



FILE
Superior Court of California
County of San Francisco

OCT 30 2013

CLERK OF THE COURT
BY: *Craig Blackstone*
Deputy Clerk

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SUPERIOR COURT OF CALIFORNIA
COUNTY OF SAN FRANCISCO
DEPARTMENT 305

LAURIE MACEY, DANA KELLY,
BARBARA L. CADMAN, LINDA
SUMMERS, and JOHN ANTHONY,
individuals, on behalf of themselves and all
other similarly situated,

Plaintiffs,

vs.

WELLS FARGO BANK, NATIONAL
ASSOCIATION, and DOES 1-100, inclusive,

Defendants.

Case No. JCCP 4654

**ORDER GRANTING PRELIMINARY
APPROVAL OF CLASS ACTION
SETTLEMENT**

COORDINATION PROCEEDING
SPECIAL TITLE (RULE 3.550(C))

WELLS FARGO BANK WAGE AND HOUR
CASES

1 Plaintiffs and proposed class representatives Laurie Macey, Dana Kelly, Barbara L.
2 Cadman, John Anthony and Linda Summers (“plaintiffs”) have reached a settlement of this
3 putative class action with defendant Wells Fargo Bank, N.A. (“Wells Fargo”). The terms of that
4 settlement are set forth in the Stipulation of Class Settlement and Release filed with the Court as
5 Exhibit 1 to the Declaration of Isam C. Khoury on August 30, 2013 (“Settlement Agreement”),
6 as amended by the Stipulation Re: Clarification of Settlement Class Definition and Revised Class
7 Notice filed October 16, 2013.

8 The plaintiffs have moved for an order (1) preliminarily approving the Settlement
9 Agreement; (2) provisionally certifying the putative class for settlement purposes only; (3)
10 approving the form and manner of the Notice to be mailed to the putative class (“Class Notice”);
11 and (4) scheduling a final approval hearing of the Settlement Agreement.

12 Having fully considered the matter, the Court hereby grants the motion. In so doing, the
13 court orders and determines as follows:

14 1. The Court preliminarily approves the Settlement Agreement as being within the
15 range of possible final approval.

16 2. The Court conditionally certifies, for settlement purposes only, a Settlement Class
17 consisting of the following two groups, which the parties refer to as the “HMC” class and the
18 “RSS” class, respectively:

19 All current and former California-based employees having the job title of “Home
20 Mortgage Consultant,” “Home Mortgage Consultant – Reverse,” “Home
21 Mortgage Consultant – Team,” “Home Mortgage Consultant – Subprime,”
22 “Home Mortgage Consultant – Telesales” or “Home Mortgage Consultant Jr.”
employed by Wells Fargo at any time between October 30, 2008 and August 1,
2013.

23 and

24 All current and former California-based employees having the job title of “Retail
25 Sales Supervisor,” “Reverse Sales Supervisor” or “PMB Sales Supervisor”
26 employed by Wells Fargo at any time between August 1, 2007 and August 1,
2013.

27 The Court provisionally determines, for settlement purposes only, that (1) the Settlement Class is
28 ascertainable and so numerous that joinder of all members is impracticable, (2) there are

1 questions of law and fact common to the Settlement Class, and that such questions predominate
2 over questions affecting only individual class members, (3) plaintiffs' claims are typical of those
3 of the class in that plaintiffs have no interests in conflict with or antagonistic to those of the
4 Settlement Class, and they have retained adequate counsel, and (4) a class action is superior to
5 other available methods for resolving this controversy.

6 3. The Court preliminarily appoints representatives Laurie Macey, Dana Kelly,
7 Barbara L. Cadman, John Anthony and Linda Summers as the Settlement Class representatives.

8 4. The Court preliminarily appoints Cohelan Khoury & Singer, Goldstein, Borgen,
9 Dardarian & Ho, and Mehri & Skalet, PLLC, as class counsel.

10 5. The Court appoints Rust Consulting, Inc. as the Settlement Administrator.

11 6. In accordance with California Rule of Court 3.769(f), the Court finds and
12 concludes that the proposed Class Notice (attached hereto as Exhibit A) adequately informs class
13 members of all material terms of the Settlement Agreement. The Court further finds that the
14 proposed plan to distribute the Class Notice by U.S. mail to each identified class member at his
15 or her last known address will provide the best practicable notice to class members, satisfying the
16 requirements of due process and all other applicable laws.

17 7. Wells Fargo shall provide the Settlement Administrator with the class member
18 contact information described in paragraph 15 of the Settlement Agreement by November 11,
19 2013.

20 8. The approved Class Notice, attached to this Order, shall be mailed by the
21 Settlement Administrator via U.S. mail to all Class members by November 25, 2013. The
22 envelope containing the Class Notice shall state on the outside: "PLEASE OPEN
23 IMMEDIATELY. This letter concerns an ongoing lawsuit in which your rights may be
24 affected."

25 9. Any class member who wishes to be excluded from the Settlement Class must
26 make a written exclusion request pursuant to the instructions contained in the Class Notice by
27 January 24, 2014.

28

EXHIBIT A

THIS IS AN IMPORTANT COURT APPROVED NOTICE. READ CAREFULLY.

You may receive money from a class action settlement.

- You have been identified as a potential class member in a lawsuit brought by certain former employees of Wells Fargo against Wells Fargo Bank, N.A.
- The settlement resolves a dispute over whether Wells Fargo improperly deducted the cost of FastMail and personalized, Wells Fargo-branded websites from your wages, whether Wells Fargo improperly deducted loan transaction costs consisting of credit reports, appraisal fees, and rate lock fees from your gross commissions, and whether Wells Fargo failed to reimburse you for certain business expenses, such as gas mileage, cell phone, and air card expenses.
- Wells Fargo has agreed to pay a total of \$3,000,000 to settle the lawsuit. You may be entitled to a portion of that money.

**Your legal rights are affected whether you act, or don't act.
Read this notice carefully.**

Your Options in This Settlement:		
1.	PARTICIPATE IN THE SETTLEMENT	To receive your share of the settlement, DO NOTHING . A check for your share of the settlement will be sent to the address the Administrator has on file for you.
2.	EXCLUDE YOURSELF FROM THE SETTLEMENT	To exclude yourself from the settlement, you must sign and return the enclosed Opt-Out form by no later than [INSERT DEADLINE]. You will NOT receive a Settlement Payment if you return this form.
3.	OBJECT TO THE SETTLEMENT	If you don't like any term of the settlement, you can mail in your written objections to it by no later than [INSERT DEADLINE]. If you choose to appear at the final approval hearing to state your objections to the Court, your written objections must state that you intend to appear. You cannot both Opt Out and Object.

- These rights and options—**and the deadlines to exercise them**—are explained in this notice.
- The Court in charge of this case still has to decide whether to approve the settlement. Payments will be made if the Court approves the settlement and after appeals are resolved. Please be patient.

Basic Information

1. What is the purpose of this notice?

The purpose of this Notice is to let you know that your rights may be affected by a class action lawsuit pending in the Superior Court of California, County of San Francisco. The name of the case is Macey, *et al.*, v. Wells Fargo Bank, N.A., Case No. JCCP 4654.

2. Who are the parties to the lawsuit?

Plaintiffs:

The lawsuit was filed by plaintiffs Laurie Macey, Dana Kelly, Barbara L. Cadman, Linda Summers, and John Anthony. These Plaintiffs brought this lawsuit on behalf of themselves and all people who have similar claims (“class members”). The Court has conditionally appointed Macey, Kelly, Cadman, Summers and Anthony as class representatives.

You have been identified as a member of the class in this lawsuit. The class includes two groups of employees: Home Mortgage Consultants and Retail Sales Supervisors, defined as follows:

A. Home Mortgage Consultants include:

All current and former California-based employees having the job title of Home Mortgage Consultant, Home Mortgage Consultant–Reverse, Home Mortgage Consultant–Team, Home Mortgage Consultant–Subprime, Home Mortgage Consultant–Telesales, or Home Mortgage Consultant Jr. employed by Wells Fargo at any time between October 30, 2008 and August 1, 2013.

B. Retail Sales Supervisors include:

All current and former California-based employees having the job title of Retail Sales Supervisor, Reverse Sales Supervisor, or PMB Sales Supervisor employed by Wells Fargo at any time between August 1, 2007 and August 1, 2013.

Defendant:

The defendant is Wells Fargo Bank, National Association. For convenience, this Notice will refer to the defendant as Wells Fargo.

3. What is this lawsuit about?

Plaintiffs allege that Wells Fargo violated the California Labor Code by failing to reimburse them for business expenses such as the cost of FastMail and personalized, Wells Fargo-branded websites, mileage, cell phone, and air cards expenses. Plaintiffs also allege Wells Fargo violated the California Labor Code by improperly deducting loan transaction costs, including the cost of credit reports, appraisal fees, and rate lock fees from their commission wages. Plaintiffs seek recovery for those allegedly and unreimbursed costs and improper deductions from Wells Fargo.

4. What is Wells Fargo's position regarding the lawsuit?

According to Wells Fargo, Plaintiffs' claims have no merit.

Wells Fargo denies it has violated the California Labor Code by failing to reimburse Class Members for business expenses such as the cost of FastMail and personalized, Wells Fargo-branded websites, mileage, cell phone, and air cards expenses. Wells Fargo further denies it violated the California Labor Code by improperly deducting loan transaction costs, including the cost of credit reports, appraisal fees, and rate lock fees from their commission wages.

5. Why is there a settlement?

The Court did not decide in favor of Plaintiffs or Wells Fargo. Instead, both sides agreed to a settlement. That way, they avoid the cost of trial, and the people affected (including you) will get compensation. The class representatives and the attorneys think the settlement is best for all class members.

The Terms of The Settlement

6. What are the terms of the settlement?

The major terms of the settlement are as follows:

1. Wells Fargo has agreed to pay a total of \$3,000,000 to settle the claims asserted in this lawsuit. This is also known as the Settlement Fund.
2. Plaintiffs have agreed to release all of the claims in this case against Wells Fargo.
3. The parties seek the following deductions from the \$3,000,000 Settlement Fund:
 - a. The lawyers representing the plaintiffs will seek up to \$1,000,000 in attorneys' fees.
 - b. The lawyers representing the plaintiffs will also seek an estimated \$60,000 for litigation costs.
 - c. Each class representative will seek an incentive payment of \$5,000, which totals \$25,000 in the aggregate.

- d. The parties will seek up to \$50,000 to cover the costs of the Claims Administrator.
- e. A payment of \$7,500 will be made to the State of California for its share of the Labor Code Private Attorney General Act penalties.

The lawyers representing the plaintiffs and the class will file a written Application for Attorneys' Fees and Costs with the Court on or before January 14, 2014. You will have an opportunity to view this Application and any papers supporting it before the deadline for you to decide whether to object to or exclude yourself from this settlement and the class, as explained below. To view the Application once it has been filed, see the section below with the heading: "16. How can I get more information?"

4. After making each of these deductions from the Settlement Fund, the parties estimate there will be approximately \$1,875,000 remaining. The remaining funds will be referred to as the Net Fund. The Net Fund will be distributed to class members according to how many weeks they worked as class members during the class period. Those class members who worked more weeks will receive a larger share of the Net Fund than those who worked fewer weeks.

How You Get Your Payment

7. How can I get a payment?

To participate as a class member and get money from the settlement, **you do not need to do anything**. If you are a class member and you do not ask to be excluded ("opt out") from the class, you will be mailed a check for your share of the settlement, and you will be bound by the settlement and any judgment in this case.

At the estimated rate of \$_____ for each workweek, it is presently estimated that you will receive approximately \$_____ as your share of the Net Fund from this settlement. If you believe the number of workweeks that you worked, which was used to calculate your award from the settlement, is incorrect, you may send a dispute to the Claims Administrator identified in Section 11 below. You should include copies of any documentation you have to support your dispute. Any dispute and supporting documentation should be mailed and postmarked on or before January 24, 2014. The actual amount of your award may vary depending on the number of Class Members who participate in the settlement and the resolution of any disputes.

8. When would I get my payment?

The Court will hold a final approval hearing on February 28, 2014 at 1:30 p.m. to decide whether to approve the settlement. If the Court approves the settlement, there may be appeals. It is always uncertain how these appeals can be resolved, and resolving them can take time. Please be patient. It is your responsibility to keep the Claims Administrator informed of your current mailing address, which will be used for mailing your settlement check.

9. What am I giving up to get a payment or stay in the Class?

Unless you exclude yourself, you are staying in the class, and that means that you can't sue, continue to sue, or be a part of any other lawsuit against Wells Fargo about legal issues related to the claims made in *this* case you will be giving up any further claims against Wells Fargo for improperly deducting the cost of FastMail and personalized, Wells Fargo-branded websites from your wages, for improperly deducting loan transaction costs consisting of credit reports, appraisal fees, and rate lock fees from your gross commissions, or for failing to reimburse you for business expenses such as: gas mileage, cell phone, and air cards expenses. For a complete version of the release, you can view the Settlement Agreement on the Court's website or on Class Counsel's website (see section 16 below).

Excluding Yourself From the Settlement

If you don't want a payment from this settlement, and you want to keep the right to sue or continue to sue Wells Fargo on your own about the legal issues in this case, then you must take steps to get out of the class. This is called excluding yourself, which is sometimes referred to as "opting out" of the class.

10. How do I get out of the settlement?

To exclude yourself from the settlement, you must sign, date and return the enclosed opt-out form. Read the instructions carefully, date, sign, and mail to the Claims Administrator at the address provided below (imprinted on the enclosed postage paid envelope.) Your opt-out form must be postmarked on or before January 24, 2014.

If you ask to be excluded, you will not get a settlement payment, and you cannot object to the settlement. You will not be legally bound by anything that happens in this lawsuit. You may be able to sue (or continue to sue) Wells Fargo in the future.

Objecting to the Settlement

You can tell the Court that you don't agree with the settlement or some part of it.

11. How do I tell the Court that I don't like the Settlement?

If you're a class member, and have not excluded yourself from the settlement, you can object to the settlement if you don't like any part of it. You can give reasons why you think the Court should not approve it. The Court will consider your views. To object, you must send a letter saying that you object to the *Macey, et. al., v. Wells Fargo Bank, N.A.*, Case No. JCCP 4654 settlement. Be sure to include your name, address, telephone number, your signature, and the reasons you object to the settlement. Mail the objection to the Claims Administrator at the address listed below, postmarked on or before January 24, 2014.

Macey v. Wells Fargo Bank Settlement Administrator

c/o Rust Consulting, Inc., P. O. Box XXXXX
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If you intend to come to the final approval hearing, you must also include with your written objection, a statement that you intend to appear at the hearing to be heard.

12. What is the difference between objecting and requesting exclusion?

Objecting is simply telling the Court that you don't like something about the settlement. You can only object if you stay in the class. Excluding yourself is telling that Court that you don't want to be part of the class. If you exclude yourself, you have no basis to object because the case does not affect you.

The Court's Fairness Hearing

The Court will hold a hearing to decide whether to approve the settlement, also referred to in this Notice as the final approval hearing. You may attend and you may speak, if you have submitted a written objection in the manner described above, but don't have to attend.

13. When and Where will the Fairness Hearing be held?

The hearing will be at 1:30 p.m. on February 28, 2014 at the Superior Court of California, County of San Francisco, 400 McAllister Street, Dept. 305, San Francisco, CA 94102.

General Information

14. Who are the lawyers representing me in this case?

The following lawyers represent you and the other class members. These lawyers are called Class Counsel:

Class Counsel:

1. **Jeff Geraci**

Cohelan Khoury & Singer
605 C Street, Suite 200
San Diego, CA 92101
Phone: (619) 595-3001
Fax: (619) 595-3000
Website: www.ckslaw.com

3. **Steven A. Skalet**

Mehri & Skalet PLLC
1250 Connecticut Avenue, NW
Washington, DC 20036
Phone: (202) 822-5100
Fax: (202) 822-4997

2. **Laura L. Ho**

Goldstein, Borgen, Dardarian & Ho
300 Lakeside Drive, Suite 1000
Oakland, CA 94612
Phone: (510) 763-9800
Website: www.gbdhlegal.com

16. How can I get more information?

This Notice summarizes the proposed settlement. More details are in the Settlement Agreement. You can get a copy of the Settlement Agreement online at <http://www.sfsuperiorcourt.org> by entering Case No. CJC11004654, or in person at the Superior Court of California, County of San Francisco located at 400 McAllister Street, San Francisco, California, between the hours of 9:00 a.m. and 4:00 p.m., Monday through Friday, excluding Court holidays.

Additionally, you can obtain answers to common questions by writing to the Claims Administrator, XXXXXXXX, P.O. Box 0000, City, ST 000000-000; or visiting the website at www.gbdhlegal.com, or www.ckslaw.com.

Superior Court of California
County of San Francisco

COORDINATION PROCEEDINGS
SPECIAL TITLE

**WELLS FARGO BANK WAGE AND
HOUR CASES**

Case Number: CJC-11-004654

CERTIFICATE OF ELECTRONIC SERVICE
(CCP 1010.6(6) & CRC 2.260(g))

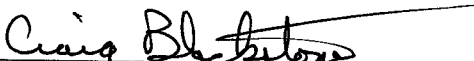
I, Craig Blackstone, a Deputy Clerk of the Superior Court of the County of San Francisco, certify that I am not a party to the within action.

On October 30, 2013, I electronically served the ORDER GRANTING PRELIMINARY APPROVAL OF CLASS ACTION SETTLEMENT via File & ServeXpress on the recipients designated on the Transaction Receipt located on the File & ServeXpress website.

Dated: October 30, 2013

T. Michael Yuen, Clerk

By:



Craig Blackstone, Deputy Clerk