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ELECTRONICALLY  
**FILED**

Superior Court of California,  
County of San Francisco

**05/10/2019**  
Clerk of the Court  
BY: CAROL BALISTRERI  
Deputy Clerk

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

12 IN RE WELLS FARGO & COMPANY AUTO ) Lead Case No. CGC-17-561118  
INSURANCE DERIVATIVE LITIGATION )  
13 ) **PLAINTIFFS' OBJECTION AND MOTION**  
14 ) **TO STRIKE UNAUTHORIZED "REPLY"**  
15 ) **FILED BY PROSPECTIVE INTERVENOR IN**  
16 ) **SUPPORT OF EX PARTE APPLICATION TO**  
17 ) **CONTINUE HEARING DATE ON**  
18 ) **PLAINTIFFS' MOTION FOR PRELIMINARY**  
19 ) **APPROVAL OF SETTLEMENT**  
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This Document Relates To:  
ALL ACTIONS

Date: May 23, 2019  
Time: 10:00 a.m.  
Dept. 613  
Hon. Teri L. Jackson

1 “Prospective Intervenor” R.A. Feuer, or more specifically, his New York-based attorney,  
2 Richard Greenfield, continue to flout the rules applicable to this Court with regard to their *ex parte*  
3 application, including their most recent filing of an unauthorized “reply” brief in support of their  
4 application to move the preliminary approval hearing date.<sup>1</sup> Mr. Feuer’s reply is not permitted under  
5 California law, was not authorized by this Court, and should be stricken.

6 In his underlying *ex parte* application, Mr. Feuer seeks to continue the hearing on preliminary  
7 approval of the Settlement, recently continued to May 23, 2019, so that he can move to intervene. As  
8 noted in Plaintiffs’ opposition, Mr. Feuer’s *ex parte* application failed to cite, let alone comply with,  
9 California’s high standard for *ex parte* relief including the affirmative factual showing that he would  
10 suffer irreparable harm absent relief. CRC 3.1201(c). To the contrary, Mr. Feuer (like every other  
11 Wells Fargo shareholder) will have ample opportunity to review the Settlement and submit any  
12 objections prior to the Court’s consideration of final approval of the Settlement. Indeed, under  
13 Plaintiffs’ proposed schedule, final approval won’t even be heard until July 2019 at the earliest.

14 Mr. Feuer has now filed a “reply” brief trying to supplement his deficient application and take  
15 advantage of the Court’s continuance of the *ex parte* hearing due to a trial conflict. However, the  
16 Rules of Court do not permit reply briefs, nor did Mr. Feuer seek authorization from the Court to file  
17 any such papers. The Court should strike the reply papers on this basis alone. Moreover, the reply  
18 papers do not do anything to remedy the deficiency of the application. Essentially, Mr. Feuer’s reply  
19 now claims that he needs immediate relief to preserve his right to appeal the Court’s rulings on  
20 preliminary approval. That is absurd. Mr. Feuer’s own two cases establish the exact opposite, i.e., a  
21 shareholder has the right to appeal so long as they intervene before a judgment becomes final.

22 In short, Mr. Feuer’s reply papers were filed in violation of California rules and without  
23 authorization from this Court. Further, because the May 23<sup>rd</sup> hearing on preliminary approval will not  
24 impact Mr. Feuer’s ability to intervene to submit objections to the Settlement nor his right to appeal any  
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26 <sup>1</sup> If necessary, Plaintiffs will address Mr. Greenfield’s objections in light of his disciplinary record in  
27 other courts, as well as his prolific history of filing copycat derivative complaints, waiting to assert  
28 adequacy objections when the action is settled, and recklessly claiming collusion or conflicts of interest  
on the part of counsel involved in the underlying case. Addressing similar conduct by Mr. Greenfield in  
another case, a California Superior Court recently found “counsel in this case who filed the objection  
have really done something that’s unethical here.”

1 ruling by the Court concerning his objections, the reply papers don't even support the underlying request  
2 for *ex parte* relief. For all of these reasons, the reply papers should be stricken.

3 Dated: May 10, 2019

COTCHETT, PITRE & McCARTHY LLP

4 By: /s/ Mark C. Molumphy  
MARK C. MOLUMPY

5  
6 Dated: May 10, 2019

BOTTINI & BOTTINI, INC.

7 By: /s/ Francis A. Bottini, Jr.  
FRANCIS A. BOTTINI, JR.

8  
9 *Attorneys for Plaintiff Donna Maxwell*

10 Dated: May 10, 2019

WILLIAM H. PARISH, PC

11 By: /s/ William H. Parish  
WILLIAM H. PARISH

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

1 **PROOF OF SERVICE**

2 I am employed in the County of San Mateo; I am over the age of 18 years and not a party to the  
3 within cause. My business address is the Law Offices of Cotchett, Pitre & McCarthy, LLP, San  
4 Francisco Airport Office Center, 840 Malcolm Road, Suite 200, Burlingame, California, 94010. On  
5 this day, I served the following document(s) in the manner described below:

6 **PLAINTIFFS' OBJECTION AND MOTION TO STRIKE UNAUTHORIZED "REPLY"  
7 FILED BY PROSPECTIVE INTERVENOR IN SUPPORT OF *EX PARTE* APPLICATION TO  
8 CONTINUE HEARING DATE ON PLAINTIFFS' MOTION FOR PRELIMINARY  
9 APPROVAL OF SETTLEMENT**

10 1 **VIA ELECTRONIC TRANSMISSION:** By electronically transmitting the document(s)  
11 listed above to File & Serve Xpress, an electronic service provider at [www.fileandservexpress.com](http://www.fileandservexpress.com).

12 I declare under penalty of perjury, under the laws of the State of California, that the foregoing is true  
13 and correct. Executed at Burlingame, California, on May 10, 2019.

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