent, non-employee directors;
- 20 • Appointing new directors to serve on (and new leaders to chair) its key committees, including
21 the Risk Committee, the Human Resources Committee, and the Governance and Nominating
22 Committee;
- 23 • Changing the Risk Committee’s makeup and oversight responsibilities (with a new
24 subcommittee formed for oversight of compliance);
- 25 • A new policy limiting the number of public company boards on which its directors may serve;
- 26 • Reducing the shareholder threshold for calling a special shareholder meeting;
- 27 • Amending the Board’s corporate governance guidelines to better reflect its role and its work to
28 enhance governance and oversight practices;

- 1 • Implementing new controls and customer feedback mechanisms (e.g. customer alerts and
- 2 “mystery shopper” programs) to ensure that account activity is authorized;
- 3 • Engaging the former Securities and Exchange Commission Chairwoman Mary Jo White to
- 4 facilitate the Board’s annual evaluation process;
- 5 • Formalizing the Company training programs for directors;
- 6 • Requiring reports to the Audit and Examination Committee and Risk Committee to be
- 7 discussed in sessions not attended by senior management;
- 8 • Amending Board committee charters to transfer oversight of employee ethics matters to the
- 9 Human Resources Committee;
- 10 • Creating a Conduct Management and Conduct Risk function, which includes the Offices of
- 11 Sales and Practices Oversight, Ethics Oversight, and Complaints Oversight, Internal
- 12 Investigations, and Bribery and Corruption Governance;
- 13 • The Internal Audit Group’s designation of a senior audit manager for conduct and/or sales
- 14 practices-related matters;
- 15 • Expanding the Risk Committee’s oversight responsibilities;
- 16 • Expanding the Human Resources Committee’s oversight responsibilities to include oversight
- 17 of the new Conduct Management Office and human capital management, culture, Code of
- 18 Ethics and Business Conduct; and
- 19 • Expanding the A&E Committee’s oversight responsibilities for legal and regulatory
- 20 compliance to include the Company’s compliance culture.

21 52. While difficult to quantify with precision, courts nationwide recognize that these types
22 of corporate governance reforms provide certain and substantial value to a corporation and, in the
23 specific case of Wells Fargo, will continue to benefit the Bank (and its shareholders) for years while
24 reducing the likelihood of future fines, lawsuits and government limitations on its operations.

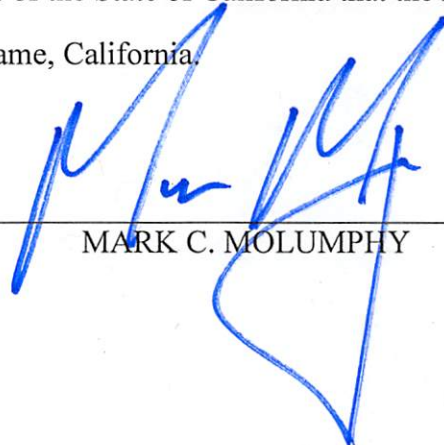
25 53. Moreover, Professor Daniel Morrissey, a corporate governance expert from Gonzaga
26 University, has separately opined that the Corporate Governance Reforms alone are valued at over
27 \$100 million, if not more, and will serve to improve the Company’s operational risk management,
28 compliance, and oversight, and strengthen the Company’s operations and reporting mechanisms. Thus,

1 the value of \$100 million from the Settlement relief, at a minimum, is an exceptional recovery given
2 the potential damages and the litany of risks to prevailing and collecting anything close to that amount.

3 54. Finally, the Reforms are not illusory. The Reforms contained as part of Judge
4 Weinstein's mediator's proposal were meaningful and obtained by Plaintiffs through hard fought
5 negotiations, and Wells Fargo (and Judge Weinstein) has affirmed that they are valuable consideration.

6 I declare under penalty of perjury under the laws of the State of California that the foregoing is
7 true and correct. Executed on June 21, 2019 in Burlingame, California.

8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28



MARK C. MOLUMPY

EXHIBIT 1

1 JOSEPH W. COTCHETT (SBN 36324)
jcotchett@cpmlegal.com

2 MARK C. MOLUMPY (SBN 168009)
mmolumphy@cpmlegal.com

3 GINA STASSI (SBN 261263)
gstassi@cpmlegal.com

4 ANYA N. THEPOT (SBN 318430)
athepot@cpmlegal.com

5 **COTCHETT, PITRE & McCARTHY, LLP**
6 840 Malcolm Road, Suite 200
7 Burlingame, CA 94010
Telephone: (650) 697-6000
8 Facsimile: (650) 697-0577

9 *Attorneys for Derivative Plaintiff Donna Maxwell*

10
11
12
13 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
14 **COUNTY OF SAN FRANCISCO**

15
16)
17)
18)
19)
20)
21)
22)
23)
24)
25)
26)
27)
28)

IN RE WELLS FARGO & COMPANY AUTO
INSURANCE DERIVATIVE LITIGATION

Lead Case No. CGC-17-561118

**STIPULATION AND AGREEMENT OF
COMPROMISE, SETTLEMENT AND
RELEASE**

This Document Relates To:
ALL ACTIONS

1 **I. INTRODUCTION**

2 This Stipulation and Agreement of Compromise, Settlement and Release (the
3 “Stipulation” or the “Settlement”) is made and entered into among the following Parties, by and
4 through their respective counsel: (i) Donna Maxwell and Douglas Duran, as Trustee of the John &
5 Irene Duran Family Trust, each of whom is a plaintiff in the above-titled Action and each of whom
6 sues derivatively on behalf of Wells Fargo & Company (“Wells Fargo” or “the Company” or “the
7 Bank”) (the “CPI Plaintiffs”); (ii) Connecticut Laborers Pension and Annuity Funds, Teamsters
8 Local 671 Health Services and Insurance Plan, Massachusetts Laborers’ Pension Fund, the
9 Employees’ Retirement System of the City of Providence, John Reynolds, Pompano Beach Police
10 and Firefighters Retirement System and MSS 12-09 Trust (the “Delaware CPI Plaintiffs”, and with
11 the CPI Plaintiffs, referred to herein as the “Plaintiffs”); (iii) individual defendants in the Actions
12 (defined *infra*), including John G. Stumpf, Timothy J. Sloan, Carrie L. Tolstedt, Franklin Codel,
13 Dawn Martin Harp, Avid Modjtabai, John D. Baker II, John S. Chen, Lloyd H. Dean, Elizabeth A.
14 Duke, Enrique Hernandez, Jr., Donald M. James, Cynthia H. Milligan, Karen B. Peetz, Federico F.
15 Peña, James H. Quigley, Stephen W. Sanger, Ronald L. Sargent, Susan G. Swenson, Suzanne M.
16 Vautrinot, Elaine L. Chao, Susan E. Engel, Mackey J. McDonald, Richard D. McCormick, Nicholas
17 G. Moore, Philip J. Quigley, Howard V. Richardson, and Judith M. Runstad (collectively, the
18 “Individual Defendants”), and (iv) nominal defendant Wells Fargo (together with the Officer and
19 Director Defendants (defined *infra*) and the Plaintiffs, the “Parties”). This Stipulation is intended by
20 the Parties to fully, finally and forever resolve, discharge and settle the Released Claims (as defined,
21 *infra*) based on a global settlement of all actions, upon Court approval and subject to the terms and
22 conditions hereof.

23 **II. THE CPI AND RATE-LOCK DERIVATIVE ACTIONS**

24 **A. The California Action**

25 On September 5, 2017, Donna Maxwell filed a putative shareholder derivative
26 complaint in San Francisco County Superior Court (the “Court”) against John G. Stumpf, Timothy J.
27 Sloan, Carrie L. Tolstedt, Franklin Codel, Dawn Martin Harp, Avid Modjtabai, John D. Baker II,
28 John S. Chen, Lloyd H. Dean, Elizabeth A. Duke, Enrique Hernandez, Jr., Donald M. James,

1 Cynthia H. Milligan, Karen B. Peetz, Federico F. Peña, James H. Quigley, Stephen W. Sanger,
2 Ronald L. Sargent, Susan G. Swenson and Suzanne M. Vautrinot (the “California Individual
3 Defendants”) and Wells Fargo (as nominal defendant), alleging, among other things, unlawful
4 conduct relating to automobile insurance and home lending practices at Wells Fargo, and that certain
5 of the California Individual Defendants breached their fiduciary duties to Wells Fargo in connection
6 with these actions or omissions, and engaged in insider trading and were unjustly enriched with
7 respect to this conduct (the “*Maxwell Action*,” Case No. CGC-17-561118).

8 On October 18, 2017, plaintiff Douglas Duran filed a substantively identical action in
9 San Francisco County Superior Court (the “*Duran Action*,” Case No. CGC-17-561968). On
10 November 17, 2017, the Court entered a stipulation and order consolidating the *Maxwell* and *Duran*
11 Actions under the above-titled caption, *In re Wells Fargo & Company Auto Insurance Derivative*
12 *Litigation*, Lead Case No. CGC-17-561118 (the “Action”).

13 The CPI Plaintiffs filed a consolidated amended complaint on December 11, 2017
14 (the “California Consolidated Complaint”). The California Consolidated Complaint named as
15 defendants the Individual Defendants, National General Insurance Company (“National General
16 Insurance”), various Doe defendants, and Wells Fargo as nominal defendant. The California
17 Consolidated Complaint alleged breaches of fiduciary duty, aiding and abetting breaches of fiduciary
18 duty (the sole claim as to National General Insurance), unjust enrichment, breach of fiduciary duty
19 for insider selling and misappropriation of information, and violations of California Corporations
20 Code § 15402. The California Consolidated Complaint and subsequent amendments thereto focus
21 on allegations related to Wells Fargo’s automobile collateral protection insurance (“CPI”) and home
22 mortgage rate-lock (“Rate-Lock”) programs.

23 On January 16, 2018, defendants in this Action demurred to the California
24 Consolidated Complaint,¹ which demurrers, on May 8, 2018, the Court sustained in part with leave
25 to amend and in part without leave to amend. On May 30, 2018, the CPI Plaintiffs filed a further
26 amended complaint (the “California First Amended Consolidated Complaint”). Defendants
27

28 ¹ Dawn Martin Harp filed her demurrer on January 22, 2018, and Franklin Codel filed a joinder to Wells Fargo’s demurrer on January 23, 2018.

1 demurred again on June 29, 2018.² On September 25, 2018, after argument on the defendants'
2 demurrers, the Court sustained these demurrers with further leave to amend. Following additional
3 research and with the aid of certain discovery information disclosed in a putative consumer class-
4 action litigation concerning CPI, the CPI Plaintiffs filed a Second Amended Consolidated Complaint
5 on November 23, 2018.

6 On December 20, 2018, the parties filed a stipulation and proposed scheduling order
7 postponing the filing, and briefing on, defendants' demurrers to the California Second Amended
8 Consolidated Complaint pending further settlement negotiations. The Court entered this stipulation
9 on December 21, 2018.

10 **B. The Delaware Actions**

11 Beginning September 21, 2016, several shareholders of Wells Fargo made a
12 demand to examine the books and records of Wells Fargo pursuant 8 *Del. C.* §220 for the
13 purpose of investigating and assessing any actual and potential wrongdoing, mismanagement,
14 and breaches of fiduciary duties by the members of the Company's Board or others with respect
15 to the Company's Improper Sales Practices.

16 On December 20, 2016, shareholders Connecticut Laborers' Pension and Annuity
17 Funds, Massachusetts Laborers' Pension Fund, the Employees' Retirement System of the City of
18 Providence, Sheet Metal Workers Local 19 Pension Fund and Health and Welfare Funds,
19 Teamsters Local 671 Health Services and Insurance Plan and John Reynolds, filed a Verified
20 Complaint Pursuant to 8 *Del. C.* §220 to Compel Inspection of Books and Records (the
21 "*Massachusetts Laborers' Action*") against Wells Fargo & Co., as well as individual defendants
22 John G. Stumpf, Timothy J. Sloan, Carrie L. Tolstedt, John D. Baker II, John S. Chen, Lloyd H.
23 Dean, Elizabeth A. Duke, Enrique Hernandez, Jr., Donald M. James, Cynthia H. Milligan,
24 Federico F. Peña, James H. Quigley, Stephen W. Sanger, Susan G. Swenson, Suzanne M.
25 Vautrinot, Elaine L. Chao, Susan E. Engel, Mackey J. McDonald, Richard D. McCormick,
26 Nicholas G. Moore, Philip J. Quigley, Howard V. Richardson and Judith M. Runstad
27

28 ² National General Insurance demurred soon thereafter on July 19, 2018.

1 (collectively, the “Delaware Individual Defendants”). In February 2017, after the parties had
2 engaged in arms-length negotiations regarding the scope and substance of the documents
3 requested, reached an agreement on further production, and Wells Fargo produced substantial
4 books and records, the *Massachusetts Laborers* Action was stayed by the Chancery Court.

5 On May 17, 2017, shareholders Connecticut Laborers’ Pension and Annuity
6 Funds, John Reynolds, Pompano Beach Police and Firefighters Retirement System and MSS 12-
7 09 Trust, filed a Verified Shareholder Derivative Complaint against the Delaware Individual
8 Defendants and nominal defendant, Wells Fargo & Company (the “*Connecticut Laborers’*
9 *Action*”), alleging breaches of fiduciary duty in connection with the Company’s Improper Sales
10 Practices.

11 On December 18, 2017, shareholders Connecticut Laborers’ Pension and Annuity
12 Funds, John Reynolds, Pompano Beach Police and Firefighters Retirement System and MSS 12-
13 09 Trust, filed a Verified Amended Shareholder Derivative Complaint against the Delaware
14 Individual Defendants and nominal defendant, Wells Fargo & Company in the *Connecticut*
15 *Laborers’ Action*. In the Verified Amended Complaint, in addition to the allegations that the
16 Delaware Individual Defendants breached fiduciary duties with respect to the Improper Sales
17 Practices, shareholders alleged breaches of fiduciary duty in connection with the Company’s
18 misconduct with respect to Improper CPI Practices.

19 In February 2018, shareholders in the *Connecticut Laborers’ Action* as well as the
20 plaintiffs in the action pending before Judge Tigar in the Northern District of California, moved
21 to stay the *Connecticut Laborers’ Action*. After oral argument, on July 11, 2018, Vice
22 Chancellor Glasscock stayed the Connecticut Laborers’ Action.

23 On February 15, 2019 and February 28, 2019, the Employees’ Retirement System of the
24 City of Providence and the Massachusetts Laborers Pension Fund, respectively, issued inspection
25 demands to Wells Fargo for books and records pursuant to 8 Del. C. §220 concerning the
26 Improper CPI Practices and retained experts in corporate governance to review Wells Fargo’s
27 corporate governance reforms. The *Massachusetts Laborers’ Action* was voluntarily dismissed
28 on March 29, 2019.

1 **C. Additional CPI and Sales Practices Shareholder Derivative Actions**

2 Although the Court previously found that the subject matter of this lawsuit is not
3 related to the subject matter of the lawsuits alleging Improper Sales Practices (as defined below), the
4 Parties hereto are aware of two additional shareholder derivative actions in which the plaintiffs
5 nonetheless include both allegations concerning, *inter alia*, breaches of fiduciary duty by certain
6 officers and directors of Wells Fargo based upon alleged failures and/or errors in the placement of
7 CPI coverage, as well as allegations concerning alleged Improper Sales Practices:

8 ***Feuer Action.*** More than nine months after commencement of the Action, on May
9 16, 2018, plaintiff R.A. Feuer filed a putative shareholder derivative complaint in the United States
10 District Court for the Northern District of California that is captioned *Feuer v. Baker et al.*,
11 No. 3:18-cv-02866 (N.D. Cal.) (the “*Feuer Action*”). Plaintiff in the *Feuer Action* filed an amended
12 complaint on June 20, 2018. (*Feuer Dkt. No. 19.*) The operative claims asserted in the *Feuer*
13 Action concern the same CPI conduct as alleged in the Action, but do not include the Rate-Lock or
14 other home lending allegations in the Action. The *Feuer* complaint also contains extensive
15 allegations concerning the unauthorized opening of customer accounts (referred to as “Improper
16 Sales Practices”). The amended *Feuer* complaint names John D. Baker II, John S. Chen, Lloyd H.
17 Dean, Elizabeth A. Duke, Donald M. James, James H. Quigley, Federico F. Peña, Suzanne M.
18 Vautrinot, Enrique Hernandez, Jr., Celeste A. Clark, Theodore F. Craver, Maria M. Morris, Karen B.
19 Peetz, Juan A. Pujadas, Ronald L. Sargent, Stephen W. Sanger, John G. Stumpf, Timothy J. Sloan,
20 Susan G. Swenson, Carrie L. Tolstedt, John R. Shrewsberry, Michael J. Loughlin, Cynthia H.
21 Milligan, Elaine L. Chao, Susan E. Engel, Judith M. Runstad, Franklin Codel, Dawn Martin Harp,
22 Avid Modjtabai, National General Holdings Corp., and National General Insurance as defendants,
23 and Wells Fargo as nominal defendant. That complaint asserts claims for breach of fiduciary duty
24 and waste of corporate assets, breach of the duty of loyalty, breach of the duty of candor derived
25 from the individual defendants’ duties of due care and loyalty, and for aiding and abetting breaches
26 of fiduciary duty as to the National General entities.

27 On September 6, 2018, plaintiff Feuer, Wells Fargo and the individual defendants
28 named in the *Feuer Action*, together with the co-lead plaintiffs and defendants in another

1 shareholder action to which the federal court related the *Feuer* Action, *In re Wells Fargo & Co.*
2 *Shareholder Derivative Litigation*, No. 3:16-cv-05541-JST (N.D. Cal.) (the “Sales Practices Federal
3 Derivative Action”), stipulated that, despite its extensive allegations concerning Improper Sales
4 Practices, the amended *Feuer* complaint does not seek damages for alleged Improper Sales Practices.
5 (Sales Practices Federal Derivative Action Dkt. No. 251.) On September 7, 2018, the *Feuer* Court
6 entered that proposed order. (*Id.* at Dkt. No. 252.) Wells Fargo and the National General defendants
7 subsequently filed separate motions to dismiss the amended *Feuer* complaint for failure to
8 adequately plead wrongful demand refusal. (*Feuer* Dkt. Nos. 54, 55.) Pursuant to a stipulated
9 briefing schedule, all other F.R.C.P. 12(b) motions to dismiss by any defendant, including an
10 anticipated motion concerning plaintiff Feuer’s failure to adequately plead his stock holdings, will be
11 briefed and heard only after the threshold demand refusal issue is decided by the *Feuer* Court. A
12 hearing on those limited demand-refusal motions was held on March 7, 2019.

13 ***Himstreet* Action.** A second complaint involving both CPI and Improper Sales
14 Practices allegations was filed in federal court, but was subsequently voluntarily dismissed without
15 prejudice. On May 17, 2018, Plaintiff Timothy Himstreet filed a putative derivative complaint,
16 captioned *Himstreet v. Sloan*, 18-cv-02922-JST (N.D. Cal.) (the “*Himstreet* Action”), against
17 defendants Timothy J. Sloan, John R. Shrewsberry, Avid Modjtabei, Elizabeth A. Duke, John D.
18 Baker II, Lloyd H. Dean, Donald M. James, James H. Quigley, Suzanne M. Vautrinot, John G.
19 Stumpf, Franklin R. Codel, Dawn Martin Harp, Carrie L. Tolstedt, Stephen W. Sanger, Cynthia H.
20 Milligan, Judith M. Runstad, Susan G. Swenson, Susan E. Engel, Enrique Hernandez, Jr., John S.
21 Chen, Elaine L. Chao, and Federico F. Peña, and Wells Fargo, as nominal defendant, alleging
22 violations of the Securities Exchange Act of 1934 (the “Exchange Act”), breach of fiduciary duty,
23 waste of corporate assets, and unjust enrichment. On August 9, 2018, plaintiff Himstreet stipulated
24 to the voluntary dismissal of the *Himstreet* Action. (*Himstreet* Dkt. No. 29.)

25 **D. Mediation and Settlement**

26 Beginning in October 2018 and in numerous mediated exchanges thereafter, the CPI
27 Plaintiffs and Defendants engaged in arm’s-length discussions and negotiations regarding a potential
28 resolution of the Action that resulted in this Settlement. Mediation concerning the Action was

1 conducted before the Honorable Daniel Weinstein (ret.) and Mr. Jed Melnick, Esq., who also
2 oversaw the mediation of shareholder derivative claims concerning Improper Sales Practices. The
3 mediation efforts culminated in a mediators' proposal for settlement, which consisted of certain
4 corporate governance changes and corporate reforms at Wells Fargo (the "Corporate Governance
5 Reforms"), which are further described in Exhibit A to this Stipulation, and also required the
6 contemporaneous (but unconnected) resolution of the Improper Sales Practices Derivative Actions
7 (as defined below). After further discussion, the CPI Plaintiffs and Defendants accepted the
8 mediators' proposal.

9 On May 10, 2019, counsel in the *Connecticut Laborers* Action and counsel in the
10 *Massachusetts Laborers' Action* commenced discussions with Wells Fargo regarding the
11 corporate governance reforms being implemented by the Company and potential settlement of
12 the Delaware Actions. Following the negotiations that ensued, Wells Fargo agreed to implement
13 certain corporate governance enhancements, which are further described in Exhibit A to this
14 Stipulation.

15 **III. CLAIMS OF PLAINTIFFS AND BENEFITS OF SETTLEMENT**

16 Plaintiffs have thoroughly reviewed and analyzed the facts and circumstances relating
17 to the claims asserted in their respective Actions, including conducting arm's length discussions with
18 counsel for the Defendants and for Wells Fargo, reviewing publicly available information, analyzing
19 the available record (including information disclosed in other litigations), reviewing applicable case
20 law and other authorities and consulting with retained experts. Plaintiffs brought their claims in
21 good faith and continue to believe that their claims have legal merit. However, Plaintiffs recognize
22 that there are legal and factual defenses to the claims asserted in the Action, which present
23 substantial risks to the successful resolution of any litigation, especially in complex shareholder
24 derivative litigation such as the Action. Accordingly, in light of these risks and based on their
25 evaluation of the claims and their substantial experience, Plaintiffs and their counsel have
26 determined that the Settlement, which confers substantial benefits upon Wells Fargo and its
27 shareholders, is fair, reasonable and adequate, and in the best interests of the Bank and its
28 shareholders.

1 **IV. DEFENDANTS' DENIALS OF WRONGDOING AND LIABILITY**

2 Defendants have denied and continue to deny each and every one of the claims and
3 contentions alleged in the Actions and in those additional shareholder derivative litigations described
4 in Section II.C. of this Stipulation (collectively, the "CPI Derivative Actions"). The Defendants
5 expressly have denied and continue to deny all allegations of wrongdoing or liability against them or
6 any of them arising out of, based upon or related to any of the conduct, statements, acts or omissions
7 alleged, or that could have been alleged, in the CPI Derivative Actions, and contend that the factual
8 allegations in the CPI Derivative Actions are untrue and materially inaccurate. The Defendants have
9 further asserted and continue to assert that, at all relevant times, they acted in good faith and in a
10 manner they reasonably believed to be in the best interests of Wells Fargo and its shareholders.

11 Nonetheless, the Defendants also have taken into account the expense, uncertainty and
12 risks inherent in any litigation, especially in complex cases like the Action. Therefore, the
13 Defendants have determined that it is desirable and beneficial that this Action and all of the claims
14 and allegations asserted therein, and all of the Parties' disputes related thereto, be fully and finally
15 settled in the manner and upon the terms and conditions set forth in this Stipulation. Pursuant to the
16 terms set forth below, this Stipulation (including all of the Exhibits hereto) shall in no event be
17 construed as or deemed to be evidence of an admission or concession by the Defendants with respect
18 to any claim of fault, liability, wrongdoing, or damage whatsoever.

19 **V. TERMS OF STIPULATION AND AGREEMENT OF SETTLEMENT**

20 **NOW THEREFORE, IT IS STIPULATED AND AGREED**, subject to approval
21 by the Court, by and among Plaintiffs (for themselves and derivatively on behalf of Wells Fargo), by
22 and through their attorneys of record, the Defendants, by and through their respective attorneys of
23 record, and Wells Fargo, by and through its attorneys of record, that in exchange for the
24 consideration set forth below, the Released Claims (as defined below) shall be and hereby are fully,
25 finally and forever compromised, settled, released and discontinued, and that the Action shall be
26 dismissed with prejudice as to the Defendants, upon and subject to the terms and conditions of this
27 Stipulation, as follows.

28

1 **A. DEFINITIONS**

2 In addition to the terms defined herein, as used in this Stipulation and any Exhibits
3 attached hereto and made a part hereof, the following terms shall have the following meanings:

4 1. “Actions” means IN RE WELLS FARGO & COMPANY AUTO INSURANCE
5 DERIVATIVE LITIGATION, Lead Case No. CGC-17-561118 (Superior Court for the County of
6 San Francisco, State of California) and *Connecticut Laborers Pension & Annuity Funds v. Stumpf*,
7 C.A. No. 2017-0380-SG (Del. Ch.).

8 2. “Corporate Governance Reforms” means the corporate actions agreed upon and
9 undertaken, or in the process of being undertaken, by Wells Fargo to address Improper CPI Practices
10 (in whole or in part) including, but not limited to, discontinuing automobile CPI products and
11 agreeing not to re-engage in that business without first thoroughly reviewing related policies and
12 procedures with an outside consultant, amending certain corporate charters and bylaws, increasing
13 oversight and monitoring of business units, leadership changes, the creation of certain new positions,
14 payments to impacted customers, the increased reporting from business units, and additional
15 enhancements to re-emphasize the Company’s commitment to ethical behavior including fair
16 dealing, good faith, and suitability, as detailed in Exhibit A.

17 3. “CPI Plaintiffs” means Donna Maxwell and Douglas Duran, as trustee of the John &
18 Irene Duran Family Trust.

19 4. “CPI Plaintiffs’ Counsel” means Cotchett, Pitre & McCarthy, LLP, Bottini & Bottini,
20 Inc., and William H. Parish, PC.

21 5. “CPI Derivative Actions” means (1) the Actions; (2) *Feuer v. Baker et al.*, Case No.
22 3:18-cv-02866 (JST) (N.D. Cal.); and (3) *Himstreet v. Sloan*, 18-cv-02922-JST (N.D. Cal.).

23 6. “Defendants” means, collectively, the Officer Defendants, the Director Defendants,
24 National General Insurance, and Wells Fargo, as nominal defendant.

25 7. “Director Defendants” means, collectively, John D. Baker II, Elaine L. Chao, John S.
26 Chen, Celeste A. Clark, Theodore F. Craver, Lloyd H. Dean, Elizabeth A. Duke, Susan E. Engel,
27 Enrique Hernandez, Jr., Donald M. James, Mackey J. McDonald, Richard D. McCormick, Cynthia
28 H. Milligan, Nicholas G. Moore, Maria R. Morris, Karen B. Peetz, Federico F. Peña, Juan A.

1 Pujadas, James H. Quigley, Philip J. Quigley, Howard V. Richardson, Judith M. Runstad, Stephen
2 W. Sanger, Ronald L. Sargent, Susan G. Swenson, and Suzanne M. Vautrinot.

3 8. “Delaware CPI Plaintiffs” means Connecticut Laborers’ Pension and Annuity Funds,
4 Massachusetts Laborers’ Pension Fund, The Employees’ Retirement System of the City of
5 Providence, Sheet Metal Workers Local 19 Pension Fund and Health and Welfare Funds, Teamsters
6 Local 671 Health Services and Insurance Plan, Pompano Beach Police and Firefighters Retirement
7 System, MSS 12-09 Trust and John Reynolds.

8 9. “Delaware CPI Plaintiffs’ Counsel” means Hach Rose Schirripa & Cheverie, LLP,
9 Berman Tabacco, Berger & Montague, Friedman Oster & Tetjel, Guttman Buschner & Brooks
10 PLLC, Safirstein Metcalf LLP, Pomerantz LLP, and Rosenthal, Monhait & Goddess, P.A (and
11 collectively with CPI Plaintiffs’ Counsel, “Plaintiffs’ Counsel”).

12 10. “Effective Date” means the first date by which all of the events and conditions
13 specified in Paragraph 40 of this Stipulation have been met and have occurred.

14 11. “Final Date” means the date, following the Court’s Final Judgment and Order of
15 Dismissal, on which the Final Judgment and Order of Dismissal is final and no longer subject to
16 appeal or further review, whether as a result of affirmance on or exhaustion of any possible appeal or
17 review, lapse of time or otherwise, provided, however, and notwithstanding any provision to the
18 contrary in this Stipulation, the Final Date shall not include, and the Settlement is expressly not
19 conditioned upon, the approval of any Fee Application or Reimbursement Award or any appeal or
20 further review related thereto.

21 12. “Final Judgment and Order of Dismissal” means an order entered by the Court,
22 substantially in the form attached hereto as Exhibit E, finally approving the Settlement and
23 dismissing the Action with prejudice on the merits and without costs to any party (except as
24 provided in Paragraph 35 below).

25 13. “Improper CPI Practices” means the incorrect, forced or errant placement of collateral
26 protection insurance (“CPI”) for Wells Fargo automobile loan borrowers and any related effects or
27 impacts of such actions, including without limitation any improper practice alleged in any of the CPI
28 Derivative Actions.

1 14. “Improper Sales Practices” means the alleged opening of accounts without customer
2 knowledge or authorization at Wells Fargo as well as any other related fraudulent, improper, or
3 unethical acts or practices alleged in the complaints or amendments in the Improper Sales Practices
4 Derivative Actions. The term Improper Sales Practices does not include any Improper CPI
5 Practices, defined *supra*.

6 15. “Improper Sales Practices Derivative Actions” means *In re Wells Fargo & Co.*
7 *Shareholder Derivative Litigation*, No. 3:16-cv-05541-JST (N.D. Cal.); *Hannon v. Loughlin*, No.
8 3:17-cv-07236-JST (N.D. Cal.); *In re Wells Fargo & Co. Derivative Litigation*, No. CGC 16-554407
9 (S.F. Super.); *Gordon v. Baker*, No. CGC 16-554578 (S.F. Super.) & C.A. No. 12877-VCG (Del.
10 Ch.); *Mass. Laborers’ Pension Fund v. Wells Fargo & Co.*, C.A. No. 12997-VCG (Del. Ch.);
11 *Rosenfeld v. Stumpf*, C.A. No. 2017-0383 (Del. Ch.); *Connecticut Laborers Pension & Annuity*
12 *Funds v. Stumpf*, C.A. No. 2017-0380-SG (Del. Ch.) (to the extent it alleges claims based on
13 Improper Sales Practices); and *Herron v. Stumpf*, 18-civ-00466 (San Mateo Super.).

14 16. “Insurance Agreement” means the agreement by and among (i) Wells Fargo, (ii)
15 certain current and former officers and directors of Wells Fargo, and (iii) the Insurers.

16 17. “Insurers” means those certain insurance companies, identified in the Insurance
17 Agreement, who issued certain directors and officers liability (“D&O”) insurance policies insuring
18 and for the benefit of certain current and former officers and directors of Wells Fargo (the “D&O
19 Policies”).

20 18. “National General” means National General Insurance Company and all Persons who
21 are Related Parties to National General Insurance Company.

22 19. “Notice” means the Notice of Settlement of Shareholder Derivative Litigation and
23 Hearing, substantially in the form attached hereto as Exhibit C.

24 20. “Notice Costs” means the costs and expenses incurred in providing notice of the
25 Settlement to Wells Fargo shareholders.

26 21. “Officer Defendants” means, collectively, John G. Stumpf, Timothy J. Sloan, Carrie
27 L. Tolstedt, John R. Shrewsberry, Michael J. Loughlin, Franklin Codell, Dawn Martin Harp, and
28 Avid Modjtabai.

1 22. “Person” means any individual, corporation, professional corporation, limited-
2 liability company, partnership, limited partnership, limited-liability partnership, association, joint
3 stock company, estate, legal representative, trust, unincorporated association, government or any
4 political subdivision or agency thereof, and any business or legal entity and their spouses, heirs,
5 predecessors, successors, representatives or assignees.

6 23. “Preliminary Approval Order” means an order entered by the Court, substantially in
7 the form attached hereto as Exhibit B, setting forth the date for a Settlement Hearing on the proposed
8 Settlement, directing notice thereof and preliminarily determining, for purposes of the Settlement
9 only, that the Action is properly maintained as a shareholder derivative action on behalf of Wells
10 Fargo.

11 24. “Reimbursement Awards” means any amounts awarded by the Court to the CPI
12 Plaintiffs and Delaware CPI Plaintiffs for reimbursement of their time and costs relating to their
13 prosecution of the Action.

14 25. “Related Parties” means (i) as to Wells Fargo and National General, each of its past
15 or present directors and officers, employees, partners, agents, attorneys, personal or legal
16 representatives, consultants, experts, predecessors, successors, parent companies or organizations,
17 subsidiaries, affiliates, divisions, joint ventures, assigns, general or limited partners or partnerships,
18 limited liability companies, any entity in which Wells Fargo or National General has a controlling
19 interest, and all past or present officers, directors and employees of Wells Fargo’s current and former
20 subsidiaries and affiliates, and all past or present officers, directors and employees of National
21 General’s current and former parents, subsidiaries and affiliates, the foregoing to include any Person
22 insured under the D&O Policies; (ii) as to the Director and Officer Defendants (1) each spouse,
23 immediate family member, heir, executor, estate, administrator, agent, attorney, accountant, auditor,
24 bank, insurer (including the Insurers), co-insurer, re-insurer, advisor, consultant, expert, or affiliate
25 of any of them, (2) any trust in respect of which any Director or Officer Defendant, or any spouse or
26 family member thereof serves as a settlor, beneficiary or trustee, and (3) any entity in which a
27 Director or Officer Defendant, or any spouse or immediate family member thereof, holds a
28 controlling interest or for which a Director or Officer Defendant has served as an employee, director,

1 officer, managing director, advisor, general partner, limited partner, or member and any collective
2 investment vehicle which is advised or managed by any of them; provided, however, that the
3 releases set forth in this Stipulation shall in no event release any claims in connection with the D&O
4 Policies or reinsurance of D&O coverage that the Director or Officer Defendants or Wells Fargo
5 may have against any of the Insurers, except as set forth in the Insurance Agreement.

6 26. “Released Claims” means any and all manner of claims, demands, rights, liabilities,
7 losses, obligations, duties, damages, costs, debts, expenses, interest, penalties, sanctions, fees,
8 attorneys’ fees, actions, potential actions, causes of action, suits, agreements, judgments, decrees,
9 matters, issues and controversies of any kind, nature or description whatsoever, whether known or
10 unknown, disclosed or undisclosed, accrued or unaccrued, apparent or not apparent, foreseen or
11 unforeseen, matured or not matured, suspected or unsuspected, liquidated or not liquidated, fixed or
12 contingent, including Unknown Claims, whether based on state, local, foreign, federal, statutory,
13 regulatory, common or other law or rule, brought or that could be brought derivatively or otherwise
14 by or on behalf of Wells Fargo against any of the Released Parties, which now or hereafter are based
15 upon, arise out of, relate in any way to, or involve, directly or indirectly, any of the actions,
16 transactions, occurrences, statements, representations, misrepresentations, omissions, allegations,
17 facts, practices, events, claims or any other matters, things or causes whatsoever, or any series
18 thereof, that are, were, could have been, or in the future can or might be alleged, asserted, set forth,
19 claimed, embraced, involved or referred to in the CPI Derivative Actions and relate to, directly or
20 indirectly, the subject matter of the CPI Derivative Actions in any court, tribunal, forum or
21 proceeding, including, without limitation, any and all claims by or on behalf of Wells Fargo which
22 are based upon, arise out of, relate in any way to, or involve, directly or indirectly: (i) Improper CPI
23 Practices; or (ii) any of the allegations in any complaint or amendment(s) thereto filed in any CPI
24 Derivative Action, or any action related to or consolidated into the CPI Derivative Actions,
25 including, but not limited to, all alleged failures to comply with legal requirements, all alleged
26 failures to comply with the Servicemembers Civil Relief Act, and all allegations concerning
27 automobile Guaranteed Asset Protection programs or Rate-Lock and mortgage lending practices.
28 “Released Claims” does not include (1) claims to enforce this Settlement; (2) any direct claims on

1 behalf of present or former Wells Fargo shareholders (*i.e.*, not derivative claims) that are being
2 prosecuted in a securities action; (3) any and all claims that Wells Fargo may have against National
3 General concerning Improper CPI Practices that are not derivative in nature and do not relate to the
4 allegations in the CPI Derivative Actions that National General aided and abetted the breach of
5 fiduciary duties by directors and officers of Wells Fargo; and (4) any claims in connection with the
6 D&O Policies or reinsurance of D&O coverage that the Director or Officer Defendants or Wells
7 Fargo may have against any of the Insurers, except as set forth in the Insurance Agreement.

8 27. “Released Parties” means (i) the Director Defendants; (ii) the Officer Defendants;
9 (iii) National General, solely as it concerns the allegations of “aiding and abetting” against National
10 General as alleged in the respective complaints in the CPI Derivative Actions; (iv) Wells Fargo, as
11 the nominal defendant; and (v) the Related Parties, subject to the same limitation with regard to any
12 Person affiliated with National General noted in (iii) above.

13 28. “Releases” means the releases set forth in Paragraphs 36 and 37 below; provided,
14 however, that the releases set forth in this Stipulation shall in no event release any claims in
15 connection with the D&O Policies that the Director or Officer Defendants or Wells Fargo may have
16 against any of the Insurers, except as set forth in the Insurance Agreement.

17 29. “Settlement Hearing” means the hearing at which the Court will review the adequacy,
18 fairness and reasonableness of the Settlement, Plaintiffs’ Counsel’s applications for an award of
19 attorneys’ fees and expenses (the “Fee Applications”), the Plaintiffs’ applications for reimbursement
20 of their time and costs relating to their prosecution of the Action (the “Reimbursement Awards”),
21 and determine whether to issue the Final Judgment and Order of Dismissal.

22 30. “Stipulation” means this Stipulation and Agreement of Settlement dated June 21,
23 2019.

24 31. “Summary Notice” means the Notice of Settlement of Shareholder Derivative
25 Litigation, substantially in the form attached hereto as Exhibit D.

26 32. “Unknown Claims” means any Released Claims which Plaintiffs, Wells Fargo, or any
27 of the current Wells Fargo shareholders do not know or suspect exist in his, her or its favor at the
28 time of the release of the Released Claims as against the Released Parties, including without

1 limitation those which, if known, might have affected the decision to enter into or object to the
2 Settlement. With respect to any and all Released Claims, and although the Settlement provides for a
3 specific release of the Released Parties, the Parties stipulate and agree that, upon the Effective Date
4 the Plaintiffs, Wells Fargo, and each of the current Wells Fargo shareholders shall be deemed to
5 have, and by operation of the Final Judgment and Order of Dismissal shall have, waived the
6 provisions, rights and benefits of California Civil Code § 1542, which provides:

7 ***A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS THAT THE CREDITOR***
8 ***OR RELEASING PARTY DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR***
9 ***HER FAVOR AT THE TIME OF EXECUTING THE RELEASE AND THAT, IF***
KNOWN BY HIM OR HER, WOULD HAVE MATERIALLY AFFECTED HIS OR HER
SETTLEMENT WITH THE DEBTOR OR RELEASED PARTY.

10 The Plaintiffs, Wells Fargo, and each of the current Wells Fargo shareholders shall be deemed to
11 have, and by operation of the Final Judgment and Order of Dismissal shall have, waived any and all
12 provisions, rights and benefits conferred by any law of any jurisdiction, state or territory of the
13 United States, or principle of common law, which is similar, comparable or equivalent to California
14 Civil Code § 1542. Any of the Plaintiffs, Wells Fargo, or the current Wells Fargo shareholders may
15 hereafter discover facts in addition to or different from those which he, she or it now knows or
16 believes to be true with respect to the Released Claims but, upon the Court's entry of the Final
17 Judgment and Order of Dismissal, the Plaintiffs, Wells Fargo, and each of the current Wells Fargo
18 shareholders shall be deemed to have, and by operation of the Final Judgment and Order of
19 Dismissal shall have, fully, finally, and forever settled and released any and all Released Claims
20 known or unknown, suspected or unsuspected, contingent or non-contingent, accrued or unaccrued,
21 whether or not concealed or hidden, which now exist, or heretofore have existed upon any theory of
22 law or equity now existing or coming into existence in the future, including, but not limited to,
23 conduct which is negligent, intentional, with or without malice, or a breach of any duty, law or rule,
24 without regard to the subsequent discovery or existence of such different or additional facts. The
25 Parties shall be deemed by operation of the Final Judgment and Order of Dismissal to have
26 acknowledged that the foregoing waivers were separately bargained for and are key elements of the
27 Settlement of which this release is a part.

28

1 **B. PRELIMINARY APPROVAL, NOTICE ORDER,**
2 **AND SETTLEMENT HEARING**

3 33. Within ten calendar days of the execution of this Stipulation by all of the Parties, the
4 Parties shall jointly submit this Stipulation, together with its related documents, to the Court and
5 request entry of the Preliminary Approval Order, substantially in the form of Exhibit B attached
6 hereto, requesting, *inter alia*, (a) the preliminary approval of the Settlement set forth herein; (b)
7 approval for the publication of the Notice and Summary Notice, substantially in the forms of
8 Exhibits C and D; (c) setting a date for the Settlement Hearing; (d) setting dates for the receipt of
9 objections and the filing of final approval papers; (e) staying all proceedings in the Action except as
10 may be necessary to implement the Settlement; and (f) granting such other and further relief as the
11 Court deems just and proper.

12 34. Notice of the proposed Settlement shall be provided to Wells Fargo shareholders in
13 the following manner (or in such other manner as directed by the Court): (i) Wells Fargo's
14 publishing the Summary Notice, substantially in the form of Exhibit D hereto, as a quarter-page
15 advertisement in the San Francisco Chronicle, the Los Angeles Times and the Investor Business
16 Daily; (ii) Plaintiffs' Counsel's publishing the same notice via a national wire service; (iii) Wells
17 Fargo's publication of a Current Report on Form 8-K with the Securities and Exchange Commission;
18 and (iv) Wells Fargo's causing the Stipulation and the Notice, substantially in the form of Exhibit C
19 hereto, to be made electronically available on an Internet page created by Wells Fargo that will be
20 accessible via a link on the "Investor Relations" page of <http://www.wellsfargo.com>, the address of
21 which shall be contained in the Notice and Summary Notice, and sending the Notice by U.S. Mail to
22 persons who request such Notice by calling a hotline number to be identified in the Summary
23 Notice; and (v) Plaintiffs' Counsel's causing the Stipulation and Notice, substantially in the form of
24 Exhibit C hereto, to be made electronically available at a website to be identified in the Summary
25 Notice created specifically for the purpose of disseminating notice.

26 35. Plaintiffs' Counsel shall bear the costs and expenses related to promulgating notice in
27 the manner set forth in Paragraph 34 (ii) and (v), and Wells Fargo shall bear all other Notice Costs
28 ordered by the Court.

1 **C. RELEASES**

2 36. As of the Final Date, Plaintiffs, Wells Fargo (on behalf of itself and each of its
3 Related Parties) and by operation of law Wells Fargo’s shareholders shall and hereby do completely,
4 fully, finally and forever release, relinquish, settle, and discharge each and all of the Released Parties
5 from and with respect to any and all of the Released Claims (including the Unknown Claims), and
6 will be forever barred and enjoined from commencing, instituting or prosecuting any action or
7 proceeding, in any forum, asserting any of the Released Claims against any of the Released Parties;
8 *provided, however,* that Wells Fargo releases National General only to the extent of the claims
9 asserted against National General in the CPI Derivative Actions (*i.e.*, aiding and abetting the alleged
10 breaches of fiduciary duties by certain directors and officers of Wells Fargo) and Wells Fargo and
11 National General each expressly reserve all claims and arguments concerning indemnification,
12 contribution and any equitable relief that either has sought or may in the future seek from one
13 another concerning the general subject matter of Improper CPI Practices.

14 37. As of the Final Date, Defendants, individually and collectively, shall and hereby do
15 completely, fully, finally and forever release, relinquish, settle, and discharge each and all of the
16 Plaintiffs and Plaintiffs’ Counsel from and with respect to any and all claims arising out of or
17 relating to the initiation, prosecution, and resolution of the CPI Derivative Actions, excepting any
18 claim to enforce the Settlement.

19 **D. STAY OF PROCEEDINGS**

20 38. The Parties agree to seek a stay of proceedings in the CPI Derivative Actions (to the
21 extent not already stayed or dismissed) and not to initiate any proceedings other than those related to
22 the Settlement itself. In the event that any other action concerning the Improper CPI Practices is
23 initiated during the pendency of the settlement approval proceedings contemplated herein, the
24 Parties agree to jointly seek a stay of such action.

25 **E. DISMISSAL WITH PREJUDICE**

26 39. If the Preliminary Approval is granted by the Court, the Parties shall jointly and
27 promptly request that the Court enter the Final Judgment and Order of Dismissal, substantially in the
28 form attached hereto as Exhibit E, and upon entry of the Final Judgment and Order of Dismissal, to

1 simultaneously move the respective courts overseeing the other CPI Derivative Actions for dismissal
2 of those actions with prejudice and with no further or different consideration or relief, along with
3 dismissal of any other shareholder derivative action that may be initiated that concerns the Improper
4 CPI Practices. Until the Final Date, the Parties shall not take any other action to seek dismissal of
5 this Action.

6 **F. CONDITIONS OF SETTLEMENT**

7 40. This Stipulation, the Settlement and the Effective Date shall be conditioned on the
8 occurrence of all of the following events:

- 9 a. The occurrence of the Final Date;
- 10 b. The dismissals with prejudice provided for in Paragraph 39 above have been
11 entered and become final.
- 12 c. The contemporaneous (but unconnected) resolution of the Improper Sales
13 Practices Derivative Actions.

14 41. The Settlement (including the Released Claims) shall be null and void and of no force
15 and effect, unless otherwise agreed by the Parties in accordance with Paragraph 65 herein, if: (i) the
16 Court does not enter the Final Judgment and Order of Dismissal; (ii) the other CPI Derivative
17 Actions are not dismissed with prejudice against all Defendants, without the award of any damages,
18 costs, fees or the grant of further relief except for the actions and relief contemplated by this
19 Stipulation; (iii) the Parties do not obtain final approval of the Settlement for any reason; or (iv) the
20 Effective Date does not come to pass.

21 42. In the event this Stipulation is deemed null and void, the Parties may withdraw, and
22 in such case, the Parties shall be deemed to be in the respective positions they were in prior to the
23 execution of this Stipulation. All negotiations, proceedings, documents prepared and statements
24 made in connection with this Stipulation shall be without prejudice to the Parties, shall not be
25 deemed or construed to be an admission by a Party of any act, matter, or proposition and shall not be
26 used in any manner for any purpose (other than to enforce the terms remaining in effect) in any
27 subsequent proceeding in the CPI Derivative Actions or in any other action or proceeding. The
28 terms and provisions of this Stipulation shall have no further force and effect with respect to the

1 Parties and shall not be used in any other proceeding for any purpose, and any judgment or orders
2 entered by the Court in accordance with the terms of this Stipulation shall be treated as vacated, *nunc*
3 *pro tunc*.

4 **G. ATTORNEYS' FEES**

5 43. After negotiating and reaching agreement on the principal terms of the Settlement,
6 CPI Plaintiffs' Counsel and Wells Fargo, with the assistance of Judge Weinstein, separately
7 negotiated an appropriate amount of attorneys' fees and expenses to be paid by Wells Fargo to
8 compensate CPI Plaintiffs' Counsel for their work in the Action and the substantial benefits
9 conferred upon Wells Fargo and its stockholders by the Settlement. CPI Plaintiffs' Counsel and
10 Wells Fargo ultimately adopted Judge Weinstein's mediator's proposal of \$2,500,000 as an
11 appropriate amount of attorneys' fees and expenses, subject to Court approval.

12 44. As part of the Settlement Hearing, CPI Plaintiffs' Counsel intends to apply to the
13 Court for an award of fees, expenses, and Reimbursement Awards in connection with the Action
14 which shall not exceed these negotiated amounts. The Reimbursement Awards shall not exceed
15 \$5,000 per CPI Plaintiff, with any such award to be paid out of any attorneys' fees awarded by
16 the Court to CPI Plaintiffs' Counsel. Wells Fargo agrees that the CPI Plaintiffs and CPI
17 Plaintiffs' Counsel are entitled to the negotiated amount as an award of reasonable attorneys'
18 fees, expenses, and Reimbursement Awards. The Parties acknowledge and agree that any fees
19 and expenses awarded by the Court to CPI Plaintiffs' Counsel shall be paid by Wells Fargo to
20 account(s) established by CPI Plaintiffs' Counsel within ten (10) business days of entry of an
21 Order approving an award, and shall be immediately releasable upon receipt by CPI Plaintiffs'
22 Counsel, notwithstanding the existence of any timely-filed objections thereto, or potential for
23 appeal therefrom, or collateral attack on the Settlement or any part thereof. The payment of any
24 fees and expenses by Wells Fargo shall be subject to CPI Plaintiffs' Counsel's joint and several
25 obligation to make appropriate refunds or repayments of the fee received, if, as a result of any
26 further proceedings or collateral attack, the amount of the fee awarded is reduced, the conditions
27 of this Settlement (as set forth in Paragraph 41) are not satisfied, the judgment of dismissal as
28

1 contemplated in the Settlement is not accorded full effect, or the Defendants withdraw from the
2 Settlement consistent with the terms of this Stipulation.

3 45. After negotiating and reaching agreement on the principal terms of the Settlement
4 and the additional Corporate Governance Reforms, Delaware CPI Plaintiffs' Counsel and Wells
5 Fargo commenced negotiations of an appropriate amount of attorneys' fees, expenses and
6 Reimbursement Awards to be paid by Wells Fargo to compensate Delaware CPI Plaintiffs'
7 Counsel and the Delaware CPI Plaintiffs for their work in the Delaware CPI Actions and the
8 benefits conferred upon Wells Fargo by the agreed upon reforms. As of the execution date of
9 this stipulation, the negotiations between Delaware CPI Plaintiffs' Counsel and the Defendants
10 are ongoing; however, there is no way to know whether those efforts will be successful. In the
11 event this Court grants preliminary approval of the Settlement, as part of the Final Approval
12 process, Delaware CPI Plaintiffs' Counsel intend to apply for an award of fees, expenses and
13 Reimbursement Awards. Any such request shall not exceed \$3,500,000. The Reimbursement
14 Awards shall not exceed \$5,000 per Delaware CPI Plaintiff, with any such award to be paid out
15 of any potential attorneys' fees awarded. The Delaware CPI Plaintiffs and Wells Fargo
16 acknowledge and agree that any potential fees and expenses awarded by the Court to Delaware
17 CPI Plaintiffs' Counsels shall be paid by Wells Fargo to account(s) established by Delaware CPI
18 Plaintiffs' Counsel within ten (10) business days of entry of any Order approving an award, and
19 shall be immediately releasable upon receipt by Delaware CPI Plaintiffs' Counsel,
20 notwithstanding the existence of any timely-filed objections thereto, or potential for appeal
21 therefrom, or collateral attack on the Settlement or any part thereof. The payment of any fees
22 and expenses by Wells Fargo to the Delaware CPI Plaintiffs' Counsel shall be subject to
23 Delaware CPI Plaintiffs' Counsel's joint and several obligation to make appropriate refunds or
24 repayments of the fee received, if, as a result of any further proceedings or collateral attack, the
25 amount of the fee awarded is reduced, the conditions of this Settlement (as set forth in Paragraph
26 41) are not satisfied, the judgment of dismissal as contemplated in the Settlement is not accorded
27 full effect, or the Defendants withdraw from the Settlement consistent with the terms of this
28 Stipulation.

1 46. Neither the resolution of, nor any ruling regarding, the Fee Application or any award
2 of attorneys' fees and expenses or Reimbursement Award shall be a precondition to the Settlement
3 or the Final Judgment and Order of Dismissal in accordance with the terms of this Stipulation. The
4 Court may consider and rule upon the fairness, reasonableness and adequacy of the Settlement
5 independently of the Fee Application and any fee award or Reimbursement Award, and any failure
6 of the Court to approve the Fee Application or Reimbursement Award in whole or in part shall have
7 no impact on the effectiveness of the Settlement. Notwithstanding anything in this Stipulation to the
8 contrary, the effectiveness of the Releases and the other obligations of the Parties under the
9 Settlement (except with respect to the payment of attorneys' fees and expenses) shall not be
10 conditioned upon or subject to the resolution of any appeal from any order, if such appeal relates
11 solely to the issue of any award of attorneys' fees or the reimbursement of expenses or
12 Reimbursement Award.

13 47. CPI Plaintiffs' Counsel shall allocate any fee and expense award among themselves
14 in a manner which they, in good faith, believe reflects their respective contributions in the
15 institution, prosecution, and settlement of the Action. Delaware CPI Plaintiffs' Counsel shall
16 allocate any fee and expense award among themselves in a manner which they, in good faith, believe
17 reflects their respective contributions in the institution, prosecution, and settlement of the Action.
18 Defendants and their counsel shall have no responsibility for, and no liability whatsoever with
19 respect to, the allocation between or among Plaintiffs' Counsel of any fees or expenses awarded by
20 the Court. Any dispute regarding any allocation of fees or expenses between or among Plaintiffs'
21 Counsel shall have no effect on the Settlement.

22 48. This Court shall have and retain exclusive and continuing jurisdiction with respect to
23 any claim by or on behalf of any non-party shareholders for attorneys' fees or costs in connection
24 with the prosecution of any cause of action related to the Released Claims.

25 **H. COOPERATION**

26 49. The Parties and their respective counsel agree to cooperate fully with one another in
27 seeking the Court's approval of the Settlement and to use their best efforts to effect the
28 consummation of this Stipulation and the Settlement (including, but not limited to, resolving any

1 objections raised with respect to the Settlement) and to take such actions as are reasonably necessary
2 to ensure that the Final Judgment and Order of Dismissal, and the Releases provided for herein, are
3 enforced in all forums where the other CPI Derivative Actions and any other shareholder derivative
4 action concerning Improper CPI Practices are or may in the future be pending, and to obtain
5 dismissal of all such actions.

6 50. Without further order of the Court, the Parties may agree to reasonable extensions of
7 time to carry out any of the provisions of this Stipulation.

8 **I. STIPULATION NOT AN ADMISSION**

9 51. The existence of this Stipulation, its contents and any negotiations, statements or
10 proceedings in connection therewith will not be argued to be, and will not be construed or deemed to
11 be, a presumption, concession or admission by any of the Released Parties or any other person of
12 any fault, liability or wrongdoing as to any facts or claims alleged or asserted in the CPI Derivative
13 Actions or otherwise, or that Wells Fargo, Plaintiffs or Plaintiffs' Counsel, any present or former
14 shareholders of Wells Fargo or any other Person, have suffered any damage attributable in any
15 manner to any of the Released Parties. Nor shall the existence of this Stipulation and its contents or
16 any negotiations, statements or proceedings in connection therewith be construed as a presumption,
17 concession or admission by Plaintiffs or Plaintiffs' Counsel of any lack of merit of the Released
18 Claims, or that Wells Fargo has not suffered cognizable damages caused by Defendants. The
19 existence of the Stipulation, its contents or any negotiations, statements or proceedings in connection
20 therewith, shall not be offered or admitted in evidence or referred to, interpreted, construed, invoked
21 or otherwise used by any Person for any purpose in the CPI Derivative Actions or otherwise, except
22 as may be necessary to effectuate the Settlement. This provision shall remain in force in the event
23 that the Settlement is terminated for any reason whatsoever. Notwithstanding the foregoing, any of
24 the Released Parties may file this Stipulation or any judgment or order of the Court related hereto in
25 any other action that has been or may in the future be brought against them, in order to support any
26 and all defenses or counterclaims based on *res judicata*, collateral estoppel, release, good-faith
27 settlement, judgment bar or reduction or any other theory of claim preclusion or issue preclusion or
28

1 similar defense or counterclaim, or as necessary for any of the Released Parties to pursue their rights
2 under any insurance policy.

3 **J. CONFIDENTIALITY**

4 52. All agreements made and orders entered during the course of the CPI Derivative
5 Actions relating to the confidentiality of information shall survive this Stipulation. The Parties do
6 not waive, and hereby preserve, the confidentiality of all communications protected by Cal. Evid.
7 Code §§ 1115 *et seq.*

8 **K. NO WAIVER**

9 53. Any failure by any Party to insist upon the strict performance by any other Party of
10 any of the provisions of this Stipulation shall not be deemed a waiver of any of the provisions
11 hereof, and such Party, notwithstanding such failure, shall have the right thereafter to insist upon the
12 strict performance of any and all of the provisions of this Stipulation by such other Party.

13 54. No waiver, express or implied, by any Party of any breach or default in the
14 performance by another Party of its obligations under this Stipulation shall be deemed or construed
15 to be a waiver of any other breach, whether prior, subsequent, or contemporaneous, under this
16 Stipulation.

17 **L. AUTHORITY**

18 55. This Stipulation will be executed by the Parties' counsel, each of whom represents
19 and warrants that they have been duly authorized and empowered to execute this Stipulation on
20 behalf of such Party, and that it shall be binding on such Party in accordance with its terms.

21 **M. SUCCESSORS AND ASSIGNS**

22 56. This Stipulation is, and shall be, binding upon, and inure to the benefit of, the Parties
23 and their respective agents, executors, administrators, heirs, successors and assigns; provided,
24 however, that no Party shall assign or delegate its rights or responsibilities under this Stipulation
25 without the prior written consent of the other Parties.

26 **N. GOVERNING LAW AND FORUM**

27 57. This Stipulation, and any dispute arising out of or relating in any way to this
28 Stipulation, whether in contract, tort or otherwise, shall be governed by and construed in accordance

1 with the laws of the State of California, without regard to conflict-of-laws principles. Each of the
2 Parties: (i) irrevocably submits to the personal jurisdiction of the Superior Court of California in and
3 for the County of San Francisco, as well as to the jurisdiction of all courts to which an appeal may be
4 taken from such court, in any suit, action or proceeding arising out of or relating to this Stipulation
5 and/or the Settlement; (ii) agrees that all claims in respect of such suit, action or proceeding shall be
6 brought, heard and determined exclusively in the Court (provided that, in the event that jurisdiction
7 is unavailable in the Court, then all such claims shall be brought, heard and determined exclusively
8 in any other state or federal court sitting in San Francisco, California); (iii) agrees that it shall not
9 attempt to deny or defeat such personal jurisdiction by motion or other request for leave from such
10 court; and (iv) agrees not to bring any action or proceeding arising out of or relating to this
11 Stipulation in any other court. Each of the Parties waives any defense of inconvenient forum to the
12 maintenance of any action or proceeding brought in accordance with this Paragraph. Each of the
13 Parties further agrees to waive any bond, surety or other security that might be required of any other
14 Party with respect to any such action or proceeding, including an appeal thereof; such waiver is not
15 applicable to any bond, surety or other security that might be required of a nonparty objector to the
16 Final Judgment and Order of Dismissal. Each of the Parties further consents and agrees that process
17 in any such suit, action or proceeding may be served on such Party by certified mail, return receipt
18 requested, addressed to such Party or such Party's registered agent in the state of its incorporation or
19 organization, or in any other manner provided by law, and in the case of the CPI Plaintiffs by giving
20 such written notice to CPI Plaintiffs' Counsel at their addresses set forth in the signature blocks
21 below.

22 **O. WARRANTY**

23 58. Plaintiffs' Counsel each represents, on behalf of their respective clients, that (i) their
24 clients have been continuous shareholders of Wells Fargo at all times relevant to the allegations in
25 the Action and through the date of this Stipulation; and (ii) none of the Released Claims has been
26 assigned, encumbered or in any manner transferred in whole or in part, and that they and their
27
28

1 respective clients will not attempt to assign, encumber or in any manner transfer in whole or in part
2 any of the Released Claims.

3 59. Each Party represents and warrants that the Party has made such investigation of the
4 facts pertaining to the Settlement provided for in this Stipulation, and all of the matters pertaining
5 thereto, as the Party deems necessary and advisable.

6 **P. ENTIRE AGREEMENT**

7 60. This Stipulation and the attached Exhibits constitute the entire agreement among the
8 Parties with respect to the subject matter hereof and supersede all prior or contemporaneous oral or
9 written agreements, understandings or representations among the Parties with respect to the subject
10 matter hereof. All of the Exhibits hereto are incorporated by reference as if set forth herein
11 verbatim, and the terms of all Exhibits are expressly made part of this Stipulation.

12 **Q. INTERPRETATION**

13 61. Each term of this Stipulation is contractual and not merely a recital.

14 62. This Stipulation will be deemed to have been mutually prepared by the Parties and
15 will not be construed against any of them by reason of authorship.

16 63. This Stipulation and Exhibits hereto shall be considered to have been negotiated,
17 executed and delivered, and to be wholly performed, in the State of California.

18 64. The terms and provisions of this Stipulation are intended solely for the benefit of the
19 Parties, and their respective successors and permitted assigns, and it is not the intention of the Parties
20 to confer third-party beneficiary rights or remedies upon any other Person, except with respect to (a)
21 any attorneys' fees and expenses to be paid to Plaintiffs' Counsel pursuant to the terms of this
22 Stipulation; and (b) the Released Parties who are not signatories hereto, and who shall be third-party
23 beneficiaries under this Stipulation entitled to enforce it in accordance with its terms.

24 **R. AMENDMENTS**

25 65. This Stipulation may not be amended, changed, waived, discharged or terminated
26 (except as explicitly provided herein), in whole or in part, except by an instrument in writing signed
27 by the Parties to this Stipulation. Any such written instrument signed by the Parties shall be
28

1 effective upon approval of the Court, without further notice to Wells Fargo shareholders, unless the
2 Court requires such notice.

3 **S. COUNTERPARTS**

4 66. This Stipulation may be executed in any number of actual, telecopied or
5 electronically mailed counterparts and by each of the different Parties on several counterparts, each
6 of which when so executed and delivered will be an original. This Stipulation will become effective
7 when the actual or telecopied counterparts have been signed by each of the Parties to this Stipulation
8 and delivered to the other Parties. The executed signature page(s) from each actual, telecopied or
9 electronically mailed counterpart may be joined together and attached and will constitute one and the
10 same instrument.

11 **IN WITNESS WHEREOF**, the Parties have caused this Stipulation, dated as of June 21, 2019, to
12 be executed by their duly authorized attorneys.

13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

1 Dated: June 21, 2019

COTCHETT, PITRE & McCARTHY LLP

2 By: 

3 Mark C. Molumphy (SBN 168009)
4 mmolumphy@cpmlegal.com
5 COTCHETT, PITRE & McCARTHY, LLP
6 840 Malcolm Road, Suite 200
7 Burlingame, California 94010
8 Telephone: (650) 697-6000
9 Facsimile: (650) 697-0577

BOTTINI & BOTTINI, INC.

8 By: _____

9 Francis A. Bottini, Jr. (SBN 175783)
10 fbottini@bottinilaw.com
11 BOTTINI & BOTTINI, INC.
12 7817 Ivanhoe Avenue, Suite 102
13 La Jolla, California 92037
14 Telephone: (858) 914-2001
15 Facsimile: (858) 914-2002

Attorneys for Derivative Plaintiff Donna Maxwell

15 WILLIAM H. PARISH, PC

16 By: 

17 William H. Parish (SBN 95913)
18 parish@parishlegal.com
19 WILLIAM H. PARISH, PC
20 1919 Grand Canal Boulevard, Suite A-5
21 Stockton, California 95207
22 Telephone: (209) 952-1992
23 Facsimile: (209) 914-0250

Attorneys for Douglas Duran, as Trustee of the John & Irene Duran Family Trust

HACH ROSE SCHIRRIPIA & CHEVERIE LLP

24 By: _____

25 Frank R. Schirripa
26 Daniel B. Rehns
27 fschirripa@hrsclaw.com
28 drehns@hrsclaw.com
HACH ROSE SCHIRRIPIA & CHEVERIE LLP
112 Madison Avenue, 10th Floor
New York, New York 10016

1 Dated: June 21, 2019

COTCHETT, PITRE & McCARTHY LLP

2 By: _____

3 Mark C. Molumphy (SBN 168009)
4 mmolumphy@cpmlegal.com
5 COTCHETT, PITRE & McCARTHY, LLP
6 840 Malcolm Road, Suite 200
7 Burlingame, California 94010
8 Telephone: (650) 697-6000
9 Facsimile: (650) 697-0577

10 BOTTINI & BOTTINI, INC.

11 By: 

12 Francis A. Bottini, Jr. (SBN 175783)
13 fbottini@bottinilaw.com
14 BOTTINI & BOTTINI, INC.
15 7817 Ivanhoe Avenue, Suite 102
16 La Jolla, California 92037
17 Telephone: (858) 914-2001
18 Facsimile: (858) 914-2002

19 *Attorneys for Derivative Plaintiff Donna Maxwell*

20 WILLIAM H. PARISH, PC

21 By: _____

22 William H. Parish (SBN 95913)
23 parish@parishlegal.com
24 WILLIAM H. PARISH, PC
25 1919 Grand Canal Boulevard, Suite A-5
26 Stockton, California 95207
27 Telephone: (209) 952-1992
28 Facsimile: (209) 914-0250

Attorneys for Douglas Duran, as Trustee of the John & Irene Duran Family Trust

HACH ROSE SCHIRRIPA & CHEVERIE LLP

By: _____

Frank R. Schirripa
Daniel B. Rehns
fschirripa@hrsclaw.com
drehns@hrsclaw.com
HACH ROSE SCHIRRIPA & CHEVERIE LLP
112 Madison Avenue, 10th Floor
New York, New York 10016

1 Dated: June 21, 2019

COTCHETT, PITRE & McCARTHY LLP

2 By: _____

3 Mark C. Molumphy (SBN 168009)
4 mmolumphy@cpmlegal.com
5 COTCHETT, PITRE & McCARTHY, LLP
6 840 Malcolm Road, Suite 200
7 Burlingame, California 94010
8 Telephone: (650) 697-6000
9 Facsimile: (650) 697-0577

BOTTINI & BOTTINI, INC.

8 By: _____

9 Francis A. Bottini, Jr. (SBN 175783)
10 fbottini@bottinilaw.com
11 BOTTINI & BOTTINI, INC.
12 7817 Ivanhoe Avenue, Suite 102
13 La Jolla, California 92037
14 Telephone: (858) 914-2001
15 Facsimile: (858) 914-2002

Attorneys for Derivative Plaintiff Donna Maxwell

14 WILLIAM H. PARISH, PC

15 By: _____

16 William H. Parish (SBN 95913)
17 parish@parishlegal.com
18 WILLIAM H. PARISH, PC
19 1919 Grand Canal Boulevard, Suite A-5
20 Stockton, California 95207
21 Telephone: (209) 952-1992
22 Facsimile: (209) 914-0250

*Attorneys for Douglas Duran, as Trustee of the John &
Irene Duran Family Trust*

23 HACH ROSE SCHIRRIPA & CHEVERIE LLP

24 By:  _____

25 Frank R. Schirripa
26 Daniel B. Rehns
27 fschirripa@hrsclaw.com
28 drehns@hrsclaw.com
HACH ROSE SCHIRRIPA & CHEVERIE LLP
112 Madison Avenue, 10th Floor
New York, New York 10016

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

(212) 213-8311

*Attorneys for Derivative Plaintiffs Connecticut
Laborers Pension Fund and Teamsters Local 671
Health Services and Insurance Plan and Lead Counsel
in the Connecticut Laborers' Action*

BERMAN TABACCO

By: 

Norman Berman
Nathaniel L. Orenstein
nberman@bermantabacco.com
norenstein@bermantabacco.com
BERMAN TABACCO
One Liberty Square
Boston, MA 02109
Telephone: (617) 542-8300
Facsimile: (617) 542-1194

*Attorneys for the Massachusetts Laborers' Pension
Fund and the Employees' Retirement System of the City
of Providence*

SULLIVAN & CROMWELL LLP

By: _____

Richard H. Klapper (*pro hac vice* forthcoming)
(klapperr@sullcrom.com)
SULLIVAN & CROMWELL LLP
125 Broad Street
New York, New York 10004-2498
Telephone: (212) 558-3555
Facsimile: (212) 291-9083

Brendan P. Cullen (SBN 194057)
cullenb@sullcrom.com
SULLIVAN & CROMWELL LLP
1870 Embarcadero Road
Palo Alto, California 94303
Telephone: (650) 461-5600
Facsimile: (650) 461-5700

Christopher M. Viapiano (*pro hac vice* forthcoming)
viapianoc@sullcrom.com
SULLIVAN & CROMWELL LLP
1700 New York Avenue, N.W., Suite 700
Washington, D.C. 20006
Telephone: (202) 956-6985
Facsimile: (202) 956-7056

Gilbert R. Serota (SBN 75305)
gilbert.serota@apks.com
ARNOLD & PORTER KAYE SCHOLER LLP

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

(212) 213-8311

Attorneys for Derivative Plaintiffs Connecticut Laborers Pension Fund and Teamsters Local 671 Health Services and Insurance Plan and Lead Counsel in the Connecticut Laborers' Action

BERMAN TABACCO

By: _____

Norman Berman
Nathaniel L. Orenstein
nberman@bermantabacco.com
norenstein@bermantabacco.com
BERMAN TABACCO
One Liberty Square
Boston, MA 02109
Telephone: (617) 542-8300
Facsimile: (617) 542-1194

Attorneys for the Massachusetts Laborers' Pension Fund and the Employees' Retirement System of the City of Providence

SULLIVAN & CROMWELL LLP

By: _____

Richard H. Klapper (*pro hac vice* forthcoming)
(klapperr@sullcrom.com)
SULLIVAN & CROMWELL LLP
125 Broad Street
New York, New York 10004-2498
Telephone: (212) 558-3555
Facsimile: (212) 291-9083

Brendan P. Cullen (SBN 194057)
cullenb@sullcrom.com
SULLIVAN & CROMWELL LLP
1870 Embarcadero Road
Palo Alto, California 94303
Telephone: (650) 461-5600
Facsimile: (650) 461-5700

Christopher M. Viapiano (*pro hac vice* forthcoming)
viapianoc@sullcrom.com
SULLIVAN & CROMWELL LLP
1700 New York Avenue, N.W., Suite 700
Washington, D.C. 20006
Telephone: (202) 956-6985
Facsimile: (202) 956-7056

Gilbert R. Serota (SBN 75305)
gilbert.serota@apks.com
ARNOLD & PORTER KAYE SCHOLER LLP

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

Three Embarcadero Center, Suite 10
San Francisco, California 94111
Telephone: (415) 471-3170
Facsimile: (415) 471-3400

Counsel for Nominal Defendant Wells Fargo & Company

GOODWIN PROCTER LLP

By: Richard M. Strassberg / Y.L.H.

Richard M. Strassberg (*Pro hac vice*)
rstrassberg@goodwinlaw.com
Daniel P. Roeser (*Pro hac vice*)
droeser@goodwinlaw.com
GOODWIN PROCTER LLP
620 8th Avenue
New York, NY 10018
Telephone: (212) 813-8800
Facsimile: (212) 355-3333

Grant P. Fondo
gfondo@goodwinlaw.com
Lloyd Winawer
lwinawer@goodwinlaw.com
Nicholas A. Reider
nreider@goodwinlaw.com
GOODWIN PROCTER LLP
601 Marshall Street
Redwood City, CA 94063
Telephone: (650) 752-3100
Facsimile: (650) 853-1038

Attorneys for Defendant John G. Stumpf

CLARENCE DYER & COHEN LLP

By: _____

Nanci L. Clarence
nclarence@clarencedyer.com
Josh A. Cohen
jcohen@clarencedyer.com
Adam F. Shearer
ashearer@clarencedyer.com
CLARENCE DYER & COHEN LLP
899 Ellis Street
San Francisco, CA 94109
Telephone: (415) 749-1800
Facsimile: (415) 749-1694

Attorneys for Defendant Timothy J. Sloan

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

Three Embarcadero Center, Suite 10
San Francisco, California 94111
Telephone: (415) 471-3170
Facsimile: (415) 471-3400

Counsel for Nominal Defendant Wells Fargo & Company

GOODWIN PROCTER LLP

By: _____

Richard M. Strassberg (*Pro hac vice*)
rstrassberg@goodwinlaw.com
Daniel P. Roeser (*Pro hac vice*)
droeser@goodwinlaw.com
GOODWIN PROCTER LLP
620 8th Avenue
New York, NY 10018
Telephone: (212) 813-8800
Facsimile: (212) 355-3333

Grant P. Fondo
gfondo@goodwinlaw.com
Lloyd Winawer
lwinawer@goodwinlaw.com
Nicholas A. Reider
nreider@goodwinlaw.com
GOODWIN PROCTER LLP
601 Marshall Street
Redwood City, CA 94063
Telephone: (650) 752-3100
Facsimile: (650) 853-1038

Attorneys for Defendant John G. Stumpf

CLARENCE DYER & COHEN LLP

By: Josh A. Cohen _____

Nanci L. Clarence
nclarence@clarencedyer.com
Josh A. Cohen
jcohen@clarencedyer.com
Adam F. Shearer
ashearer@clarencedyer.com
CLARENCE DYER & COHEN LLP
899 Ellis Street
San Francisco, CA 94109
Telephone: (415) 749-1800
Facsimile: (415) 749-1694

Attorneys for Defendant Timothy J. Sloan

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

SKAGGS FAUCETTE LLP

By: _____

Jeffrey E. Faucette
jeff@skaggsfaucette.com
SKAGGS FAUCETTE LLP
One Embarcadero Center
Suite 500
San Francisco, CA 94111
Telephone: (415) 315-1669
Facsimile: (415) 433-5994

Enu A. Mainigi (*Pro hac vice*)
emainigi@wc.com
Jennifer G. Wicht (*Pro hac vice*)
jwicht@wc.com
Brian Patrick Hagerty (*Pro hac vice*)
bhagerty@wc.com
WILLIAMS & CONNOLLY LLP
725 Twelfth Street, N.W.
Washington D.C. 20005
Telephone: (202) 434-5000
Facsimile: (202) 434-5029

Attorneys for Defendant Carrie Tolstedt

SHEARMAN & STERLING LLP

By: _____

John F. Cove, Jr.
john.cove@shearman.com
Emily V. Griffen
egriffen@shearman.com
Alethea M. Sargent
alethea.sargent@shearman.com
SHEARMAN & STERLING LLP
535 Mission Street, 25th Floor
San Francisco, CA 94105
Telephone: (415) 616-1100
Facsimile: (415) 616-1199

Stuart Baskin
sbaskin@shearman.com
John Gueli
jgueli@shearman.com
SHEARMAN & STERLING LLP
599 Lexington Avenue
New York, NY 10022
Telephone: (212) 848-4000
Facsimile: (212) 848-7179

Attorneys for Defendants John D. Baker II, Elaine L. Chao, John S. Chen, Celeste A. Clark, Theodore F. Craver, Lloyd H. Dean, Elizabeth A. Duke, Susan E. Engel, Enrique Hernandez, Jr., Donald M. James,

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

SKAGGS FAUCETTE LLP

By: _____

Jeffrey E. Faucette
jeff@skaggsfaucette.com
SKAGGS FAUCETTE LLP
One Embarcadero Center
Suite 500
San Francisco, CA 94111
Telephone: (415) 315-1669
Facsimile: (415) 433-5994

Enu A. Mainigi (*Pro hac vice*)
emainigi@wc.com
Jennifer G. Wicht (*Pro hac vice*)
jwicht@wc.com
Brian Patrick Hagerty (*Pro hac vice*)
bhagerty@wc.com

WILLIAMS & CONNOLLY LLP
725 Twelfth Street, N.W.
Washington D.C. 20005
Telephone: (202) 434-5000
Facsimile: (202) 434-5029

Attorneys for Defendant Carrie Tolstedt

SHEARMAN & STERLING LLP

By:  _____

John F. Cove, Jr.
john.cove@shearman.com
Emily V. Griffen
egriffen@shearman.com
Alethea M. Sargent
alethea.sargent@shearman.com
SHEARMAN & STERLING LLP
535 Mission Street, 25th Floor
San Francisco, CA 94105
Telephone: (415) 616-1100
Facsimile: (415) 616-1199

Stuart Baskin
sbaskin@shearman.com
John Gueli
jgueli@shearman.com
SHEARMAN & STERLING LLP
599 Lexington Avenue
New York, NY 10022
Telephone: (212) 848-4000
Facsimile: (212) 848-7179

Attorneys for Defendants John D. Baker II, Elaine L. Chao, John S. Chen, Celeste A. Clark, Theodore F. Craver, Lloyd H. Dean, Elizabeth A. Duke, Susan E. Engel, Enrique Hernandez, Jr., Donald M. James,

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

Chao, John S. Chen, Celeste A. Clark, Theodore F. Craver, Lloyd H. Dean, Elizabeth A. Duke, Susan E. Engel, Enrique Hernandez, Jr., Donald M. James, Mackey J. McDonald, Richard D. McCormick, Cynthia H. Milligan, Nicholas G. Moore, Maria R. Morris, Karen B. Peetz, Federico F. Peña, Juan A. Pujadas, James H. Quigley, Philip J. Quigley, Howard V. Richardson, Judith M. Runstad, Stephen W. Sanger, Ronald L. Sargent, Susan G. Swenson, and Suzanne M. Vautrinot

RAMSEY & EHRLICH LLP

By: 

Miles Ehrlich
miles@ramsey-ehrllich.com
Ismail Ramsey
izzy@ramsey-ehrllich.com
RAMSEY & EHRLICH LLP
803 Hearst Avenue
Berkeley, CA 94710
Telephone: (510) 548-3600
Facsimile: (510) 291-3060

Attorneys for Defendants Franklin Codel and John R. Shrewsberry

FARELLA BRAUN + MARTEL LLP

By: _____

Douglas R. Young
dyoung@fbm.com
C. Brandon Wisoff
bwisoff@fbm.com
FARELLA BRAUN + MARTEL LLP
Russ Building
235 Montgomery Street
17th Floor
San Francisco, CA 94104
Telephone: (415) 954-4400

Attorneys for Defendant Avid Modjtabai

COVINGTON & BURLING LLP

By: _____

Daniel Shallman
dshallman@cov.com
COVINGTON & BURLING LLP
1999 Avenue of the Stars
Los Angeles, CA 90067-4643

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

Mackey J. McDonald, Richard D. McCormick, Cynthia H. Milligan, Nicholas G. Moore, Maria R. Morris, Karen B. Peetz, Federico F. Peña, Juan A. Pujadas, James H. Quigley, Philip J. Quigley, Howard V. Richardson, Judith M. Runstad, Stephen W. Sanger, Ronald L. Sargent, Susan G. Swenson, and Suzanne M. Vautrinot

RAMSEY & EHRLICH LLP

By: _____

Miles Ehrlich
miles@ramsey-ehrllich.com
Ismail Ramsey
izzy@ramsey-ehrllich.com
RAMSEY & EHRLICH LLP
803 Hearst Avenue
Berkeley, CA 94710
Telephone: (510) 548-3600
Facsimile: (510) 291-3060

Attorneys for Defendants Franklin Codel and John R. Shrewsberry

FARELLA BRAUN + MARTEL LLP

By: *Douglas R. Young*

Douglas R. Young
dyoung@fbm.com
C. Brandon Wisoff
bwisoff@fbm.com
FARELLA BRAUN + MARTEL LLP
Russ Building
235 Montgomery Street
17th Floor
San Francisco, CA 94104
Telephone: (415) 954-4400

Attorneys for Defendant Avid Modjtabai

COVINGTON & BURLING LLP

By: _____

Daniel Shallman
dshallman@cov.com
COVINGTON & BURLING LLP
1999 Avenue of the Stars
Los Angeles, CA 90067-4643
Telephone: (424) 332-4800

Attorneys for Defendant Dawn Martin Harp

Mackey J. McDonald, Richard D. McCormick, Cynthia H. Milligan, Nicholas G. Moore, Maria R. Morris, Karen B. Peetz, Federico F. Peña, Juan A. Pujadas, James H. Quigley, Philip J. Quigley, Howard V. Richardson, Judith M. Runstad, Stephen W. Sanger, Ronald L. Sargent, Susan G. Swenson, and Suzanne M. Vautrinot

RAMSEY & EHRLICH LLP

By: _____

Miles Ehrlich
miles@ramsey-ehrllich.com
Ismail Ramsey
izzy@ramsey-ehrllich.com
RAMSEY & EHRLICH LLP
803 Hearst Avenue
Berkeley, CA 94710
Telephone: (510) 548-3600
Facsimile: (510) 291-3060

Attorneys for Defendants Franklin Codel and John R. Shrewsberry

FARELLA BRAUN + MARTEL LLP

By: _____

Douglas R. Young
dyoung@fbm.com
C. Brandon Wisoff
bwisoff@fbm.com
FARELLA BRAUN + MARTEL LLP
Russ Building
235 Montgomery Street
17th Floor
San Francisco, CA 94104
Telephone: (415) 954-4400

Attorneys for Defendant Avid Modjtabai

COVINGTON & BURLING LLP

By: *Daniel Shallman /SKH*

Daniel Shallman
dshallman@cov.com
COVINGTON & BURLING LLP
1999 Avenue of the Stars
Los Angeles, CA 90067-4643
Telephone: (424) 332-4800

Attorneys for Defendant Dawn Martin Harp

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

ARGUEDAS CASSMAN & HEADLEY LLP

By:  _____

Cristina C. Arguedas
arguedas@achlaw.com
Ted W. Cassman
cassman@achlaw.com
Laurel L. Headley
headley@achlaw.com
ARGUEDAS CASSMAN & HEADLEY LLP
803 Hearst Avenue
Berkeley, CA 94710
(510) 845-3000 (Tel)
(510) 845-3003 (Fax)
Attorneys for Defendant Michael J. Loughlin

1 JOSEPH W. COTCHETT (SBN 36324)

jcotchett@cpmlegal.com

2 MARK C. MOLUMPHY (SBN 168009)

mmolumphy@cpmlegal.com

3 GINA STASSI (SBN 261263)

gstassi@cpmlegal.com

4 ANYA N. THEPOT (SBN 318430)

athepot@cpmlegal.com

5 **COTCHETT, PITRE & McCARTHY, LLP**

6 840 Malcolm Road, Suite 200

7 Burlingame, CA 94010

Telephone: (650) 697-6000

8 Facsimile: (650) 697-0577

9 *Attorneys for Derivative Plaintiff Donna Maxwell*

10
11 SUPERIOR COURT OF THE STATE OF CALIFORNIA

12 COUNTY OF SAN FRANCISCO

13
14 IN RE WELLS FARGO & COMPANY
15 AUTO INSURANCE DERIVATIVE
16 LITIGATION

Lead Case No. CGC-17-561118

17
18
19
20
21
22
23
24
25
26
27
28
This Document Relates to:
ALL ACTIONS.

**SETTLEMENT STIPULATION
EXHIBIT A: CORPORATE
GOVERNANCE REFORMS**

1 **I. Corporate Governance Reforms**

2 WHEREAS, the first of the related shareholder derivative actions in this matter (the
3 “Action”) was filed on September 5, 2017 in the Superior Court for the State of California,
4 County of San Francisco; the Plaintiffs thereafter filed a consolidated amended complaint on
5 December 11, 2017 (the “Consolidated Complaint”).¹ Both the first-filed complaint and the
6 Consolidated Complaint allege, *inter alia*, breaches of fiduciary duty related to Wells Fargo’s
7 automobile collateral protection insurance (“CPI”) program and seek an order “[d]irecting Wells
8 Fargo to take all necessary actions to reform and improve its corporate governance and internal
9 procedures to comply with applicable laws and to protect the Company and its shareholders
10 from a repeat of the damaging events described herein.” (Consolidated Complaint at 138.).

11 WHEREAS, on May 17, 2017, a stockholder derivative action was filed in the Court of
12 Chancery of the State of Delaware, alleging *inter alia*, breaches of fiduciary duty relating to
13 certain of Wells Fargo’s sales practices. The plaintiffs in that action filed an amended
14 stockholder derivative complaint on December 18, 2017, that added claims for breach of
15 fiduciary duty related to Wells Fargo’s CPI program and related claims (the “Delaware
16 Complaint”), and sought similar relief to that sought in the Consolidated Complaint. (Delaware
17 Complaint at 153). On July 11, 2018, this action was stayed.

18 WHEREAS, during the pendency of the Action and the negotiations that culminated in
19 the Settlement, the CPI Plaintiffs and the Delaware CPI Plaintiffs sought corporate reforms that
20 would ensure that the Improper CPI Practices were not repeated.

21 WHEREAS, the CPI Plaintiffs, Delaware CPI Plaintiffs, and Wells Fargo agree and
22 acknowledge that facts alleged in the complaints in the Action and subsequent amendments
23 thereto, as well as certain proposals made by CPI Plaintiffs and Delaware CPI Plaintiffs in
24 connection with the prosecution and proposed resolution of the Action, were significant and
25 contributing factors taken into account by Wells Fargo in implementing corporate governance
26 reforms that should serve to improve the Company’s compliance with applicable laws and

27 _____
28 ¹ Unless defined herein, all capitalized terms contained in this Exhibit A shall have the same meanings and definitions as set forth in the Stipulation and Agreement of Compromise, Settlement and Release.

1 regulations and enhance Board oversight of the Company’s compliance function.

2 WHEREAS, the CPI Plaintiffs, Delaware CPI Plaintiffs and Wells Fargo agree that the
3 corporate governance reforms set forth below were made, in part, to address the specific
4 Improper CPI Practices that gave rise to the Action and the Delaware Complaint. The CPI
5 Plaintiffs, Delaware CPI Plaintiffs and Wells Fargo agree that the measures outlined below are
6 intended as “reform[s] and improve[ments] to [the Company’s] corporate governance and
7 internal procedures to comply with applicable laws and to protect the Company and its
8 shareholders from a repeat of the damaging events described” in the Consolidated Complaint —
9 *i.e.*, a principal form of relief sought in the Action.

10 These governance changes, to the extent they have not already been enacted, will be
11 implemented within sixty (60) days of the Effective Date of the Settlement. Moreover, as part
12 of this Settlement, the Company agrees that the procedural and structural reforms set forth
13 below will be maintained, subject to and to the extent consistent with the Board’s assessment of
14 its fiduciary duties, in substantially the same form for at least the next three years.² The
15 Company also agrees that funding for the next six years will be provided to ensure that there are
16 adequate financial resources to carry out these governance reforms.

17 The corporate governance reforms are as follows:

18 Recognizing the errors and problems in the CPI program, the Company discontinued
19 placement of CPI for automobile borrowers in September 2016. As part of this Settlement, the
20 Company has agreed that, for the next two years, it will not re-enter the CPI business for

21 ² The CPI Plaintiffs, Delaware CPI Plaintiffs and Wells Fargo agree that this requirement
22 applies to the following governance actions (such actions described in greater detail herein): the
23 continuation of the External Stakeholder Advisory Council, the limitation on the number of
24 public company boards on which directors may serve, the reduced shareholding percentage
25 required to call a special meeting, and the enhancements to the charters of the Board’s Audit and
26 Examination Committee, Risk Committee, and Human Resources Committee (“HRC”), including
enhancements concerning the Risk Committee and HRC’s oversight of conduct risk and culture
(while allowing for the reasonable revision of those charters to meet future corporate needs,
provided that such revisions do not negatively impact the independence of the Audit and
Examination Committee, Risk Committee, and HRC).

27 The CPI Plaintiffs, Delaware CPI Plaintiffs, and Wells Fargo intend that the reforms
28 discussed herein be continued as it concerns their procedural and structural components; for the
avoidance of doubt, the CPI Plaintiffs, Delaware CPI Plaintiffs, and Wells Fargo do not intend
that a specific person needs to fill or continue to fill a particular role in the years to come, but
rather that the role is provided for within the Company’s governance structure.

1 automobile lending without a robust analysis of risk controls related to CPI, with such analysis
2 to be conducted by an independent advisor to be selected in consultation with the CPI Plaintiffs'
3 Counsel.

4 If, within two years after the above-mentioned two-year period, Wells Fargo does re-
5 enter the CPI business for automobile lending, then, for a period of two years after such re-
6 entry, it will cause there to be a quarterly report to the full Board of Directors by the Chief Risk
7 Officer (or that person's designee) regarding the CPI automobile lending program and the
8 adequacy of the risk controls and procedures relating to the CPI program. To the extent deemed
9 appropriate by the Audit & Examination or Risk Committees, the Board may also meet in
10 Executive Session to consider the reports regarding the CPI automobile lending program.

11 Wells Fargo, under the supervision of its banking regulators, and in consultation with
12 CPI Plaintiffs' Counsel, is in the midst of several ongoing efforts to identify affected auto
13 borrowers and remediate the Improper CPI Practices, which will result in more than \$380
14 million in compensation to potentially affected auto borrowers. Wells Fargo's Risk Committee
15 and Regulatory Compliance Oversight Committee will be updated as appropriate throughout the
16 course of these efforts.

17 The Company has implemented numerous new internal controls and enhanced many
18 existing controls and customer feedback mechanisms (e.g., customer alerts) to help ensure that
19 account activity and the automatic placement of programs like CPI is properly authorized and
20 disclosed to the Bank's customers. This includes a substantial investment in automation and
21 technical enhancements for risk control. Specifically, the Company created an "Enterprise Data
22 Management" function in September 2017 that is responsible for the infrastructure, business
23 source systems and governance of all Company data and corresponding analyses to promptly
24 identify and understand data trends so that they can be appropriately resolved or escalated. The
25 CPI Plaintiffs, Delaware CPI Plaintiffs, and Wells Fargo agree that the newly designed
26 Enterprise Data Management function is a significant technological investment that reduces the
27 likelihood of future errors and mistakes similar to the Improper CPI Practices.

28 In 2017 and 2018, the Company and the Board enhanced their structural risk

1 management practices, including conduct and compliance risk management, by, among other
2 things, (a) strengthening and enhancing the Company’s Board-approved risk management
3 framework; (b) clarifying roles and responsibilities among its three lines of defense; and
4 (c) emphasizing the role of risk management when setting corporate strategy and by further
5 integrating certain risk management organizational, governance, and reporting practices. These
6 revised and enhanced structural risk management practices are reflected in **Exhibit A-1**,
7 attached hereto.

8 To obtain additional feedback from external stakeholders, in December 2017, the
9 Company launched its External Stakeholder Advisory Council. The council, led by the Board
10 Chair, consists of representatives of stakeholder groups important to the Company, including
11 groups focused on consumer rights, fair lending, the environment, human rights, civil rights,
12 and governance. The council meets multiple times each year and will continue to provide
13 feedback to the Board and Company senior management on current and emerging issues
14 relevant to the Company and its stakeholders, including ways in which the Company is serving
15 the financial needs of underserved communities, diversity and social inclusion, and
16 environmental sustainability. Specific information concerning the External Stakeholder
17 Advisory Council is set forth in **Exhibit A-2**, attached hereto.

18 The Board has significantly revamped its own composition. The Board has elected eight
19 new independent directors since 2017 and ten independent directors have departed the Board in
20 that time. A majority of Wells Fargo’s directors are new to the Company’s Board and bring
21 both expertise and a fresh perspective to overseeing the issues confronting the Company,
22 including the data management and oversight issues underlying the Improper CPI Practices.

23 In addition, the Company amended its bylaws in late 2016 to require that the chairman
24 of the Board be an independent director, thereby separating the chairman and chief executive
25 roles.

26 Effective January 1, 2018, the Board elected Elizabeth A. (“Betsy”) Duke to serve as
27 Board Chair. Ms. Duke is a former member of the Board of Governors of the Federal Reserve
28 System, former Chair of the Federal Reserve’s Committee on Consumer and Community

1 Affairs, and served as a member of its Committee on Bank Supervision and Regulation,
2 Committee on Bank Affairs, and Committee on Board Affairs.

3 In 2017 and 2018, the Board appointed new directors to serve on (and new leaders to
4 chair) its key committees, including the Risk Committee, HRC, and the Governance and
5 Nominating Committee (“GNC”). The Board also revamped its own governance and
6 committee structure. For example, the Risk Committee was reconstituted to include a majority
7 of members (four) with experience identifying, assessing, and managing risk exposures of large,
8 financial firms. The Risk Committee’s Charter was also revised, most recently in November
9 2018, to reflect its modified structure and duties, a copy of which is attached hereto as

10 **Exhibit A-3.**

11 The Board has significantly revamped its annual review and evaluation process,
12 including by clarifying that the Board may determine periodically to engage a third party to
13 facilitate the Board’s annual performance evaluation. The annual review process was
14 previously facilitated by the Board itself (guided by the lead independent director); for the 2017
15 and 2018 annual reviews, the Board engaged former SEC Chairwoman Mary Jo White, senior
16 partner with Debevoise & Plimpton LLP, to facilitate the Board’s and, in 2018, each
17 committee’s annual evaluation, including an assessment of changes made by the Board since
18 late 2016. The Board’s annual self-evaluation is a comprehensive process to assess the Board’s
19 performance, effectiveness, and governance practices, and includes an assessment of the
20 contributions of individual directors to the work of the Company, the Board and its committees.

21 In 2017, the Board approved a new policy limiting the number of public company
22 boards on which its directors may serve. No director currently serves on more than three other
23 public company boards and Wells Fargo’s interim CEO does not serve on any other public
24 company board.

25 In March 2018, the Board reduced the threshold for calling a special shareholder
26 meeting. Now, shareholders comprising 20% of the Company’s outstanding common stock
27 may call special meetings of shareholders (reduced from 25%), making it significantly easier for
28 several of the Company’s major investors to convene a special meeting.

1 The Board amended its own Corporate Governance Guidelines in 2018 to better reflect
 2 the role of the Board and the work it is doing to enhance governance and oversight practices,
 3 including to reflect the Federal Reserve’s proposed guidance on board effectiveness. A copy of
 4 those revised Guidelines is attached hereto as **Exhibit A-4**. The Board updated reporting
 5 structures, including committee charters, in the wake of the Improper CPI Practices and sales
 6 practices issues to include more and better targeted risk management reporting, including in
 7 executive sessions.³ A copy of the revised and updated Audit & Examination Committee
 8 Charter is attached hereto as **Exhibit A-5**. The Board has taken numerous other steps, including
 9 (1) the empowerment of the Board’s key risk-assessing committees to challenge management’s
 10 approach to an issue and to engage outside advisors, at the Company’s expense;⁴ (2) the
 11 assignment to a special committee, the Regulatory Compliance Oversight Committee (which
 12 meets at least monthly and is led by Chairwoman Maria Morris), of responsibility to provide
 13 Board-level oversight of compliance processes for consent orders and other regulatory
 14 enforcement actions; (3) the formation of two subcommittees of the Risk Committee to address
 15 specific operational risk issues (a Compliance Subcommittee, which meets monthly, and a
 16 Technology/Information Security/Data Management Subcommittee to focus on these risk
 17 areas); and (4) amendment of the Risk Committee Charter to specifically provide that it
 18 oversees the risk components of the Company’s culture, as well as the conduct risk oversight
 19 function, and specifying extensive reporting on conduct and compliance risks.

20 The Board and senior executive team have rebuilt the top-level management of Wells
 21 Fargo. Since late 2016, the Company has made the following significant personnel moves:

23 ³ The Audit & Examination Committee (“A&E Committee”) and Risk Committee are the
 24 principal recipients of regularly scheduled risk-related reports and those reports are received or
 25 discussed when appropriate, in sessions not attended by senior management. (*See, e.g.,* Risk
 26 Comm. Charter, at 2; A&E Comm. Charter, at 2-3.) The A&E Committee and the Risk
 Committee meet frequently — 20 times and 10 times, respectively, in 2017, including four joint
 meetings. (*See* 2018 Proxy Statement for further discussion of committee processes and
 responsibilities.)

27 ⁴ *See, e.g.,* A&E Committee Charter ¶ 16; Risk Committee Charter ¶ 13 (“In performing its
 28 responsibilities, the Committee is authorized to retain and obtain advice from internal or external
 legal, accounting, or other advisors at the Company’s expense without prior permission of the
 Board or management.”).

1 (1) appointed a new CEO; (2) appointed Mary Mack as the new head of the Community Bank
2 (Mack now leads Consumer Banking, which includes the Community Bank, Home Lending,
3 and Wells Fargo Auto); (3) appointed C. Allen Parker as the new General Counsel (and
4 currently serving as interim CEO); (4) appointed Amanda Norton as the new Chief Risk
5 Officer, who previously worked at JPMorgan Chase as the chief risk officer for home lending
6 and then later assumed responsibilities including risk oversight for home lending, card services,
7 auto finance, business banking, consumer banking, and payments; (5) hired a new Chief
8 Compliance Officer (Mike Roemer, who most recently served as group head of compliance at
9 Barclays); (6) hired a new Chief Operational Risk Officer (Mark Weintraub, who has extensive
10 internal audit experience); (7) established the new role Head of Stakeholder Relations (and
11 appointed Jim Rowe to that role, who now supervises the Investor Relations, Corporate
12 Communications and Government Relations and Public Policy groups); (8) established the new
13 role of Head of Regulatory Relations (and appointed Sarah Dahlgren, a former Federal Reserve
14 Bank of New York official, to that office); and (9) overhauled the leadership of the Consumer
15 Lending and Dealer Services units at the center of the Improper CPI Practices, with the former
16 executives departing the Company.

17 In 2018, the Board awarded no cash incentive compensation award to CEO Timothy
18 Sloan, upon his own recommendation, based upon his assessment that the Company's risk
19 management goals were not yet attained in 2017.

20 In 2019, the Company is further enhancing its corporate governance practices by:
21 continuing to reinforce and focus on taking into account ethical considerations in its oversight
22 of incentive compensation at Wells Fargo; ensuring that the results of the ongoing review and
23 remediation of CPI will be reported to the Board; clarifying that the HRC, as appropriate, will
24 receive reports from the Corporate Risk and Human Resources functions concerning conduct
25 risk and culture (including corporate ethics); clarifying that the Chief Risk Officer has a
26 responsibility to oversee corporate ethics; and clarifying that the Board or its Committees will
27 receive updates at least annually concerning the implementation and effectiveness of its
28 corporate governance reforms. These enhancements were adopted to re-emphasize the

1 Company's commitment to ethical behavior, including fair dealing, good faith, and suitability.
2 The CPI Plaintiffs, Delaware CPI Plaintiffs, and Wells Fargo agree and acknowledge that these
3 reforms have conferred significant value to Wells Fargo and will continue to do so in the future.
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

Frank Decl.

EXHIBIT 4



GRANTED

EFiled: May 11 2018 09:30AM EDT
Transaction ID 62019550
Case No. 2017-0383-SG

IN THE COURT OF CHANCERY OF THE STATE OF DELAWARE

BARRY ROSENFELD, Derivatively on
Behalf of WELLS FARGO & COMPANY,

Plaintiff,

vs.

JOHN G. STUMPF, JOHN D. BAKER II,
ELAINE L. CHAO, JOHN S. CHEN,
LLOYD H. DEAN, ELIZABETH A.
DUKE, SUSAN E. ENGEL, ENRIQUE
HERNANDEZ, JR., DONALD M. JAMES,
CYNTHIA H. MILLIGAN, FEDERICO F.
PEÑA, JAMES H. QUIGLEY, JUDITH M.
RUNSTAD, STEPHEN W. SANGER,
SUSAN G. SWENSON, SUZANNE M.
VAUTRINOT, TIMOTHY J. SLOAN,
CARRIE L. TOLSTEDT, JOHN R.
SHREWSBERRY, and MICHAEL J.
LOUGHLIN,

Defendants,

-and-

WELLS FARGO & COMPANY, a
Delaware Corporation,

Nominal Defendant.

C.A. No. 2017-0383-SG

STIPULATION AND [PROPOSED] ORDER OF DISMISSAL

WHEREAS, this shareholder derivative action (the “Rosenfeld Action”) was filed on May 18, 2017 by Plaintiff Barry Rosenfeld (“Rosenfeld”) on behalf of Nominal Defendant Wells Fargo & Company (“Wells Fargo”), and against defendants John G. Stumpf, John D. Baker, II, Elaine L. Chao, John S. Chen, Lloyd H. Dean, Elizabeth A. Duke, Susan E. Engel, Enrique Hernandez, Jr.,

Donald M. James, Cynthia H. Milligan, Federico F. Pena, James H. Quigley, Judith M. Runstad, Stephen W. Sanger, Susan G. Swenson, Suzanne M. Vautrinot, Timothy J. Sloan, John R. Shrewsberry, Michael J. Loughlin, and Carrie L. Tolstedt (collectively, the “Individual Defendants” and, together with Nominal Defendant Wells Fargo, the “Defendants”), asserting claims for breaches of fiduciary duties, corporate waste, insider selling, contribution and indemnification, unjust enrichment, and aiding and abetting thereof (Rosenfeld, the Federal Plaintiffs (as defined below), and Defendants are collectively referred to herein as the “Parties”);

WHEREAS, prior to the commencement of this action, in September 2016, a number of shareholder derivative actions were filed in the United States District Court for the Northern District of California,

WHEREAS, on December 20, 2016, Judge Jon S. Tigar of the Northern District of California entered an order consolidating eight related shareholder derivative actions and, thereafter on January 12, 2017, Judge Tigar appointed the Fire and Police Pension Association of Colorado and the City of Birmingham Retirement and Relief System as Co-Lead Plaintiffs (the “Federal Plaintiffs”) in the Wells Fargo consolidated federal derivative action (the “Federal Action”). *See In re Wells Fargo & Co. S’holder Derivative Litig.*, 2017 WL 130282, at *1 (N.D. Cal. Jan. 12, 2017);

WHEREAS, on January 12, 2018, the Federal Plaintiffs filed a Motion to Intervene and a Motion to Stay in the Rosenfeld Action;

IT IS HEREBY STIPULATED AND AGREED among the parties, subject to the approval of the Court, that:

1. The Rosenfeld Action is dismissed with prejudice only as to plaintiff, Barry Rosenfeld, pursuant to Court of Chancery Rules 23.1 and 41(a)(1); and
2. No compensation in any form has passed directly or indirectly from any Defendant to any Plaintiff or Plaintiffs' attorneys and no promise to give any such compensation has been made.

FARUQI & FARUQI, LLP

By: /s/ Michael Van Gorder

Michael Van Gorder (#6214)
20 Montchanin Road, Suite 145
Wilmington, DE 19807
Tel.: (302) 482-3182

WEISSLAW LLP

Joseph H. Weiss

David C. Katz

Mark D. Smilow

Joshua M. Rubin

1500 Broadway, 16th Floor
New York, New York 10036
Tel.: (212) 682-3025
Fax: (212) 682-3010

Attorneys for Plaintiff Barry Rosenfeld

RICHARDS, LAYTON & FINGER, P.A.

By: /s/ Catherine G. Dearlove

Gregory P. Williams (#2168)
Catherine G. Dearlove (#3328)
Kelly L. Freund (#6280)
One Rodney Square
920 North King Street
Wilmington, Delaware 19801
(302) 651-7700

Richard H. Klapper

SULLIVAN & CROMWELL LLP

125 Broad Street
New York, New York 10004-2498
(212) 558-3555

Brendan P. Cullen

Ryan J. McCauley

SULLIVAN & CROMWELL LLP
1870 Embarcadero Road Palo Alto,
California 94303 (650) 461-5600

Christopher M. Viapiano

SULLIVAN & CROMWELL LLP

1700 New York Avenue N.W.
Washington, D.C. 20006
(202) 956-6985

Gilbert R. Serota

ARNOLD & PORTER KAYE

SCHOLER LLP

Three Embarcadero Center, Suite 10
San Francisco, California 94111
(415) 471-3170

*Attorneys for Nominal Defendant Wells
Fargo & Company*

ROSS ARONSTAM & MORITZ LLP

By: /s/ S. Michael Sirkin

Bradley R. Aronstam (Bar No. 5129)
S. Michael Sirkin (Bar No. 5389)
100 S. West Street, Suite 400
Wilmington, Delaware 19801
(302) 576-1600

Richard M. Strassberg
Daniel P. Roeser
GOODWIN PROCTER LLP
The New York Times Building
620 Eighth Avenue
New York, New York 10018
(212) 813-8859

Grant P. Fondo
Lloyd Winawer
Nicholas A. Reider
GOODWIN PROCTER LLP
135 Commonwealth Drive
Menlo Park, California 94025
(650) 752-3236

Attorneys for Defendant John G. Stumpf

MCCARTER & ENGLISH, LLP

By: /s/ Daniel J. Brown

Michael P. Kelly (#2295)
Daniel J. Brown (#4688)
Benjamin A. Smyth (#5528)
Renaissance Centre
405 N. King Street, 8th Floor
Wilmington, DE 19801
(302) 984-6300

Jennifer G. Wicht
Leslie Cooper Vigen
Brian P. Hagerty
WILLIAMS & CONNOLLY LLP
725 Twelfth Street, N.W.
Washington, D.C. 20005
(202) 434-5000

Attorneys for Defendant Carrie Tolstedt

MORRIS, NICHOLS, ARSHT &
TUNNELL LLP

By: /s/ Jon E. Abramczyk

Jon E. Abramczyk (#2432)
D. McKinley Measley (#5108)
Alexandra M. Cumings (#6146)
1201 N. Market Street, P.O. Box 1347
Wilmington, DE 19899-1347
(302) 658-9200

Stuart J. Baskin
Jaculin Aaron
SHEARMAN & STERLING LLP
599 Lexington Avenue
New York, NY 10022-6069
(212) 848-4000

*Attorneys for Defendants John D. Baker,
II, Elaine L. Chao, John S. Chen, Lloyd
H. Dean, Elizabeth A. Duke, Susan E.
Engel, Enrique Hernandez, Jr., Donald
M. James, Cynthia H. Milligan, Federico
F. Peña, James H. Quigley, Judith M.
Runstad, Stephen W. Sanger, Susan G.
Swenson, and Suzanne M. Vautrinot*

LANDIS RATH & COBB LLP

By: /s/ Rebecca L. Butcher

Daniel B. Rath (No. 3022)
Rebecca L. Butcher (No. 3816)
Jennifer L. Cree (No. 5919)
919 Market Street, Suite 1800
P.O. Box 2087
Wilmington, DE 19899
(302) 467-4400 (Tel)
(302) 467-4450 (Fax)

Cristina C. Arguedas
Ted W. Cassman
Laurel L. Headley
ARGUEDAS, CASSMAN &
HEADLEY, LLP
803 Hearst Avenue
Berkeley, CA 94710
(510) 845-3000 (Tel)
(510) 845-3003 (Fax)

*Attorneys for Defendant
Michael J. Loughlin*

POTTER ANDERSON & CORROON
LLP

By: /s/ Brian C. Ralston

Michael A. Pittenger (#3212)
Brian C. Ralston (#3770)
Daniel M. Rusk (#6323)
Hercules Plaza, 6th Floor
1313 N. Market Street
P.O. Box 951
Wilmington, DE 19899
(302) 984-6000

Nanci L. Clarence
Josh A. Cohen
CLARENCE, DYER, & COHEN LLP
899 Ellis Street
San Francisco, CA 94109
(415) 749-1800

*Attorneys for Defendant Timothy J.
Sloan*

LANDIS RATH & COBB LLP

By: /s/ Rebecca L. Butcher

Daniel B. Rath (No. 3022)
Rebecca L. Butcher (No. 3816)
Jennifer L. Cree (No. 5919)
919 Market Street, Suite 1800
P.O. Box 2087
Wilmington, DE 19899
(302) 467-4400 (Tel)
(302) 467-4450 (Fax)

Miles Ehrlich (CA Bar No. 237954)
Ismail Ramsey (CA Bar No. 189820)
Katharine Kates (CA Bar No. 155534)
RAMSEY & EHRLICH LLP
803 Hearst Avenue
Berkeley, CA 94710
(510) 548-3600 (Tel)
(510)291-3060 (Fax)

*Attorneys for Defendant
John R. Shrewsberry*

PRICKETT, JONES & ELLIOTT, P.A.

By: /s/ Bruce E. Jameson

Bruce E. Jameson (DE Bar No. 2931)
Marcus E. Montejo (DE Bar No. 4890)
John G. Day (DE Bar No. 6023)
1310 King Street
Wilmington, Delaware 19801
(302) 888-6500
*Attorneys for Proposed Intervenors and
Federal Plaintiffs*

OF COUNSEL:

LIEFF CABRASER HEIMANN &
BERNSTEIN, LLP
Richard M. Heimann
Katherine C. Lubin
275 Battery Street, 29th Floor
San Francisco, CA 94111-3339
Telephone: (415) 956-1000
Facsimile: (415) 956-1008

LIEFF CABRASER HEIMANN &
BERNSTEIN, LLP
Steven E. Fineman
Daniel P. Chiplock
Nicholas Diamand
Michael J. Miarmi
250 Hudson Street, 8th Floor
New York, NY 10013-1413
Telephone: (212) 355-9500
Facsimile: (212) 355-9592

*Attorneys for Intervenors Fire & Police
Pension Association of Colorado and
Co-Lead Counsel*

Dated: May 4, 2018

SAXENA WHITE P.A.
Maya Saxena
Joseph E. White, III
Lester R. Hooker
Jorge A. Amador
Adam D. Warden
Dianne M. Anderson
150 East Palmetto Park Road,
Suite 600
Boca Raton, FL 33432
Telephone: (561) 394-3399
Facsimile: (561) 394-3382

- and -

SAXENA WHITE P.A.
Steven B. Singer
Kyla Grant
10 Bank Street, 8th Floor
White Plains, NY 10606
Telephone: (914) 437-8551
Facsimile: (888) 631-3611

*Attorneys for Intervenors The City of
Birmingham Retirement and Relief System
and Co-Lead Counsel*

SO ORDERED this ____ day of _____, 2018.

Vice Chancellor Sam Glasscock III

This document constitutes a ruling of the court and should be treated as such.

Court: DE Court of Chancery Civil Action

Judge: Sam Glasscock

File & Serve

Transaction ID: 61990635

Current Date: May 11, 2018

Case Number: 2017-0383-SG

/s/ Judge Glasscock, Sam