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Settlement Class*

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA**

GARY HEFLER, MARCELO MIZUKI, GUY)
SOLOMONOV, UNION ASSET)
MANAGEMENT HOLDING AG, and CITY)
OF HIALEAH EMPLOYEES' RETIREMENT)
SYSTEM, Individually and on Behalf of All)
Others Similarly Situated,)

Plaintiffs,)

vs.)

WELLS FARGO & COMPANY, JOHN G.)
STUMPF, JOHN R. SHREWSBERRY,)
CARRIE L. TOLSTEDT, TIMOTHY J.)
SLOAN, DAVID M. CARROLL, DAVID)
JULIAN, HOPE A. HARDISON, MICHAEL)
J. LOUGHLIN, AVID MODJTABAI, JAMES)
M. STROTHER, JOHN D. BAKER II, 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,)

Defendants.)

Case No. 3:16-cv-05479-JST

CLASS ACTION

**LEAD PLAINTIFF'S AND LEAD
COUNSEL'S REPLY BRIEF IN
FURTHER SUPPORT OF (I) MOTION
FOR FINAL APPROVAL OF
SETTLEMENT AND PLAN OF
ALLOCATION, AND (II) MOTION
FOR AN AWARD OF ATTORNEYS'
FEES AND LITIGATION EXPENSES**

Judge: Hon. Jon S. Tigar
Courtroom: 9
Date: December 18, 2018
Time: 2:00 p.m.

TABLE OF CONTENTS

Page

1

2

3 TABLE OF AUTHORITIES ii

4 INTRODUCTION 1

5 I. THE REACTION OF THE SETTLEMENT CLASS SUPPORTS APPROVAL..... 1

6 A. The Court-Approved Robust Notice Program 1

7 B. The Reaction of the Settlement Class Supports Approval of the Settlement and
8 Plan of Allocation 2

9 C. The Reaction of the Settlement Class Supports Approval of the Fee and Expense
10 Request..... 3

11 II. THE OBJECTIONS TO THE SETTLEMENT AND PLAN OF ALLOCATION LACK
12 MERIT 4

13 A. The McCormick, Johnson, Casey, Guzzi and Elwood Objections Lack Merit 4

14 B. Mr. Erne’s Objections to the Settlement and Plan of Allocation Lack Merit..... 5

15 C. Mr. Duggan’s Objection to the Settlement Lacks Merit..... 7

16 D. Mr. Gray’s Objection to the Plan of Allocation Lacks Merit 10

17 E. The McCormick, Johnson, Elwood, and Erne Objections Do Not Establish
18 Membership in the Settlement Class..... 12

19 III. THE OBJECTIONS TO THE ATTORNEYS’ FEES LACK MERIT 12

20 A. The Elwoods’ Objection to Attorneys’ Fees Lacks Merit 12

21 B. Mr. Pekoc’s Objection to Attorneys’ Fees Lacks Merit 13

22 C. Mr. Duggan’s Objections to Attorneys’ Fees Lack Merit 14

23 D. Mr. Gray’s Objection to Attorneys’ Fees Lacks Merit..... 14

24 E. Mr. Erne’s and Ms. Guzzi’s Objections to Attorneys’ Fees Lack Merit 15

25 F. The Fee Request Is Reasonable in Light of All of the Ninth Circuit Factors 15

26 CONCLUSION..... 15

27

28

TABLE OF AUTHORITIES

Cases	Page(s)
<i>Asghari v. Volkswagen Grp.</i> , 2015 WL 12732462 (C.D. Cal. May 29, 2015)	15
<i>In re Bank of Am. Corp. Sec. Derivative & ERISA Litig.</i> , 2010 WL 1438980 (S.D.N.Y. Apr. 9, 2010).....	9
<i>In re Bank of Am. Corp. Sec., Derivative, & ERISA Litig.</i> , 2011 WL 4538428 (S.D.N.Y. Sept. 29, 2011).....	9
<i>In re BankAmerica Corp. Sec. Litig.</i> , 210 F.R.D. 694 (E.D. Mo. 2002)	3
<i>Barnes v. FleetBoston Fin'l Corp.</i> , 2006 WL 6916834 (D. Mass. Aug. 22, 2006)	14
<i>In re Bisys Sec. Litig.</i> , 2007 WL 2049726 (S.D.N.Y. July 16, 2007)	4
<i>In re Cathode Ray Tube (CRT) Antitrust Litig.</i> , 2017 WL 2481782 (N.D. Cal. June 8, 2017)	3
<i>Chambers v. Whirlpool Corp.</i> , 214 F. Supp. 3d 877 (C.D. Cal. 2016)	13
<i>Churchill Village LLC v. Gen. Elec.</i> , 361 F.3d 566 (9th Cir. 2004)	3
<i>In re Citigroup Inc. Bond Litig.</i> , 296 F.R.D. 147, 158 (S.D.N.Y. 2013)	11
<i>Custom LED v. eBay, Inc.</i> , 2014 WL 2916871 (N.D. Cal. June 24, 2014).....	12
<i>In re Electronic Books Antitrust Litig.</i> , 639 Fed. App'x. 724 (2d Cir. Feb. 17, 2016).....	14
<i>In re Facebook, Inc., IPO Sec. & Derivative Litig.</i> , 2013 WL 4399215 (S.D.N.Y. Aug. 13, 2013).....	9
<i>In re Facebook, Inc. IPO Sec. & Derivative Litig.</i> , 2018 WL 6168013 (S.D.N.Y. Nov. 26, 2018).....	3
<i>Fidel v. Farley</i> , 534 F.3d 508 (6th Cir. 2008)	6
<i>In re Global Crossing Sec. & ERISA Litig.</i> , 225 F.R.D. 436 (S.D.N.Y. 2004)	3, 11, 14

1 *Gould v. Alleco, Inc.*,
 2 883 F.2d 281 (4th Cir. 1989)9

3 *Jadwin v. Cty. of Kern*,
 4 767 F. Supp. 2d 1069 (E.D. Cal. 2011).....9

5 *Ko v. Natura Pet Prods., Inc.*,
 6 2012 WL 3945541 (N.D. Cal. Sept. 10, 2012)5

7 *In re Marsh & McLennan Cos. Sec. Litig.*,
 8 2009 WL 5178546 (S.D.N.Y. Dec. 23, 2009)6

9 *In re Merrill Lynch & Co., Inc. Research Reports Sec. Litig.*,
 10 2007 WL 4526593 (S.D.N.Y. Dec. 20, 2007)11

11 *Nat’l Rural Telecomms. Coop. v. DIRECTV, Inc.*,
 12 221 F.R.D. 523 (C.D. Cal. 2004).....3

13 *In re New Oriental Educ. & Tech. Grp. Sec. Litig.*,
 14 293 F.R.D. 483 (S.D.N.Y. 2013)9

15 *New York State Teachers’ Ret. Sys. v. Gen. Motors Co.*,
 16 315 F.R.D. 226 (E.D. Mich. 2016), *aff’d*, 2017 WL 6398014 (6th Cir. Nov. 27, 2017).....9

17 *In re Nuvelo, Inc. Sec. Litig.*,
 18 2011 WL 2650592 (N.D. Cal. July 6, 2011).....4

19 *In re OCA, Inc. Sec. & Derivative Litig.*,
 20 2008 WL 4681369 (E.D. La. Oct. 17, 2008)6

21 *In re Omnivision Techs., Inc.*,
 22 559 F. Supp. 2d 1036 (N.D. Cal. 2008).....3

23 *Pallas v. Pac. Bell*,
 24 1999 WL 1209495 (N.D. Cal. July 13, 1999).....3

25 *Perkins v. LinkedIn Corp.*,
 26 2016 WL 613255 (N.D. Cal. Feb. 16, 2016)5

27 *In re Petrobras Sec. Litig.*,
 28 2018 WL 4521211 (S.D.N.Y. Sept. 21, 2018).....10

In re Rite Aid Corp. Sec. Litig.,
 396 F.3d 294 (3d Cir. 2005).....4

Rodriguez v. W. Publ’g Corp.,
 563 F.3d 948 (9th Cir. 2009)3

In re Royal Ahold N.V. Sec. & ERISA Litig.,
 461 F. Supp. 2d 383 (D. Md. 2006).....14

1 *In re Schering-Plough Corp. Enhance ERISA Litig.*,
 2 2012 WL 1964451 (D.N.J. May 31, 2012)4
 3 *Silber v. Mabon*,
 4 18 F.3d 1449 (9th Cir. 1994)6
 5 *Spark v. MBNA Corp.*,
 6 289 F. Supp. 2d 510 (D. Del. 2003).....14
 7 *Sullivan v. DB Invs., Inc.*,
 8 667 F.3d 273 (3d Cir. 2011).....11
 9 *In re Sw. Airlines Voucher Litig.*,
 10 2013 WL 4510197 (N.D. Ill. Aug. 26, 2013), *aff’d as modified*, 799 F.3d 701 (7th Cir.
 11 2015)5
 12 *Tenn. Ass’n of Health Maint. Orgs., Inc. v. Grier*,
 13 262 F.3d 559 (6th Cir. 2001)9
 14 *Thomas v. Magnachip Semiconductor Corp.*,
 15 2016 WL 3879193 (N.D. Cal. July 18, 2016).....8
 16 *Torrise v. Tucson Elec. Power Co.*,
 17 8 F.3d 1370 (9th Cir. 1993)6
 18 *Vizcaino v. Microsoft Corp.*,
 19 290 F.3d 1043 (9th Cir. 2002)14
 20 *In re Visa Check/Mastermoney Antitrust Litig.*,
 21 297 F. Supp. 2d 522 (E.D.N.Y. 2003)12
 22 *In re: Volkswagen “Clean Diesel” Mktg., Sales Practices, & Prods. Liab. Litig.*,
 23 2018 WL 6198311 (N.D. Cal. Nov. 28, 2018)11
 24 *In re Wal-Mart Wage & Hour Emp’t Practices Litig.*,
 25 2010 WL 786513 (D. Nev. Mar. 8, 2010)13
 26 *Waldbuesser v. Northrop Grumman Corp.*,
 27 2017 WL 9614818 (C.D. Cal. Oct. 24, 2017).....4
 28 *In re WorldCom, Inc. Sec. Litig.*,
 2004 WL 2591402 (S.D.N.Y. Nov. 12, 2004).....9
Wren v. RGIS Inventory Specialists,
 2011 WL 1230826 (N.D. Cal. Apr. 1, 2011)3, 5
STATUTES, RULES & REGULATIONS
 15 U.S.C. § 78u-4(e)(1)7
 Fed. R. Civ. P. 23(e)(4).....9

1 Pursuant to the Preliminary Approval Order, the Claims Administrator, Epiq, conducted an
 2 extensive notice program under Lead Counsel's supervision, including mailing the Notice and Claim Form
 3 to over 1.9 million potential Settlement Class Members, publishing the Summary Notice in the *Wall Street*
 4 *Journal* and over the *PR Newswire*, and establishing a settlement website, [www.WellsFargoSecurities](http://www.WellsFargoSecuritiesLitigation.com)
 5 [Litigation.com](http://www.WellsFargoSecuritiesLitigation.com), which provides copies of the Notice, Claim Form and other information and documents.

6 The Notice informed Settlement Class Members of the terms of the proposed Settlement and Plan
 7 of Allocation, and that Lead Counsel would apply for an award of attorneys' fees in an amount not to
 8 exceed 20% of the Settlement Fund and for Litigation Expenses not to exceed \$750,000. *See* Notice ¶¶5,
 9 73. It also advised Settlement Class Members of their right to object to the proposed Settlement, the Plan
 10 of Allocation and/or the request for attorneys' fees and expenses, or to request exclusion from the
 11 Settlement Class, and the November 27, 2018 deadline for doing so. *See id.* at p. 3, ¶¶74-87.

12 Epiq began mailing the Notice to potential Settlement Class Members on September 25, 2018. *See*
 13 Villanova Decl. (ECF No. 240-3), at ¶¶3-5. As in most securities class actions, the majority of Settlement
 14 Class Members are beneficial purchasers whose securities were held in the name of brokers and other
 15 nominees, and whose names and addresses are not directly available to the Parties. *Id.* ¶4. To reach such
 16 purchasers, the nominee owners were required, within seven days of receipt of the Notice, to (a) provide
 17 Epiq with names and addresses of the beneficial owners (Epiq then mailed these persons Notice Packets),
 18 or (b) request additional Notice Packets from Epiq, and then send them to the beneficial owners. *Id.* ¶6.
 19 As of November 9, 2018, Epiq had mailed a total of 1,866,302 Notice Packets to potential Settlement
 20 Class Members and nominees. *Id.* ¶8. On November 13, 2018, two weeks prior to the objection deadline,
 21 Lead Plaintiff and Lead Counsel filed their opening papers in support of the instant motions. These papers
 22 were immediately available on the public docket (ECF Nos. 238-240) and made available on the settlement
 23 website and Lead Counsel's website the following day. Supp. Villanova Decl. ¶5.

24 **B. The Reaction of the Settlement Class Supports**
 25 **Approval of the Settlement and Plan of Allocation**

26 The reaction of the Settlement Class supports approval of the Settlement where, as here, the
 27 number of objections (nine, representing 452 shares⁴) is small in comparison to the large size of the Class

28 ⁴ Mr. Casey provided a report from a broker showing that he purchased 112 shares during the Class Period.
 Ex. 5, at 2. Mr. Pekoc, Mr. Duggan, and Mr. Gray state that they (or a predecessor in interest) purchased

1 (1.1 billion damaged shares). *See Rodriguez v. W. Publ'g Corp.*, 563 F.3d 948, 967 (9th Cir. 2009)
 2 (affirming as “a favorable reaction to the settlement” the submission of 54 objections relative to 376,301
 3 notices); *Churchill Village LLC v. Gen. Elec.*, 361 F.3d 566, 577 (9th Cir. 2004) (affirming settlement
 4 given 45 objectors relative to 90,000 potential class members); *Wren v. RGIS Inventory Specialists*, 2011
 5 WL 1230826, at *10-11 (N.D. Cal. Apr. 1, 2011) (16 objections relative to 62,594 notices “strongly
 6 supports approval of the settlement”); *In re Omnivision Techs., Inc.*, 559 F. Supp. 2d 1036, 1043 (N.D.
 7 Cal. 2008) (class reaction favored approval where “only 3 out of 57,630 potential Class Members”
 8 objected); *Nat'l Rural Telecomms. Coop. v. DIRECTV, Inc.*, 221 F.R.D. 523, 529 (C.D. Cal. 2004) (the
 9 “absence of a large number of objections” raises a “strong presumption” that the settlement terms are
 10 “favorable to the class members.”); *In re Global Crossing Sec. & ERISA Litig.*, 225 F.R.D. 436, 457-58
 11 (S.D.N.Y. 2004) (six objections out of a class of approximately one million “constitutes a ringing
 12 endorsement of the settlement by class members”); *Pallas v. Pac. Bell*, 1999 WL 1209495, at *8 (N.D.
 13 Cal. July 13, 1999) (less than 1% of persons raising objections “weigh[s] in favor of approval”).

14 Institutional investors held from 80%-90% of Wells Fargo’s common stock during the Class
 15 Period. Supp. Graziano Decl. ¶3. Many of these institutions have substantial financial interests in this
 16 Action, have legal departments to review the proposed Settlement, and have objected to settlements in
 17 other cases. The absence of *any* objections from these sophisticated investors with ample means and
 18 incentive to object to the Settlement provides further evidence of the Settlement’s fairness. *See, e.g., In re*
 19 *Facebook, Inc. IPO Sec. & Derivative Litig.*, 2018 WL 6168013, at *9 (S.D.N.Y. Nov. 26, 2018) (“That
 20 not one sophisticated institutional investor objected to the Proposed Settlement is indicia of its fairness.”);
 21 *In re Cathode Ray Tube (CRT) Antitrust Litig.*, 2017 WL 2481782, at *4 (N.D. Cal. June 8, 2017) (absence
 22 of any entity objection supports “the inference that the class approves of the settlement is even stronger”).⁵

23 **C. The Reaction of the Settlement Class Supports**
 24 **Approval of the Fee and Expense Request**

25 _____
 26 103.8, 186 and 50 shares, respectively, during the Class Period. Ex. 4, at 1; Ex. 8, at ¶1; Ex. 9, at 11-12.
 Ms. Guzzi states that she purchased shares during the Class Period but does not say how many. Ex. 7. The
 rest of the objectors do not assert that they purchased Wells Fargo shares during the Class Period.

27 ⁵ *See also In re BankAmerica Corp. Sec. Litig.*, 210 F.R.D. 694, 702-03 (E.D. Mo. 2002) (“The Court
 28 takes particular note of the fact that no objections were filed by any of the ‘institutional investors’ who
 comprise a large part of the plaintiff classes and who will be greatly affected by the outcome of this case”).

1 The small number of objections by class members to the requested attorneys' fees and expenses
 2 also supports that those requests are fair and reasonable. *See, e.g., Waldbuesser v. Northrop Grumman*
 3 *Corp.*, 2017 WL 9614818, at *5 (C.D. Cal. Oct. 24, 2017) (finding that receipt of two objections to the
 4 fee request, after mailing 210,000 notices, was "remarkably small given the wide dissemination of notice,"
 5 which justified fee award of one-third of settlement fund); *In re Nuvelo, Inc. Sec. Litig.*, 2011 WL
 6 2650592, at *3 (N.D. Cal. July 6, 2011) (finding one objection to the fee request to be "a strong positive
 7 response from the class, supporting an upward adjustment of the benchmark" fee award).

8 As with the proposed Settlement and Plan of Allocation, the lack of *any* objections by institutional
 9 investors particularly supports approval of the fee request. *See In re Rite Aid Corp. Sec. Litig.*, 396 F.3d
 10 294, 305 (3d Cir. 2005) (that "a significant number of investors in the class were 'sophisticated'
 11 institutional investors that had considerable financial incentive to object had they believed the requested
 12 fees were excessive" and did not do so, supported approval of request); *In re Schering-Plough Corp.*
 13 *Enhance ERISA Litig.*, 2012 WL 1964451, at *6 (D.N.J. May 31, 2012) ("The lack of objections to the
 14 requested attorneys' fees supports the request, especially because the settlement class includes large,
 15 sophisticated institutional investors."); *In re Bisys Sec. Litig.*, 2007 WL 2049726, at *1 (S.D.N.Y. July 16,
 16 2007) (lack of objections from institutional investors supported approval of fee request because they "had
 17 the means, the motive, and the sophistication to raise objections if they thought the fee was excessive").

18 **II. THE OBJECTIONS TO THE SETTLEMENT AND PLAN OF ALLOCATION LACK MERIT**

19 **A. The McCormick, Johnson, Casey, Guzzi and Elwood Objections Lack Merit**

20 The objections from Jo Anne McCormick and Susan Guzzi do not address the fairness of the
 21 Settlement but argue that the case against Wells Fargo should not have been brought. Ms. McCormick
 22 requests that the Court dismiss the case because "it makes no sense." Ex. 1. Similarly, Ms. Guzzi objects
 23 because she believes that the "lawsuit and proposed Settlement actually harms average investors . . . by
 24 reason of counsel fees and costs incurred by Defendant Company in defense of the lawsuit." *See* Ex. 7.⁶
 25 Objections asserting that the claims should never have been brought are not relevant to the assessment of
 26 a settlement. *See Perkins v. LinkedIn Corp.*, 2016 WL 613255, at *4 (N.D. Cal. Feb. 16, 2016) (overruling
 27 objections asserting that "this case should never have been brought" because "[t]hese objections do not

28 ⁶ Ms. McCormick also writes that she is "not paying for this settlement." Ex. 1, at 1.

comment on any aspect of the Settlement but, rather, oppose the claims alleged as being frivolous,” “appear to support no recovery for the Class” and reflect interests “adverse to the Class”); *Ko v. Natura Pet Prods., Inc.*, 2012 WL 3945541, at *6 (N.D. Cal. Sept. 10, 2012) (“[A]n objection based on a concern for the Defendants and an apparent non-substantive assessment of the frivolity of the action are not germane to the issue of whether the settlement is fair.”); *In re Sw. Airlines Voucher Litig.*, 2013 WL 4510197, at *10 (N.D. Ill. Aug. 26, 2013) (rejecting objections that “express[ed] general disapproval of the case and with class action lawsuits in general”), *aff’d as modified*, 799 F.3d 701 (7th Cir. 2015).

The basis for Alphonse Johnson’s objection to the Settlement is unclear, but like Ms. McCormick’s and Ms. Guzzi’s, his objection appears based on disagreement with class actions or a “politicized Government,” rather than the adequacy of the Settlement, and should be overruled for the same reasons. Ex. 2. Thomas L. Casey writes that he “do[es] not agree with the proposed settlement” but provides no other basis for his objection. Ex. 5. He states that “Wells Fargo should pay me for everything which I am entitled under our original mutual agreement” (*id.*) but does not specify what agreement he is referencing. *See Wren*, 2011 WL 1230826, at *13 (rejecting objections that provided no basis for them).

Jonathon R. Elwood and Angela M. Elwood, who reside at the same address, submitted two letters to the Court containing the identical objection. *See* Ex. 3.⁷ The Elwoods object that their “name was used without [their] permission” and they felt “obligated to spend [their] own time and money to opt[-]out of this lawsuit or file an objection” and the litigation “does not make any logical sense.” This objection, like the others discussed herein, which would apply to any opt-out class action settlement, is without merit.

B. Mr. Erne’s Objections to the Settlement and Plan of Allocation Lack Merit

Brian Erne objects on the grounds that he had insufficient time to decide about participating in the Settlement and because he believes the Settlement was poorly negotiated. *See* Ex. 6. He also objects to certain provisions of the Plan of Allocation. These objections lack merit.

Mr. Erne Received Timely Notice. Mr. Erne states that he received the Notice “very late in October” and feels that he did not have an adequate amount of time to decide whether to participate in the Settlement before the November 27, 2018 opt-out deadline. As noted above, Epiq began mailing the Notice Packet to potential Settlement Class Members on September 25, 2018, more than 60 days before

⁷ The Elwoods’ identical letters (ECF Nos. 241, 242) are counted as a single objection.

1 the deadlines in this Action. Epiq believes that Mr. Erne received his Notice through a nominee who
 2 requested Notice Packets in bulk to forward to its clients. *See* Supp. Villanova Decl. ¶3. This process can
 3 take a few weeks because nominees must request Notice Packets, receive them from Epiq, and then mail
 4 them to their clients. Nonetheless, Mr. Erne received notice one month before the deadline for exclusions
 5 and states that he will not participate in the settlement after a “considerable amount of research.” Ex. 6.

6 Courts have repeatedly found that notice procedures identical to those used here satisfy all due
 7 process and Rule 23 requirements. Courts have held that where, as here, plaintiffs adopt a reasonable
 8 method of providing notice to the class as a whole, including providing notice to nominee owners in
 9 advance of the opt-out and objection deadline, and establish a method for nominee owners to forward the
 10 Notice or identify the affected beneficial owners, then the notice procedures are adequate – even if some
 11 class members receive late notice as a result of nominees’ own delays. *See Silber v. Mabon*, 18 F.3d 1449,
 12 1452-54 (9th Cir. 1994) (finding notice adequate where notice initially was mailed to brokers 40 days
 13 before deadlines, even though, due to brokers’ own late response, notices to 14% of potential class
 14 members were mailed after the deadline); *Torrise v. Tucson Elec. Power Co.*, 8 F.3d 1370, 1374-75 (9th
 15 Cir. 1993) (finding notice initially mailed 31 days before the deadlines sufficient even though as many as
 16 one-third of shareholders may have received notice after deadlines due to nominee delays).⁸

17 **Mr. Erne’s Belief that the Settlement Was Poorly Negotiated Is Unfounded.** Secondly, Mr.
 18 Erne states that he “feel[s] this potential settlement was negotiated about as poorly as could possibly be
 19 conceived,” and “in an amateurish fashion.” Ex. 6. This objection is based on an apparent
 20 misunderstanding of the law and claims distribution procedures. The Settlement was vigorously negotiated
 21 with the oversight and assistance of a skilled mediator, and Lead Counsel (who have substantial experience
 22 in securities class action litigation) negotiated the Settlement with the objective of obtaining the best
 23 possible outcome for the Class. The Settlement, which represents 15% to 137% of potential damages that
 24

25 ⁸ *See also Fidel v. Farley*, 534 F.3d 508, 514-15 (6th Cir. 2008) (approving notice program where notices
 26 were mailed 46 days before deadline, as satisfying Rule 23 and due process, even though delays in
 27 forwarding by brokers caused 20% of class to receive notice after deadline). Courts recognize that the fact
 28 that some brokers do not timely forward notices to clients is a “risk a shareholder takes in registering his
 or her securities in street name.” *In re Marsh & McLennan Cos. Sec. Litig.*, 2009 WL 5178546, at *24
 (S.D.N.Y. Dec. 23, 2009); *see also Fidel*, 534 F.3d at 514 (same); *In re OCA, Inc. Sec. & Derivative Litig.*,
 2008 WL 4681369, at *16 (E.D. La. Oct. 17, 2008) (“Courts have typically found notice to class members
 who hold stock in street names to satisfy due process” even if some brokers do not timely forward them).

1 could be established at trial, represents an excellent result for the Settlement Class. The two examples Mr.
2 Erne cites to support his view that the Settlement was poorly negotiated relate to the Plan of Allocation,
3 which is unrelated to the negotiation of the \$480 million Settlement. Mr. Erne faults the Plan for providing
4 that, for shares purchased during the Class Period and still held as of the close of trading on December 19,
5 2016, “the Recognized Loss Amount will be the lesser of: (i) the amount of artificial inflation per share
6 on the date of purchase as stated in Table A; or (ii) the purchase price minus \$48.96” (Notice ¶59) –
7 writing that a plaintiff negotiating in favor of class members would have pursued the *higher* of the two
8 amounts. However, this provision exactly parallels the calculation of damages that would be applied to
9 shareholders at trial under the PSLRA, 15 U.S.C. § 78u-4(e)(1), and thus was fair and reasonable to
10 include in the Plan of Allocation, and has no bearing on the Settlement’s negotiation. Mr. Erne’s objection
11 to the Plan provision that payments will only be made to claimants whose distribution amount would be
12 \$10 or more (Notice ¶69) is also unrelated to negotiation of the Settlement. And, as discussed below, that
13 provision benefits the Class as a whole by reducing administrative costs associated with *de minimis* claims.

14 C. Mr. Duggan’s Objection to the Settlement Lacks Merit

15 David G. Duggan’s objection to the Settlement includes: (i) the timing of his receipt of notice; (ii)
16 that a class was not certified before the proposed settlement was reached; (iii) that preferred stock is not
17 included in the Class; and (iv) the amount of the Settlement. Ex. 8. These objections lack merit.
18 Importantly, in evaluating Mr. Duggan’s objection, the Court should consider that Mr. Duggan told Lead
19 Counsel that he would be willing to forego filing his objection if Lead Counsel paid him *\$1 million*, *see*
20 Declaration of David L. Duncan, attached to the Supp. Graziano Decl. as Ex. 11, at ¶3, even though he
21 reports a total loss of only \$710.26 (or, at other times, inconsistently of \$1,999.12). Ex. 8, at ¶¶1, 4.

22 **Mr. Duggan Received Timely Notice.** Mr. Duggan states that he received the Notice on
23 November 14 and that the time he had available to prepare his objection – just under two weeks – was
24 “unfair and unreasonable.” Ex. 8, at ¶3. Epiq began disseminating Notice through nominees beginning on
25 September 25, received Mr. Duggan’s name from Fidelity Investments on October 16, 2018, and mailed
26 a copy of the Notice Packet to Mr. Duggan by first-class mail on October 22, 2018. Supp. Villanova Decl.
27 ¶3. It is not clear why the U.S. Postal Service would have taken more than three weeks to deliver the
28 Notice to Mr. Duggan. In any event, as discussed above, the fact that some class members may receive

1 notice after their names were provided by brokers does not undermine the adequacy of notice to the class
 2 as a whole. Moreover, that Mr. Duggan, who is an attorney, prepared and submitted a detailed objection
 3 to the Settlement by the deadline further shows that he was not deprived of the opportunity to object.

4 **Certification of a Settlement Class Is Appropriate.** Next, Mr. Duggan objects that the Court did
 5 not certify a litigation class earlier in the history of this Action. Ex. 8, at ¶4. However, since Defendants’
 6 motions to dismiss the Complaint were not resolved until February 27, 2018, and all other proceedings in
 7 the Action were stayed until then, Mr. Duggan does not assert a valid objection that a litigation class could
 8 have been certified earlier in this case. Moreover, certification of a class for settlement purposes,
 9 simultaneously with settlement approval, is common and appropriate. *See, e.g., Thomas v. Magnachip*
 10 *Semiconductor Corp.*, 2016 WL 3879193, at *5 (N.D. Cal. July 18, 2016).

11 **The Non-Inclusion of Preferred Stock Is Appropriate.** Mr. Duggan also objects to the
 12 Settlement because it does not include Wells Fargo preferred shareholders, and he asks that they
 13 participate in a settlement “as re-configured.” Ex. 8, at ¶¶6, 8. This argument is without merit. Since Lead
 14 Plaintiff’s filing of the Consolidated Complaint on March 6, 2017, Lead Plaintiff asserted claims only on
 15 behalf of common stockholders. ECF No. 72 at ¶2; *see also* Amended Complaint (ECF No. 207) at ¶2.
 16 The complaints were publicly available via ECF and the Amended Complaint was posted on Lead
 17 Counsel’s website. Consistent with the complaints, the proposed Settlement Class includes purchasers of
 18 Wells Fargo common stock during the Class Period, but not purchasers of preferred stock. Stipulation
 19 ¶1(ss). The claims to be released in the Settlement are limited to those that are based on the allegations in
 20 the Complaint *and* that “concern, arise out of, relate to, or are based upon the purchase, acquisition, or
 21 ownership of Wells Fargo common stock during the Class Period.” *Id.* ¶1(nn); *see also* Notice ¶36.

22 Accordingly, purchasers of Wells Fargo preferred stock are not included in the Settlement Class;
 23 and any claims related to those securities are not released or affected by the proposed Settlement. Indeed,
 24 because preferred shareholders are not members of the Settlement Class and the Settlement does not affect
 25 their rights, they have no standing to object to it and neither does Mr. Duggan in that capacity.⁹

26 _____
 27 ⁹ Non-class members may not object to a class action settlement because they are not bound by it. *See*
 28 Fed. R. Civ. P. 23(e)(4) (“Any *class member* may object . . .”); *Tenn. Ass’n of Health Maint. Orgs., Inc.*
v. Grier, 262 F.3d 559, 566 (6th Cir. 2001) (“The plain language of Rule 23(e) clearly contemplates
 allowing only class members to object”); *Gould v. Alleco, Inc.*, 883 F.2d 281, 284 (4th Cir. 1989)

1 Courts have repeatedly rejected objections similar to Mr. Duggan’s from purchasers of securities
 2 not included in a class and found that a lead plaintiff is not required to expand the class to assert claims it
 3 declined to bring. Instead, the remedy for individuals who purchased securities not included in a class is
 4 to bring their own actions. *See N.Y. State Teachers’ Ret. Sys. v. Gen. Motors Co.*, 315 F.R.D. 226, 239
 5 (E.D. Mich. 2016) (“the decision whether to include GM warrant holders in this litigation fell within [lead
 6 plaintiff’s] discretion” and the non-inclusion of “GM warrant holders in this lawsuit and, therefore their
 7 absence from the Class, is a meritless objection to the Settlement”), *aff’d*, 2017 WL 6398014 (6th Cir.
 8 Nov. 27, 2017); *In re New Oriental Educ. & Tech. Grp. Sec. Litig.*, 293 F.R.D. 483, 486-88 (S.D.N.Y.
 9 2013) (option holder could not require court-appointed lead plaintiff to assert its claims); *In re Bank of*
 10 *Am. Corp. Sec. Derivative & ERISA Litig.*, 2010 WL 1438980, at *2 (S.D.N.Y. Apr. 9, 2010) (purchasers
 11 of debt securities and options could not require lead plaintiffs to expand the class); *In re WorldCom, Inc.*
 12 *Sec. Litig.*, 2004 WL 2591402, at *10, 15 (S.D.N.Y. Nov. 12, 2004) (rejecting an objection to a settlement
 13 which “request[ed] that the definition of the Class be expanded to include sellers of ... default swaps”).

14 It is well settled that “in a securities class action, a lead plaintiff is empowered to control the
 15 management of the litigation as a whole, and it is within the lead plaintiff’s authority to decide what claims
 16 to assert on behalf of the class.” *Bank of Am. Corp.*, 2010 WL 1438980, at *1-2. Such authority includes
 17 the decision to assert claims on behalf of investors in certain securities and not others. *See id.* at *2; *In re*
 18 *Bank of Am. Corp. Sec., Derivative, & ERISA Litig.*, 2011 WL 4538428, at *2 (S.D.N.Y. Sept. 29, 2011)
 19 (upholding decision to bring claims only on behalf of stockholders); *see also In re Facebook, Inc., IPO*
 20 *Sec. & Derivative Litig.*, 2013 WL 4399215, at *3 (S.D.N.Y. Aug. 13, 2013) (courts “have consistently
 21 held that a lead plaintiff has the sole authority to determine what claims to pursue on behalf of the class”).

22 Moreover, Lead Plaintiff’s decision, within its broad discretion, to pursue claims only on behalf
 23 of purchasers of common stock in this case was a reasonable one. Specifically, none of the various series
 24 of Wells Fargo preferred stock suffered **any** statistically significant decline in response to the first alleged
 25 corrective disclosure. Supp. Graziano Decl. ¶6. Indeed, the various series of Wells Fargo preferred stock
 26 generally did not react to any of the alleged corrective disclosures in this case. *Id.* Thus, inclusion of
 27

28 (bondholder of a corporation had “no standing to object . . . to a proposed class [stock] settlement”).

1 preferred stock would have only complicated the class’s already difficult loss causation arguments. In any
2 event, this decision was within Lead Plaintiff’s discretion and the Settlement does not impact preferred
3 stockholders. Finally, Mr. Duggan’s objection is also unfounded because he purchased his preferred stock
4 in 2013 (Ex. 8, at ¶2) – before the beginning of the Class Period – and thus, even if preferred stock *had*
5 been included in the class, Mr. Duggan would not have been a class member for those securities.

6 **Mr. Duggan Told Lead Counsel He Would Not File His Objection If He Was Paid \$1 Million.**

7 Mr. Duggan has previous experience in submitting objections to class action settlements in at least two
8 cases of which Lead Counsel is aware. Supp. Graziano Decl. ¶13. Moreover, in considering the merits of
9 his objection, the Court should be aware that Mr. Duggan told Lead Counsel that he would be willing to
10 forego filing his objection with the Court if he was paid \$1 million by Lead Counsel. Specifically, on
11 November 27, Mr. Duggan called Lead Counsel and spoke with David Duncan. *See* Duncan Decl. ¶3.
12 During the call, Mr. Duggan explained that he had emailed a draft of his objection to Lead Counsel and
13 told Mr. Duncan that he would be willing to not file his objection if Lead Counsel paid him \$1 million.
14 *Id.* He stated he believed that amount was reasonable because it was approximately 1% of the attorneys’
15 fees sought by Lead Counsel. *Id.* Another potential objector separately called Lead Counsel that same day
16 and asked for \$10,000 to not file an objection. *Id.* ¶¶4-5. Both such demands were promptly refused (*id.*
17 ¶¶3-5) and numerous courts have harshly criticized such extortionate attempts as “objector blackmail.”
18 *See, e.g., In re Petrobras Sec. Litig.*, 2018 WL 4521211, at *1 (S.D.N.Y. Sept. 21, 2018).

19 **D. Mr. Gray’s Objection to the Plan of Allocation Lacks Merit**

20 Joseph Gray objects to two aspects of the proposed Plan of Allocation: (i) that payments will only
21 be made to claimants whose distribution amount would be \$10 or more; and (ii) that residual funds may
22 be paid to the Investor Protection Trust. *See* Ex. 9. Both objections lack merit.

23 Mr. Gray does not “object to the size or fact of the settlement” (*id.* at 2), but his objection includes
24 two misstatements concerning its benefits. First, he states that Wells Fargo consented to a \$1 billion
25 penalty in connection with the account practices related to this Action, but the \$1 billion penalty he
26 references actually involved unrelated conduct in the bank’s automotive insurance and mortgage
27 businesses. Graziano Decl. (ECF No. 240), at ¶95. In fact, Wells Fargo’s total settlements with regulators
28 relating to fraudulent account activities in this case were \$185 million, less than the proposed \$480 million

1 Settlement. *See id.* ¶145. Second, Mr. Gray’s contention that the “recovery per share is lower than
2 represented” in the Notice (Ex. 9, at 3) is incorrect. Mr. Gray’s calculation that the estimated recovery is
3 \$0.10 per share (rather than \$0.44 as stated in the Notice) is based on the flawed assumption that all 4.8
4 billion shares of Wells Fargo common stock outstanding were damaged. However, only shares purchased
5 during the Class Period and subsequently held through at least one of the corrective disclosure dates were
6 harmed by the alleged misstatements. Lead Plaintiff’s damages expert estimated that approximately 1.1
7 billion shares meet these criteria, which is the basis for the estimated recovery of \$0.44 per affected share
8 (before deduction of Court-approved fees and expenses) set out in the Notice. Notice ¶3.

9 **The \$10 *De Minimis* Provision Is Fair and Beneficial to the Class as a Whole.** Mr. Gray also
10 objects to the Plan of Allocation’s provision that payments will only be made to claimants whose
11 distribution amount would be \$10 or more. Ex. 9, at 3-7; *see* Notice ¶69. The minimum payment threshold
12 of \$10 is a standard provision in similar settlements, is fair and reasonable, and will benefit the Settlement
13 Class as a whole because it will “save the settlement fund from being depleted by the administrative costs
14 associated with claims unlikely to exceed those costs and courts have frequently approved such
15 thresholds.” *Sullivan v. DB Invs., Inc.*, 667 F.3d 273, 328 (3d Cir. 2011); *see also Global Crossing*, 225
16 F.R.D. at 463 (“[c]lass counsel are entitled to use their discretion to conclude that, at some point, the need
17 to avoid excessive expense to the class as a whole outweighs the minimal loss to the claimants who are
18 not receiving their *de minimis* amounts of relief”); *In re Merrill Lynch & Co., Inc. Research Reports Sec.*
19 *Litig.*, 2007 WL 4526593, at *12 (S.D.N.Y. Dec. 20, 2007) (approving \$50 minimum threshold); *In re*
20 *Citigroup Inc. Bond Litig.*, 296 F.R.D. 147, 158 (S.D.N.Y. 2013) (approving \$20 minimum threshold).

21 **The *Cy Pres* Provision Is Fair and Reasonable.** Mr. Gray also objects to the possible distribution
22 of residual funds to the Investor Protection Trust (“IPT”) as a *cy pres* beneficiary and instead seeks an
23 alternative approach where each claimant would be able to elect a charity to which a portion of residual
24 funds would be directed. Ex. 9, at 7-9. This objection should be rejected. The IPT is an appropriate *cy pres*
25 recipient under Ninth Circuit law. *See In re: Volkswagen “Clean Diesel” Mktg., Sales Practices, & Prods.*
26 *Liab. Litig.*, 2018 WL 6198311, at *5 (N.D. Cal. Nov. 28, 2018) (approving, at preliminary approval,
27 IPT’s designation as proposed residual *cy pres* recipient, given its relation to the purposes of the federal
28 securities laws). Most importantly, under the proposed Plan, any distribution to the IPT would be made

1 only after 100% of Net Settlement Funds have been distributed to eligible claimants and only when the
 2 funds remaining because of uncashed or returned checks is sufficiently small that a further re-distribution
 3 to claimants would not be cost-effective. Notice ¶70. Thus, any distribution ultimately made to the IPT (if
 4 any) will be a tiny percentage of the Settlement. By contrast, Mr. Gray’s alternative proposal of allowing
 5 each claimant to select a charity of its choice would impose massive administrative burdens and costs and
 6 divert a *larger* portion of the Settlement from the Settlement Class to the *cy pres* recipient.

7 **E. The McCormick, Johnson, Elwood, and Erne Objections**
 8 **Do Not Establish Membership in the Settlement Class**

9 The objections of Ms. McCormick, Mr. Johnson, the Elwoods, and Mr. Erne should also be
 10 rejected because they have not established any basis for membership in the Settlement Class. None makes
 11 any statements about their transactions in Wells Fargo common stock during the Class Period.¹⁰ The
 12 Notice, in conformance with the Court’s Preliminary Approval Order, requires objectors to set forth “the
 13 basis for [their] belief that [they] are a member of the settlement class.” Notice ¶80. These objectors failed
 14 to do so, and the fact that they may have been mailed a copy of the Notice does not establish their class
 15 membership. Notice ¶25; *Custom LED v. eBay, Inc.*, 2014 WL 2916871, at *6 (N.D. Cal. June 24, 2014)
 (rejecting objection because objector had “not demonstrated that he is an aggrieved class member”).

16 **III. THE OBJECTIONS TO THE ATTORNEYS’ FEES LACK MERIT**

17 **A. The Elwoods’ Objection to Attorneys’ Fees Lacks Merit**

18 The Elwoods generally object to Lead Counsel’s fee request but acknowledge they are “without
 19 adequate legal knowledge and the necessary information to explain in a court of law why this fee is
 20 unjustified.” Ex. 3. The Elwoods further request that the Court “appoint an independent expert to assess
 21 the legitimacy” of the fee request. *Id.* However, they have failed to provide any basis for that request.
 22 Indeed, in *In re Visa Check/Mastermoney Antitrust Litigation*, the Court rejected an objection seeking
 23 the appointment of a third party to “represent the Class’ interests in connection with the award of
 24 attorneys’ fees” because the Court regarded “the functions such experts might perform to be part of [its]
 25 role.” 297 F. Supp. 2d 503, 522 n.28 (E.D.N.Y. 2003), *see also Vizcaino v. Microsoft Corp.*, 290 F.3d
 26 1043, 1051 n.7 (9th Cir. 2002) (“Objectors’ argument that the district court should have appointed an
 27

28 ¹⁰ Mr. Johnson states only that he was “a stockholder prior to 2014” (Ex. 2), which tends to suggest he is
 not a Settlement Class Member (if he failed to purchase shares during the Class Period).

1 expert [on attorney’s fees] is meritless”); *Jadwin v. Cty. of Kern*, 767 F. Supp. 2d 1069, 1141 (E.D. Cal.
2 2011) (“Judges are experts in the matter of attorney’s fees”).

3 **B. Mr. Pekoc’s Objection to Attorneys’ Fees Lacks Merit**

4 Mr. Pekoc contends that the fee requested in this case is excessive because this is a “megafund”
5 case resulting in a \$480 million settlement. Ex.4. His principal argument is based on the fact that in a
6 different case (involving securities claims against Merck & Co., Inc.) Lead Counsel entered into a retainer
7 agreement with a different client 13 years ago that Mr. Pekoc believes (incorrectly) would limit fees in
8 that case to 8.5%. However, as previously cited in the Fee Motion, the fees actually awarded in *Merck*,
9 with the endorsement of that Lead Plaintiff, were 20% of the \$1.06 billion settlement. *See* Fee Motion at
10 9. In any event, the Court is not required to impose a “sliding scale” (whereby percentage awards either
11 decline or increase based on the size of the recovery) or any other claimed “best practices” fee agreement.
12 *See id.* at 11 n.7 (citing cases). Moreover, Mr. Pekoc’s counsel, John J. Pentz and Steve A. Miller, have
13 long track records of objecting to class action settlements by filing objections and demanding payments
14 from counsel to withdraw them or their appeals (including in the *specific Merck* case they rely upon).

15 Mr. Pentz has filed objections or represented objectors to class action settlements in at least 80
16 other federal or state class actions of which Lead Counsel are aware, including the unsuccessful objection
17 to the fees in *Merck*, and Mr. Miller has done so in at least 44 cases. *See* Supp. Graziano Decl. ¶¶11-12.
18 Numerous courts have found Pentz or Miller to be “professional” or “serial objectors” with a practice of
19 bringing such objections for their personal benefit, rather than for the benefit of the class. *See, e.g., In re*
20 *Wal-Mart Wage & Hour Emp’t Practices Litig.*, 2010 WL 786513, at *1 (D. Nev. Mar. 8, 2010) (Pentz
21 has a “documented history of filing notices of appeal from orders approving other class action settlements,
22 and thereafter dismissing said appeals when they and their clients were compensated by the settling class
23 or counsel for the settling class”); *Chambers v. Whirlpool Corp.*, 214 F. Supp. 3d 877, 890 (C.D. Cal.
24 2016) (Miller and others are “‘serial’ objectors “well-known for routinely filing meritless objections to
25 class action settlements for the improper purpose of extracting a fee rather than to benefit the Class”).¹¹

26 ¹¹ *See also Barnes v. FleetBoston Fin’l Corp.*, 2006 WL 6916834, at *2 (D. Mass. Aug. 22, 2006) (Pentz
27 is a “professional objector”); *Spark v. MBNA Corp.*, 289 F. Supp. 2d 510, 514 (D. Del. 2003) (“[Pentz’s]
28 ‘opposition’ to [C]lass [C]ounsel’s fee petition appears to be nothing more than an attempt to receive
attorneys’ fees.”); *In re Royal Ahold N.V. Sec. & ERISA Litig.*, 461 F. Supp. 2d 383, 386 (D. Md. 2006)
 (“Pentz is a professional and generally unsuccessful objector”); *In re Electronic Books Antitrust Litig.*,

1 **C. Mr. Duggan’s Objections to Attorneys’ Fees Lack Merit**

2 Mr. Duggan objects to counsel’s fee request as too high, states that he “never agreed to a 20% fee
3 split” and objects to counsel’s claimed failure to account for “their hours or their effort.” Ex. 8, at ¶5.
4 However, as set forth in the Fee Motion, the 20% request was negotiated by Lead Plaintiff, is below the
5 Ninth Circuit 25% benchmark, and is reasonable under all of the circumstances of this case. Moreover,
6 Plaintiffs’ Counsel submitted detailed papers in support of their fee application, which were publicly
7 available on the settlement website and court docket two weeks before the objection deadline. This
8 included a long declaration with a detailed description of Plaintiffs’ Counsel’s efforts in the Action and
9 the supporting declarations of each Plaintiffs’ Counsel firm that provided detailed information on the
10 hours and lodestar dedicated to the case, broken down by timekeeper, month, and 11 different substantive
11 categories of work. Graziano Decl. (ECF No. 240). Thus, Mr. Duggan’s objections are without merit.
12 Finally, given his own improper \$1 million payoff demand, Mr. Duggan’s motives are highly suspect.
13 Indeed, he failed to raise any questions about counsel’s efforts when he called. *See* Duncan Decl. ¶3.

14 **D. Mr. Gray’s Objection to Attorneys’ Fees Lacks Merit**

15 Mr. Gray objects to the attorneys’ fees arguing that the 20% request is excessive because the
16 majority of time on the case was devoted to “low-level attorney or para-professional work” and because
17 parallel litigation and government actions purportedly lightened Plaintiffs’ Counsel work. Ex. 9, at 10-11.
18 Neither assertion is correct. A substantial amount of time was devoted to the review of over 3.5 million
19 pages of documents produced in this Action. But that was necessary work, by qualified attorneys, and not
20 “para-professional” work. *See* Graziano Decl. ¶¶212-26 (discussing the work); Graziano Decl. Ex. 4A-2
21 (ECF No. 240-5) (biographies showing the qualifications of the attorneys who participated in the work);
22 Supp. Graziano Decl. ¶¶7-10. Indeed, given the importance of the discovery review, Lead Counsel ramped
23 up its efforts to complete this review before the Stipulation of Settlement was signed. *Id.* ¶8. The fact that
24 the majority of this work was done by attorneys whose rates ranged from \$340 to \$395, rather than
25 attorneys with higher hourly rates, caused counsel’s total lodestar to be *lower* than it would otherwise have
26 been. Moreover, there is no reason to discount the time spent reviewing documents produced in the parallel

27 _____
28 639 Fed. App’x. 724 (2d Cir. Feb. 17, 2016) (Miller represented a “professional objector” raising
objections “devoid of merit”); Supp. Graziano Decl. ¶¶11-12.

1 derivative litigation, as Mr. Gray argues, because that litigation concerns the same underlying conduct as
 2 this Action and those documents related to Plaintiffs' claims. Nonetheless, Mr. Gray is incorrect that the
 3 only documents obtained by counsel were from the derivative litigation. *Id.* ¶10. As previously explained,
 4 Lead Counsel held numerous meet and confers with Defendants concerning custodians and obtained and
 5 reviewed substantial additional discovery. Graziano Decl. ¶¶88-90, 212.

6 Mr. Gray's contention that fees should be reduced because parallel government investigations
 7 assisted class counsel (Ex. 9, at 11) is also mistaken. While settlement of regulators' actions concerning
 8 Wells Fargo's sales practices caused the initial stock decline at issue here, there was no parallel
 9 government action brought by the SEC asserting that Wells Fargo or its officers committed securities
 10 fraud that put "pressure on [] defendant[s] to settle" or gave counsel "greater reason" to believe that they
 11 would prevail in the Action. *Id.* Indeed, the lack of any parallel SEC enforcement action or any financial
 12 restatement were factors that made this Action riskier (and not easier) than other securities class actions.

13 **E. Mr. Erne's and Ms. Guzzi's Objections to Attorneys' Fees Lack Merit**

14 Mr. Erne states that he "feels that 20% . . . is egregious based on how little an actual settlement
 15 class member would potentially receive." Ex. 6. He only asserts that the 20% request is too high and
 16 provides no other specific basis for the objection. Similarly, Ms. Guzzi objects to the "associated request
 17 for legal fees and costs" (Ex. 7) but provides no basis. Such generalized objections should be rejected. *See*
 18 *Asghari v. Volkswagen Grp.*, 2015 WL 12732462, at *29-30 (C.D. Cal. May 29, 2015) (rejecting
 19 objections that "do not articulate why the requested fees are excessive or unreasonable").

20 **F. The Fee Request Is Reasonable in Light of All of the Ninth Circuit Factors**

21 As discussed in the Fee Motion, the requested 20% attorneys' fees (net of reimbursed expenses)
 22 is reasonable in light of the all of the factors considered by courts in the Ninth Circuit and should be
 23 approved. Fair consideration of all of those factors provides additional basis to overrule the objections.

24 **CONCLUSION**

25 For all the reasons stated, Lead Plaintiff and Lead Counsel respectfully request that the
 26 Court approve the Settlement, Plan of Allocation, and request for attorneys' fees and expenses.¹²

27 ¹² For the convenience of the Court, copies of the proposed Judgment, proposed Order Approving Plan of
 28 Allocation of Net Settlement Fund, and proposed Order Awarding Attorneys' Fees and Payment of
 Litigation Expenses are attached hereto as Exhibits 1, 2 and 3.

1 Dated: December 10, 2018

Respectfully Submitted,

2 **BERNSTEIN LITOWITZ BERGER**
3 **& GROSSMANN LLP**

4 */s/ Salvatore J. Graziano*

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Liaison Counsel for Plaintiffs

CERTIFICATE OF SERVICE

I certify that, on December 10, 2018, I caused the following papers to be filed electronically with the Clerk of the Court via the CM/ECF system, which will send automatic notification of the filing to all counsel of record in this matter:

- Lead Plaintiff’s and Lead Counsel’s Reply Brief in Further Support of (I) Motion for Final Approval of Settlement and Plan of Allocation, and (II) Motion for an Award of Attorneys’ Fees and Litigation Expenses; and
- Supplemental Declaration of Salvatore J. Graziano in Further Support of (I) Lead Plaintiff’s Motion for Final Approval of Settlement and Plan of Allocation, and (II) Lead Counsel’s Motion for an Award of Attorneys’ Fees and Litigation Expenses

I further certify that, on December 10, 2018, I caused copies of these papers to be served by first-class U.S. mail on the following objectors or objector’s counsel at the addresses set forth below.

Dated: December 10, 2018

Respectfully Submitted,

**BERNSTEIN LITOWITZ BERGER
& GROSSMANN LLP**

/s/ Salvatore J. Graziano
Salvatore J. Graziano

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EXHIBIT 1

1
2 **UNITED STATES DISTRICT COURT**
3 **NORTHERN DISTRICT OF CALIFORNIA**

4 GARY HEFLER, MARCELO MIZUKI,)
5 GUY SOLOMONOV, UNION ASSET)
6 MANAGEMENT HOLDING AG, and CITY)
7 OF HIALEAH EMPLOYEES')
8 RETIREMENT SYSTEM, Individually and)
9 on Behalf of All Others Similarly Situated,)

Case No. 3:16-cv-05479-JST

CLASS ACTION

10 Plaintiffs,)

11 vs.)

12 WELLS FARGO & COMPANY, JOHN G.)
13 STUMPF, JOHN R. SHREWSBERRY,)
14 CARRIE L. TOLSTEDT, TIMOTHY J.)
15 SLOAN, DAVID M. CARROLL, DAVID)
16 JULIAN, HOPE A. HARDISON, MICHAEL)
17 J. LOUGHLIN, AVID MODJTABAI, JAMES)
18 M. STROTHER, JOHN D. BAKER II, JOHN)
19 S. CHEN, LLOYD H. DEAN, ELIZABETH)
20 A. DUKE, SUSAN E. ENGEL, ENRIQUE)
21 HERNANDEZ JR., DONALD M. JAMES,)
22 CYNTHIA H. MILLIGAN, FEDERICO F.)
23 PEÑA, JAMES H. QUIGLEY, JUDITH M.)
24 RUNSTAD, STEPHEN W. SANGER,)
25 SUSAN G. SWENSON, and SUZANNE M.)
26 VAUTRINOT,)

27 Defendants.)

28 **JUDGMENT APPROVING CLASS ACTION SETTLEMENT**

29 WHEREAS, a consolidated class action is pending in this Court entitled *Hefler, et al. v.*
30 *Wells Fargo & Company, et al.*, Case No. 3:16-cv-05479-JST (N.D. Cal.) (the “Action”);

31 WHEREAS, (a) Lead Plaintiff, Union Asset Management Holding, AG (“Lead Plaintiff”), on
32 behalf of itself and the other members of the Settlement Class (defined below), and (b) defendant
33 Wells Fargo & Company (“Wells Fargo”) and defendants John G. Stumpf, John R. Shrewsberry,
34 Carrie L. Tolstedt, Timothy J. Sloan, David M. Carroll, David Julian, Hope A. Hardison, Michael J.
35 Loughlin, Avid Modjtabei, James M. Strother, John D. Baker II, John S. Chen, Lloyd H. Dean,
36 Elizabeth A. Duke, Susan E. Engel, Enrique Hernandez, Jr., Donald M. James, Cynthia H. Milligan,
37 Federico F. Peña, James H. Quigley, Judith M. Runstad, Stephen W. Sanger, Susan G. Swenson, and
38 Suzanne M. Vautrinot (collectively, the “Individual Defendants,” and together with Wells Fargo,

1 “Defendants”; and together with Lead Plaintiff, the “Parties”) have entered into a Stipulation and
2 Agreement of Settlement dated July 30, 2018 (the “Stipulation”), that provides for a complete
3 dismissal with prejudice of the Released Plaintiffs’ Claims on the terms and conditions set forth in
4 the Stipulation, subject to the approval of this Court (the “Settlement”);

5 WHEREAS, unless otherwise defined in this Judgment, the capitalized terms herein shall
6 have the same meaning as they have in the Stipulation;

7 WHEREAS, by Order dated September 4, 2018 (the “Preliminary Approval Order”), this
8 Court: (a) preliminarily approved the Settlement; (b) certified the Settlement Class solely for
9 purposes of effectuating the Settlement; (c) ordered that notice of the proposed Settlement be
10 provided to potential Settlement Class Members; (d) provided Settlement Class Members with the
11 opportunity either to exclude themselves from the Settlement Class or to object to the proposed
12 Settlement; and (e) scheduled a hearing regarding final approval of the Settlement;

13 WHEREAS, due and adequate notice has been given to the Settlement Class;

14 WHEREAS, the Court conducted a hearing on December 18, 2018 (the “Settlement
15 Hearing”) to consider, among other things, (a) whether the terms and conditions of the Settlement
16 are fair, reasonable, and adequate to the Settlement Class, and should therefore be approved; and
17 (b) whether a judgment should be entered dismissing the Action with prejudice as against the
18 Defendants; and

19 WHEREAS, the Court having reviewed and considered the Stipulation, all papers filed and
20 proceedings held herein in connection with the Settlement, all oral and written comments received
21 regarding the Settlement, and the record in the Action, and good cause appearing therefor;

22 IT IS HEREBY ORDERED, ADJUDGED AND DECREED:

23 1. **Jurisdiction** – The Court has jurisdiction over the subject matter of the Action, and
24 all matters relating to the Settlement, as well as personal jurisdiction over all of the Parties and each
25 of the Settlement Class Members.
26
27
28

1 2. **Incorporation of Settlement Documents** – This Judgment incorporates and makes a
2 part hereof: (a) the Stipulation filed with the Court on July 31, 2018; and (b) the Notice and the
3 Summary Notice, both of which were filed with the Court on November 13, 2018.

4 3. **Class Certification for Settlement Purposes** – The Court hereby affirms its
5 determinations in the Preliminary Approval Order certifying, for the purposes of the Settlement only,
6 the Action as a class action pursuant to Rules 23(a) and (b)(3) of the Federal Rules of Civil
7 Procedure on behalf of the Settlement Class consisting of all persons and entities who purchased
8 Wells Fargo common stock from February 26, 2014 through September 20, 2016, inclusive.
9 Excluded from the Settlement Class are: (i) Defendants; (ii) Immediate Family Members of any
10 Individual Defendant; (iii) any person who was a director or member of the Operating Committee of
11 Wells Fargo during the Class Period and their Immediate Family Members; (iv) any parent,
12 subsidiary or affiliate of Wells Fargo; (v) any firm, trust, corporation, or other entity in which
13 Defendants or any other excluded person or entity has, or had during the Class Period, a controlling
14 interest; and (vi) the legal representatives, agents, affiliates, heirs, successors-in-interest or assigns of
15 any such excluded persons or entities. Notwithstanding the foregoing exclusions, no Investment
16 Vehicle (as defined in the Stipulation) shall be excluded from the Settlement Class. Also excluded
17 from the Settlement Class are the persons and entities listed on Exhibit 1 hereto who or which are
18 excluded from the Settlement Class pursuant to their requests for exclusion.

19 4. **Adequacy of Representation** – Pursuant to Rule 23 of the Federal Rules of Civil
20 Procedure, and for the purposes of the Settlement only, the Court hereby affirms its determinations
21 in the Preliminary Approval Order certifying Plaintiffs as Class Representatives for the Settlement
22 Class and appointing Lead Counsel as Class Counsel for the Settlement Class. Lead Plaintiff and
23 Lead Counsel have fairly and adequately represented the Settlement Class both in terms of litigating
24 the Action and for purposes of entering into and implementing the Settlement and have satisfied the
25 requirements of Federal Rules of Civil Procedure 23(a)(4) and 23(g), respectively.

26 5. **Notice** – The Court finds that the dissemination of the Notice and the publication of
27 the Summary Notice: (a) were implemented in accordance with the Preliminary Approval Order;

1 (b) constituted the best notice practicable under the circumstances; (c) constituted notice that was
2 reasonably calculated, under the circumstances, to apprise Settlement Class Members of (i) the
3 pendency of the Action; (ii) the effect of the proposed Settlement (including the Releases to be
4 provided thereunder); (iii) Lead Counsel's motion for an award of attorneys' fees and reimbursement
5 of Litigation Expenses; (iv) their right to object to any aspect of the Settlement, the Plan of
6 Allocation, and/or Lead Counsel's motion for attorneys' fees and reimbursement of Litigation
7 Expenses; (v) their right to exclude themselves from the Settlement Class; and (vi) their right to
8 appear at the Settlement Hearing; (d) constituted due, adequate, and sufficient notice to all persons
9 and entities entitled to receive notice of the proposed Settlement; and (e) satisfied the requirements
10 of Rule 23 of the Federal Rules of Civil Procedure, the United States Constitution (including the Due
11 Process Clause), the Private Securities Litigation Reform Act of 1995, 15 U.S.C. § 78u-4, as
12 amended, and all other applicable law and rules.

13 6. **Final Settlement Approval and Dismissal of Claims** – Pursuant to, and in
14 accordance with, Rule 23 of the Federal Rules of Civil Procedure, this Court hereby fully and finally
15 approves the Settlement set forth in the Stipulation in all respects (including, without limitation: the
16 amount of the Settlement; the Releases provided for therein; and the dismissal with prejudice of the
17 claims asserted against Defendants in the Action), and finds that the Settlement is, in all respects,
18 fair, reasonable, and adequate to the Settlement Class. The Parties are directed to implement,
19 perform, and consummate the Settlement in accordance with the terms and provisions contained in
20 the Stipulation.

21 7. The Action and all of the claims asserted against Defendants in the Action by
22 Plaintiffs and the other Settlement Class Members are hereby dismissed with prejudice. The Parties
23 shall bear their own costs and expenses, except as otherwise expressly provided in the Stipulation.

24 8. **Binding Effect** – The terms of the Stipulation and of this Judgment shall be forever
25 binding on Defendants, Lead Plaintiff and all other Settlement Class Members (regardless of
26 whether or not any individual Settlement Class Member submits a Claim Form or seeks or obtains a
27 distribution from the Net Settlement Fund), as well as their respective successors and assigns. The
28

1 persons and entities listed on Exhibit 1 hereto are excluded from the Settlement Class pursuant to
2 request and are not bound by the terms of the Stipulation or this Judgment.

3 9. **Releases** – The Releases set forth in paragraphs 4 and 5 of the Stipulation, together
4 with the definitions contained in paragraph 1 of the Stipulation relating thereto, are expressly
5 incorporated herein in all respects. The Releases are effective as of the Effective Date.
6 Accordingly, this Court orders that:

7 (a) Without further action by anyone, and subject to paragraph 10 below, upon
8 the Effective Date of the Settlement, Lead Plaintiff and each of the other Settlement Class Members,
9 on behalf of themselves, and each of their respective heirs, executors, administrators, predecessors,
10 successors, assigns, parents, subsidiaries, affiliates, officers, directors, agents, fiduciaries,
11 beneficiaries or legal representatives, in their capacities as such, shall be deemed to have, and by
12 operation of law and of this Judgment shall have, fully, finally, and forever compromised, settled,
13 released, resolved, relinquished, waived, and discharged each and every Released Plaintiffs' Claim
14 against any of the Defendants Releasees, and shall forever be barred and enjoined from
15 commencing, instituting, prosecuting, or continuing to prosecute any or all of the Released
16 Plaintiffs' Claims against any of the Defendants' Releasees.

17 (b) Without further action by anyone, and subject to paragraph 10 below, upon
18 the Effective Date of the Settlement, Defendants, on behalf of themselves, and each of their
19 respective heirs, executors, administrators, predecessors, successors, assigns, parents, subsidiaries,
20 affiliates, officers, directors, agents, fiduciaries, beneficiaries or legal representatives, in their
21 capacities as such, shall be deemed to have, and by operation of law and of this Judgment shall have,
22 fully, finally, and forever compromised, settled, released, resolved, relinquished, waived, and
23 discharged each and every Released Defendants' Claim against the Plaintiffs' Releasees, and shall
24 forever be barred and enjoined from commencing, instituting, prosecuting, or continuing to
25 prosecute any or all of the Released Defendants' Claims against any of the Plaintiffs' Releasees.
26 This Release shall not apply to any person or entity listed on Exhibit 1 hereto.

1 10. Notwithstanding paragraphs 9(a) – (b) above, nothing in this Judgment shall bar any
2 action by any of the Parties to enforce or effectuate the terms of the Stipulation or this Judgment.

3 11. **Rule 11 Findings** – The Court finds and concludes that the Parties and their
4 respective counsel have complied in all respects with the requirements of Rule 11 of the Federal
5 Rules of Civil Procedure as to all proceedings herein.

6 12. **No Admissions** – Neither this Judgment, the Term Sheet, the Stipulation (whether or
7 not consummated), including the exhibits thereto and the Plan of Allocation contained therein (or
8 any other plan of allocation that may be approved by the Court), the negotiations leading to the
9 execution of the Term Sheet and the Stipulation, nor any proceedings taken or submissions made
10 pursuant to or in connection with the Term Sheet, the Stipulation and/or approval of the Settlement
11 (including any arguments proffered in connection therewith):

12 (a) shall be offered against any of the Defendants’ Releasees as evidence of, or
13 construed as, or deemed to be evidence of any presumption, concession, or admission by any of the
14 Defendants’ Releasees with respect to the truth of any fact alleged by Plaintiffs or the validity of any
15 claim that was or could have been asserted or the deficiency of any defense that has been or could
16 have been asserted in this Action or in any other litigation, or of any liability, negligence, fault, or
17 other wrongdoing of any kind of any of the Defendants’ Releasees or in any way referred to for any
18 other reason as against any of the Defendants’ Releasees, in any civil, criminal, administrative, or
19 other action or proceeding, other than such proceedings as may be necessary to effectuate the
20 provisions of the Stipulation;

21 (b) shall be offered against any of the Plaintiffs’ Releasees, as evidence of, or
22 construed as, or deemed to be evidence of any presumption, concession or admission by any of the
23 Plaintiffs’ Releasees that any of their claims are without merit, that any of the Defendants’ Releasees
24 had meritorious defenses, or that damages recoverable under the Complaint would not have
25 exceeded the Settlement Amount or with respect to any liability, negligence, fault or wrongdoing of
26 any kind, or in any way referred to for any other reason as against any of the Plaintiffs’ Releasees, in
27
28

1 any civil, criminal, administrative, or other action or proceeding, other than such proceedings as may
2 be necessary to effectuate the provisions of the Stipulation; or

3 (c) shall be construed against any of the Releasees as an admission, concession,
4 or presumption that the consideration to be given under the Settlement represents the amount which
5 could be or would have been recovered after trial;

6 *provided, however,* that the Parties and the Releasees and their respective counsel may refer to this
7 Judgment and the Stipulation to effectuate the protections from liability granted hereunder and
8 thereunder or otherwise to enforce the terms of the Settlement.

9 13. **Retention of Jurisdiction** – Without affecting the finality of this Judgment in any
10 way, this Court retains continuing and exclusive jurisdiction over: (a) the Parties for purposes of the
11 administration, interpretation, implementation, and enforcement of the Settlement; (b) the
12 disposition of the Settlement Fund; (c) any motion for an award of attorneys’ fees and/or Litigation
13 Expenses by Lead Counsel in the Action that will be paid from the Settlement Fund; (d) any motion
14 to approve the Plan of Allocation; (e) any motion to approve the Class Distribution Order; and (f) the
15 Settlement Class Members for all matters relating to the Action.

16 14. Separate orders shall be entered regarding approval of a plan of allocation and the
17 motion of Lead Counsel for an award of attorneys’ fees and reimbursement of Litigation Expenses.
18 Such orders shall in no way affect or delay the finality of this Judgment and shall not affect or delay
19 the Effective Date of the Settlement.

20 15. **Modification of the Agreement of Settlement** – Without further approval from the
21 Court, Lead Plaintiff and Defendants are hereby authorized to agree to and adopt such amendments
22 or modifications of the Stipulation or any exhibits attached thereto to effectuate the Settlement that:
23 (a) are not materially inconsistent with this Judgment; and (b) do not materially limit the rights of
24 Settlement Class Members in connection with the Settlement. Without further order of the Court,
25 Lead Plaintiff and Defendants may agree to reasonable extensions of time to carry out any
26 provisions of the Settlement.

Exhibit 1

Number	Name	City	State/ Province	Country
1	Thomas R. Manniello	Carmel	CA	USA
2	Eileen Kegley	Omaha	NE	USA
3	John A. Maselli	Winston-Salem	NC	USA
4	James F. Werler Revocable Trust, James F. Werler TTEE and Jane A. Werler TTEE	Minneapolis	MN	USA
5	Joel David Croxton	Summerville	SC	USA
6	Seege Family Trust, Kenneth J. Seege and Patricia A. Seege	Sunbury	OH	USA
7	Brigette D. Maselli	Winston-Salem	NC	USA
8	Scott D. Lake	Manhattan	KS	USA
9	Robert E Sterling and Martha B Sterling	Bethlehem	PA	USA
10	Ryoko Rodriguez	Pleasant Hill	IA	USA
11	Frederick J. Klemeyer, Jr. (IRA)	San Francisco	CA	USA
12	Dorothy V. Smith Trust and Viday S. Burnette TTEE	Clarksville	VA	USA
13	William Webb	Pompano Beach	FL	USA
14	Donald A. Stanford	Citrus Heights	CA	USA
15	James M. Hommel and Joan E. Hommel	Gig Harbor	WA	USA
16	Jimmy F. New and Judy E. New	Russell	KS	USA
17	Max Stephen Peters and Karen O. Peters JTWROS (atlantas)	Frisco	CO	USA
18	Clara Dianne Clark Wagner	Mineral	VA	USA
19	Leon Sheldon Mirsky	Albany	NY	USA
20	John V. Hamby	Fort Mill	SC	USA
21	John V. Hamby (Custodian for Quinn Lewis Hewett)	Fort Mill	SC	USA
22	Oma Fae Olson	Tucson	AZ	USA
23	Beverly A. Meller	Abilene	TX	USA
24	Maudlin Holdings LTD	Abilene	TX	USA
25	Harold Maudlin	Abilene	TX	USA
26	Marian Wolterstorff	Midlothian	VA	USA
27	Elaine Leong	New Hyde Park	NY	USA
28	Leon Golante and Irma Daphne Golante	Alpharetta	GA	USA
29	David H. Denoff	The Villages	FL	USA
30	John D. Foret TTEE	Westwood	KS	USA
31	Laurelle Althea Greeson	Fredericksburg	VA	USA
32	John G. Fowler and Beverly J. Fowler	Frankfort	IL	USA
33	Susan L. Karbaum	Sudlersville	MD	USA
34	Rose E. Rojas	Walnut	CA	USA
35	Jamie S. House	Wilsonville	AL	USA
36	Eleanor P. Clark and Deborah Billings	Gainesville	GA	USA

JUDGMENT

CASE NO. 3:16-CV-05479-JST

Number	Name	City	State/ Province	Country
37	Joseph C. Sever Jr.	Longboat Key	FL	USA
38	Sara B. Freeman	West Columbia	SC	USA
39	Carolyn Scarboro	Lillian	AL	USA
40	Terry H. Slotsve	Fort Worth	TX	USA
41	Mary I. Zninski	Rapid City	MI	USA
42	Pamela J. Gibson	Brampton	ON	CAN
43	Marilyn Jeris	Monroe Township	NJ	USA
44	Joanne M Mecal	Troy	MI	USA
45	Christopher Corpe and Alicia Corpe	Payson	AZ	USA
46	Nancy Rosano-Labowe	Sun City West	AZ	USA
47	James W. Smith	San Antonio	TX	USA
48	Sharon E. Mackey	Sterling Heights	MI	USA
49	Ronald Pinaire	Corpus Christi	TX	USA
50	William Ostrom	Kingsburg	CA	USA
51	Daniel Hayes	Brooklyn	NY	USA
52	Curt Bruner	Niwot	CO	USA
53	John Otto Warner	Somerville	MA	USA
54	Mark G. Robertson and Laurel L. Robertson	Potsdam	NY	USA
55	Richard Arnold Hampton	Sylmar	CA	USA
56	Karen Haywood	Belleville	IL	USA
57	Zachary L. Leichtman-Levine	Beverly Hills	CA	USA
58	Gerald R. Ehrman	Orange	TX	USA
59	The Braun Family Trust, John Dean Braun and Carolyn M Braun TTEES	Paso Robles	CA	USA
60	Emily Roberts	Big Sandy	TX	USA
61	Gloria J. Liedlich	Forest Hill	MD	USA
62	Lorraine E M Hillegass	Albrightsville	PA	USA
63	William J. Mooore and Linda C. Moore	Henrico	VA	USA
64	Claudette R. Taylor	East Patchobue	NY	USA
65	Jeannette Feigerle (IRA) WFCS as Custodian	San Diego	CA	USA
66	Robert Faro Belpport and Christine E. Belpport	Green Bay	WI	USA
67	Norman Craig Scheer	Astacadero	CA	USA
68	Owe W. Toennies and Juanita D. Toennies	Louisville	KY	USA
69	Carol A. Cavan	Whitby	ON	CAN
70	William Darrell Bushman	Huntsville	TX	USA
71	Ronald W Zolkiewicz, Avery S Dunn UTMA CA, Braden J Dunn UTMA CA and Benjamin W Zolkiewicz UTMA TN	Naples	FL	USA
72	John Alan Smiedendorf	Saint Joseph	MI	USA
73	Herbert Carl Fauth and Emma Sue Fauth	Tucson	AZ	USA

JUDGMENT

CASE NO. 3:16-cv-05479-JST

Number	Name	City	State/ Province	Country
74	Darrell E. Knight	Springfield	OR	USA
75	Rosemarie A Trevani	Hopedale	MA	USA
76	James R Witte	Kewadin	MI	USA
77	Gera Lyn Witte	Kewadin	MI	USA
78	Harry L Fowler	Fairview	TX	USA
79	Charles & Ann Gatterer Rev Living Trust and Ann H. Gatterer TTEE	Green Valley	AZ	USA
80	Eugene L. Sewell	Mansfield	LA	USA
81	William F. Bublitz and Ronda D. Bublitz	Sun Prairie	WI	USA
82	Frans Bentlage	Oak Harbor	OH	USA
83	Rosemary Lutz	Fenton	MI	USA
84	Abderrazak Bari	Falls Church	VA	USA
85	Rex Florian	Blue Hill	ME	USA
86	Terrie Schneemann and Dan Schneemann (JTWROS) (JT TIC)	Big Lake	TX	USA
87	Virginia P. Newsom	Hendersonville	NC	USA
88	Virginia P. Newsom TTEE	Hendersonville	NC	USA
89	Fleming Farms, Inc. Johnathan B Flemming, President	Mineral Point	WI	USA
90	Barbara L. Brion	Trout Run	PA	USA
91	James Patrick Huber and Mary Norris Huber	Wichita	KS	USA
92	Sheryl A. Beyer	Manchester	NJ	USA
93	The Mark L & Rose Ann Boren Revocable Family Trust, John Frank Fassel TTEE	Oregon City	OR	USA
94	Claude Neil Moore, Nancy S Moore TTEE and Moore Family Trust	Scottsdale	AZ	USA
95	Mary E. Rust	West Burlington	IA	USA
96	Patricia Coffey	Odessa	MO	USA
97	Lenore Von Hoene	Venice	FL	USA
98	Robert W. Lovinggood, beneficiary of IRA of Thomas A. Lovinggood (deceased)	Metairie	LA	USA
99	Wayne Viner	Lakeland	FL	USA
100	JoAnn Lynn Cline	Fergus Falls	MN	USA
101	Barbara B. Gilliland and Jerry H. Gilliland	Burnsville	MN	USA
102	FMT CO Cust IRA Rollover FBO Philip R Martin	Wentzville	MO	USA
103	Robert K. Schuh	Loveland	OH	USA
104	Virginia E. Burnett	Loveland	CO	USA
105	Raymond W. Hencir IRA and Raymond W and Alice W Hencir JT	Madison	CT	USA
106	Vicki J Peterson	Remer	MN	USA
107	Mitchell Drennan and Cordia Drennan	Brashear	TX	USA
108	Ryan J King	West Fargo	ND	USA
109	Cathy Ann Renck Trust, Cathy Ann Renck TTEE	Paso Robles	CA	USA

JUDGMENT

CASE NO. 3:16-cv-05479-JST

Number	Name	City	State/ Province	Country
110	William G. Herd	Baltimore	MD	USA
111	William A. Smith Jr.	Irmo	SC	USA
112	Therese A. Mendenhall	Kirkland	WA	USA
113	Edward J Burkhard Jr and Florine J Burkhard	Allentown	PA	USA
114	Clarence Roger Miller	Coal Valley	IL	USA
115	Betty Jane Zaslowsky	Apache Junction	AZ	USA
116	Guillermo Fernandez	Fort Lauderdale	FL	USA
117	John D. Zylinski and Patricia W. Zylinski JT WROS	Melrose	FL	USA
118	Choiseul Investments Ltd.	North Vancouver	BC	CAN
119	Jack McEvoy Jr and Annette L McEvoy	Ozark	MO	USA
120	Theresa Wai Ha Lee Teng and David Yu Wen Teng JT WROS	San Francisco	CA	USA
121	Oded Rudawsky	Greenwood Village	CO	USA
122	William Clayton Latimer	Linville	NC	USA
123	Harold H. Karimoto TTEE of Carol M. Karimoto TR	Honolulu	HI	USA
124	Elizabeth Houtz	Russellville	AL	USA
125	Janice M. Urban	Oil City	PA	USA
126	Carol Sweet	Las Vegas	NV	USA
127	John Ponzetti	Schaumburg	IL	USA
128	Victor Alas	Apopka	FL	USA
129	Roderick James Dunn Jr. and Ann Mayo Davis Dunn	Warminster	PA	USA
130	Nathan Fuhrman and Bianca Fuhrman	Haifa		ISR
131	Mark R Struble	Portland	OR	USA
132	Kevin Miller	Bainbridge Island	WA	USA
133	James S Ferguson and Meredith F Coldren	Norfolk	VA	USA
134	Susan L. West	Huntington	IN	USA
135	Charles G. Majetich	Orlando	FL	USA
136	George T. Koide	Honolulu	HI	USA
137	Hsiang Hao Yang	Chino Hills	CA	USA
138	Susie McGuire	Towanda	IL	USA
139	Elisabeth A. Browne	Pasadena	CA	USA
140	Alice Keohane	Lansing	KS	USA
141	Rae Olson Framan	Laguna Woods	CA	USA
142	Judith Ciesielski	Fort Mill	SC	USA
143	David J. Winiecki	Onalaska	WI	USA
144	Hendarsin Lukito and Shu Lukito	San Tan Valley	AZ	USA
145	Susan A Allard	West Sacramento	CA	USA
146	Ryan J Skogg	Roseville	CA	USA
147	Don R. Chipchase, Jr.	Mason	MI	USA
148	Darcy Bates Pooler	White River Jct	VT	USA

JUDGMENT

CASE NO. 3:16-cv-05479-JST

Number	Name	City	State/ Province	Country
149	Ronald C. Gerdel	Naples	FL	USA
150	JoAnne Pickett-Naylor	Saint Peters	MO	USA
151	Elliot Evans Ichinose	San Juan Capistrano	CA	USA
152	Ichinose Family Trust, Janet Hawkins Ichinose Trustee and Elliot E. Ichinose Trustee	San Juan Capistrano	CA	USA
153	Duaine H. Moore as ATC AS CUST for IRA Duaine H. Moore	Scottsdale	AZ	USA
154	Richard Allyn Schouweiler	Cornelius	OR	USA
155	Joseph G. Turner and Sherri Turner JT TEN	Fort Collins	CO	USA
156	Janet D. Gortz	Westlake	OH	USA
157	Christina Grabiec	Branchburg	NJ	USA
158	Kathryn A. Kinney, WFCS Custodian Trad IRA	Minneapolis	MN	USA
159	Deanna Foreman	Denver	CO	USA
160	Gary G. Grogman and Judith M. Grogman	Butler	MO	USA
161	Robin Inaba	Ewa Beach	HI	USA
162	Jewell Bailey	Sterling	VA	USA
163	Brian K. Boschen	Christiansted		VIR
164	Jorge A Magara	Orlando	FL	USA
165	Yasmine S. Ali, MD	Nashville	TN	USA
166	Raymond D Culy TTEE, Joanne F Culy TTEE and Culy Revocable Trust	Livermore	CA	USA
167	Carol Ann Haug	White Haven	PA	USA
168	Gary Curtis Allen	Jeffersonville	IN	USA
169	William Harry Newcomb	Astoria	OR	USA
170	Michael Robert Podojil Jr	Hiram	OH	USA
171	Elaine Terry Eno	Collinsville	CT	USA
172	Kelly A. Cassidy	Fort Myers	FL	USA
173	Paul N. Genis	Estero	FL	USA
174	Duaine H. Moore as TTEE of the Moore Family Rev Trust	Scottsdale	AZ	USA
175	Charles Bowker Farkas	Chicago	IL	USA
176	Charles Bowker Farkas and Kathy Jeanne Mauck	Chicago	IL	USA
177	Carol A Carr	Auburn	WA	USA
178	Barbara A. Springer	Frisco	TX	USA
179	Sonal Framod Raval	Farmington Hills	MI	USA
180	Shivani Raval	Farmington Hills	MI	USA
181	Satyam Raval	Farmington Hills	MI	USA
182	SPR Financial LLC Satyam Pramod Raval	Farmington Hills	MI	USA
183	Jalon D. Brown	Farmingham	MA	USA
184	Frank M Scobby	The Villages	FL	USA
185	Gregory S. Woods and Dianne M. Woods, JT TE	Chandler	AZ	USA

JUDGMENT

CASE NO. 3:16-cv-05479-JST

-13-

Number	Name	City	State/ Province	Country
186	Eric Hayne	Calgary	AB	CAN
187	Shirley A. Hahn	Granby	CT	USA
188	Angela M. Ferriana	Chicago	IL	USA
189	Richard P. Porretto	Smithstown	NY	USA
190	Silvina Noemi Cersosimo, Florencia Straccio, and Augustina Straccio	Buenos Aires		ARG
191	Ian Davidson and Barbara Stockbridge-Davidson	Southport	NC	USA
192	William T Clark	Vienna	OH	USA
193	Janet V. Benson	Glenn Mills	PA	USA
194	Forest A. Benson	Glenn Mills	PA	USA
195	Phyllis L. Volk	Palatine	IL	USA
196	Cheryl J Strickland	Winter Haven	FL	USA
197	John Laurance Hill	Baltimore	MD	USA
198	Roger Linfield	Boulder	CO	USA
199	Carol R. Smith	Temple	TX	USA
200	Joseph H. Kirk	Austin	TX	USA
201	Lynn Landin	Rochester	MN	USA
202	Jeffrey L Downer	Pekin	IL	USA
203	Maryanne Fisher	Havertown	PA	USA
204	James E. Eakin	Midland	TX	USA
205	James E. Eakin, Jr	Midland	TX	USA
206	Evan Borgstrom	San Francisco	CA	USA
207	Virginia Verburg	Richmond	TX	USA
208	Luciana Rabello De Oliveira Sisti and Andre Fernandes Sisti	San Diego	CA	USA
209	Redburn (Europe) Limited	London		GBR
210	Michael K. Isenman	Bethesda	MD	USA
211	Brenda F. Hart	Paramus	NJ	USA
212	Ronald H. Sargent and Arla Sargent	North Vancouver	BC	CAN
213	Andrea S Powell	Wheaton	IL	USA
214	Carol E. Ulmer	Trout Run	PA	USA
215	Richard Henry James and M Singe James	San Luis Obispo	CA	USA
216	Cynthia A. Collier and David S. Kelly	Asheville	NC	USA
217	Cynthia S. Foster	Greenbrae	CA	USA
218	Helene Luhrs	Ardmore	PA	USA
219	Hazel Dianne Howard	Crescent City	FL	USA
220	Vincent L. Noesser and Karen S. Noesser	Porter	TX	USA
221	Gregory M Hecht and Sara K Hecht	Mountain View	CA	USA
222	Barbara J. Holmes	Branson	MO	USA
223	Joanne Ward Living Trust, Joanne Ward TTEE	Montgomery	AL	USA
224	Charles E. Phillips and Linda Ohm Phillips	Saint John	IN	USA

JUDGMENT

CASE NO. 3:16-cv-05479-JST

-14-

Number	Name	City	State/ Province	Country
225	Dona M. Bertsch	Whittier	CA	USA
226	Arnold Murillo	Pacoima	CA	USA
227	Veronica Murillo	Pacoima	CA	USA
228	Raumond J. Bertsch	Whittier	CA	USA
229	Barbara Z. Roberts	Wausau	WI	USA
230	Robert Hiromoto	Idaho Falls	ID	USA
231	Dale and Jennifer Johnson, Johnson Living Trust of 2013	Kohler	WI	USA
232	Eleanor C. Davis TTEE, R&E Davis Family Survivors Trust	Westlake Village	CA	USA
233	Harry Cuerden and Catherine J Cuerden	Glen Mills	PA	USA
234	Monte G. Montgomery	Mebane	NC	USA
235	Ashley Lane	Schaumburg	IL	USA
236	Charles J Wolfe	Kennewick	WA	USA
237	Donald J Proce and Lillian Proce	Las Vegas	NV	USA
238	Ken Deaver & Sherri Deaver JT TEN	Billings	MT	USA
239	Gayle Boldt	Fort Worth	TX	USA
240	Newman Robert Martin and Evelyn B. Martin	Kingwood	TX	USA
241	Sonja Selboe	Indianola	WA	USA
242	Ann Cleveland	Corpus Christi	TX	USA
243	Carolyn W. Somers	Beaufort	SC	USA
244	St Paul's Girls' School	London		GBR
245	Robert I. Lawson	Fremont	NH	USA
246	Mark G. Porter	Bentonville	AR	USA
247	Katherine H. Robinson	Tallassee	AL	USA
248	Linda D. St. Pierre	North Chesterfield	VA	USA
249	Judith A. Hartgerink	Augusta	MI	USA
250	VJF Holdings Limited	Douglas		IM
251	Sylvain Simard	Grandby	Quebec	CAN
252	John S. and James L. Knight Foundation	Arlington	VA	USA
253	Andrea Huber	Bethesda	MD	USA

JUDGMENT

CASE NO. 3:16-cv-05479-JST

-15-

EXHIBIT 2

1 UNITED STATES DISTRICT COURT
2 NORTHERN DISTRICT OF CALIFORNIA

3 GARY HEFLER, MARCELO MIZUKI,)
4 GUY SOLOMONOV, UNION ASSET)
5 MANAGEMENT HOLDING AG, and CITY)
6 OF HIALEAH EMPLOYEES')
7 RETIREMENT SYSTEM, Individually and)
8 on Behalf of All Others Similarly Situated,)
9
10 Plaintiffs,)

Case No. 3:16-cv-05479-JST

CLASS ACTION

7 vs.)

8 WELLS FARGO & COMPANY, JOHN G.)
9 STUMPF, JOHN R. SHREWSBERRY,)
10 CARRIE L. TOLSTEDT, TIMOTHY J.)
11 SLOAN, DAVID M. CARROLL, DAVID)
12 JULIAN, HOPE A. HARDISON, MICHAEL)
13 J. LOUGHLIN, AVID MODJTABAI, JAMES)
14 M. STROTHER, JOHN D. BAKER II, JOHN)
15 S. CHEN, LLOYD H. DEAN, ELIZABETH)
16 A. DUKE, SUSAN E. ENGEL, ENRIQUE)
17 HERNANDEZ JR., DONALD M. JAMES,)
18 CYNTHIA H. MILLIGAN, FEDERICO F.)
19 PEÑA, JAMES H. QUIGLEY, JUDITH M.)
20 RUNSTAD, STEPHEN W. SANGER,)
21 SUSAN G. SWENSON, and SUZANNE M.)
22 VAUTRINOT,)
23
24 Defendants.)

17 **[PROPOSED] ORDER APPROVING**
18 **PLAN OF ALLOCATION OF NET SETTLEMENT FUND**

19 This matter came on for hearing on December 18, 2018 (the “Settlement Hearing”) on Lead
20 Plaintiff’s motion to determine whether the proposed plan of allocation of the Net Settlement Fund
21 (“Plan of Allocation”) created by the Settlement achieved in the above-captioned class action (the
22 “Action”) should be approved. The Court having considered all matters submitted to it at the
23 Settlement Hearing and otherwise; and it appearing that notice of the Settlement Hearing substantially
24 in the form approved by the Court was mailed to all Settlement Class Members who or which could
25 be identified with reasonable effort, and that a summary notice of the hearing substantially in the
26 form approved by the Court was published in *The Wall Street Journal* and was transmitted over the
27

1 *PR Newswire* pursuant to the specifications of the Court; and the Court having considered and
2 determined the fairness and reasonableness of the proposed Plan of Allocation,

3 NOW, THEREFORE, IT IS HEREBY ORDERED THAT:

4 1. This Order approving the proposed Plan of Allocation incorporates by reference the
5 definitions in the Stipulation and Agreement of Settlement dated July 30, 2018 (ECF No. 225-1) (the
6 “Stipulation”) and all terms not otherwise defined herein shall have the same meanings as set forth in
7 the Stipulation.

8 2. The Court has jurisdiction to enter this Order approving the proposed Plan of
9 Allocation, and over the subject matter of the Action and all parties to the Action, including all
10 Settlement Class Members.

11 3. Notice of Lead Plaintiff’s motion for approval of the proposed Plan of Allocation was
12 given to all Settlement Class Members who could be identified with reasonable effort. The form and
13 method of notifying the Settlement Class of the motion for approval of the proposed Plan of
14 Allocation satisfied the requirements of Rule 23 of the Federal Rules of Civil Procedure, the Private
15 Securities Litigation Reform Act of 1995 (15 U.S.C. § 78u-4(a)(7)), due process, and all other
16 applicable law and rules, constituted the best notice practicable under the circumstances, and
17 constituted due and sufficient notice to all persons and entities entitled thereto.

18 4. Copies of the Notice, which included the Plan of Allocation, were mailed to over 1.9
19 million potential Settlement Class Members and nominees. There were two objections to the
20 proposed Plan of Allocation. The Court has considered each of the objections and found them to be
21 without merit.

22 5. The Court hereby finds and concludes that the formula for the calculation of the claims
23 of Claimants as set forth in the Plan of Allocation mailed to Settlement Class Members provides a fair
24 and reasonable basis upon which to allocate the proceeds of the Net Settlement Fund among
25 Settlement Class Members with due consideration having been given to administrative convenience
26 and necessity.

EXHIBIT 3

1 UNITED STATES DISTRICT COURT
2 NORTHERN DISTRICT OF CALIFORNIA

3 GARY HEFLER, MARCELO MIZUKI,)
4 GUY SOLOMONOV, UNION ASSET)
5 MANAGEMENT HOLDING AG, and CITY)
6 OF HIALEAH EMPLOYEES')
7 RETIREMENT SYSTEM, Individually and)
8 on Behalf of All Others Similarly Situated,)
9
10 Plaintiffs,)

Case No. 3:16-cv-05479-JST

CLASS ACTION

7 vs.)

8 WELLS FARGO & COMPANY, JOHN G.)
9 STUMPF, JOHN R. SHREWSBERRY,)
10 CARRIE L. TOLSTEDT, TIMOTHY J.)
11 SLOAN, DAVID M. CARROLL, DAVID)
12 JULIAN, HOPE A. HARDISON, MICHAEL)
13 J. LOUGHLIN, AVID MODJTABAI, JAMES)
14 M. STROTHER, JOHN D. BAKER II, JOHN)
15 S. CHEN, LLOYD H. DEAN, ELIZABETH)
16 A. DUKE, SUSAN E. ENGEL, ENRIQUE)
17 HERNANDEZ JR., DONALD M. JAMES,)
18 CYNTHIA H. MILLIGAN, FEDERICO F.)
19 PEÑA, JAMES H. QUIGLEY, JUDITH M.)
20 RUNSTAD, STEPHEN W. SANGER,)
21 SUSAN G. SWENSON, and SUZANNE M.)
22 VAUTRINOT,)
23
24 Defendants.)

17 **[PROPOSED] ORDER AWARDING**
18 **ATTORNEYS' FEES AND LITIGATION EXPENSES**

19 This matter came on for hearing on December 18, 2018 (the "Settlement Hearing") on Lead
20 Counsel's motion for an award of attorneys' fees and payment of Litigation Expenses. The Court
21 having considered all matters submitted to it at the Settlement Hearing and otherwise; and it
22 appearing that notice of the Settlement Hearing substantially in the form approved by the Court was
23 mailed to all Settlement Class Members who or which could be identified with reasonable effort, and
24 that a summary notice of the hearing substantially in the form approved by the Court was published in
25 *The Wall Street Journal* and was transmitted over the *PR Newswire* pursuant to the specifications of
26 the Court; and the Court having considered and determined the fairness and reasonableness of the
27 award of attorneys' fees and Litigation Expenses requested,

1 NOW, THEREFORE, IT IS HEREBY ORDERED THAT:

2 1. This Order incorporates by reference the definitions in the Stipulation and Agreement
3 of Settlement dated July 30, 2018 (ECF No. 225-1) (the “Stipulation”) and all capitalized terms not
4 otherwise defined herein shall have the same meanings as set forth in the Stipulation.

5 2. The Court has jurisdiction to enter this Order and over the subject matter of the Action
6 and all parties to the Action, including all Settlement Class Members.

7 3. Notice of Lead Counsel’s motion for an award of attorneys’ fees and payment of
8 Litigation Expenses was given to all Settlement Class Members who could be identified with
9 reasonable effort. The form and method of notifying the Settlement Class of the motion for an award
10 of attorneys’ fees and expenses satisfied the requirements of Rule 23 of the Federal Rules of Civil
11 Procedure, the Private Securities Litigation Reform Act of 1995 (15 U.S.C. § 78u-4(a)(7)), due
12 process, and all other applicable law and rules, constituted the best notice practicable under the
13 circumstances, and constituted due and sufficient notice to all persons and entities entitled thereto.

14 4. Plaintiffs’ Counsel are hereby awarded attorneys’ fees in the amount of _____% of the
15 Settlement Fund, net of Litigation Expenses awarded by the Court (including interest earned at the
16 same rate as the Settlement Fund). Plaintiffs’ Counsel are also hereby awarded \$ _____
17 for payment of Plaintiffs’ Counsel’s litigation expenses. These attorneys’ fees and expenses shall be
18 paid from the Settlement Fund and the Court finds these sums to be fair and reasonable. Lead
19 Counsel shall allocate the attorneys’ fees awarded amongst Plaintiffs’ Counsel in a manner which it,
20 in good faith, believes reflects the contributions of such counsel to the institution, prosecution and
21 settlement of the Action.

22 5. In making this award of attorneys’ fees and reimbursement of expenses to be paid
23 from the Settlement Fund, the Court has considered and found that:

24 a. The Settlement has created a fund of \$480,000,000 in cash that has been
25 funded into escrow pursuant to the terms of the Stipulation, and that numerous Settlement
26 Class Members who submit acceptable Claim Forms will benefit from the Settlement that
27 occurred because of the efforts of Plaintiffs’ Counsel;

1 b. The fee sought is based on a retainer agreement entered into between Lead
2 Plaintiff, a sophisticated institutional investor that actively supervised the Action, and Lead
3 Counsel and the requested fee has been reviewed and approved as reasonable by Lead
4 Plaintiff;

5 c. Copies of the Notice were mailed to over 1.9 million potential Settlement Class
6 Members and nominees stating that Lead Counsel would apply for attorneys' fees in an
7 amount not exceed 20% of the Settlement Fund and reimbursement of Litigation Expenses in
8 an amount not to exceed \$750,000. There were six objections to the requested award of
9 attorneys' fees or Litigation Expenses. The Court has considered each of the objections and
10 found them to be without merit;

11 d. Plaintiffs' Counsel conducted the litigation and achieved the Settlement with
12 skill, perseverance and diligent advocacy;

13 e. The Action raised a number of complex issues;

14 f. Had Lead Counsel not achieved the Settlement there would remain a
15 significant risk that Lead Plaintiff and the other members of the Settlement Class may have
16 recovered less or nothing from Defendants;

17 g. Plaintiffs' Counsel devoted over 73,000 hours, with a lodestar value of
18 approximately \$29,760,000, to achieve the Settlement; and

19 h. The amount of attorneys' fees awarded and expenses to be reimbursed from the
20 Settlement Fund are fair and reasonable and consistent with awards in similar cases.

21 6. Any appeal or any challenge affecting this Court's approval regarding any attorneys'
22 fees and expense application shall in no way disturb or affect the finality of the Judgment.

23 7. Exclusive jurisdiction is hereby retained over the parties and the Settlement Class
24 Members for all matters relating to this Action, including the administration, interpretation,
25 effectuation or enforcement of the Stipulation and this Order.
26
27

