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

12 IN RE WELLS FARGO & COMPANY AUTO)
13 INSURANCE DERIVATIVE LITIGATION)

Lead Case No. CGC-17-561118

14) **DECLARATION OF HON. DANIEL**
15) **WEINSTEIN IN SUPPORT OF RENEWED**
16) **MOTION FOR PRELIMINARY APPROVAL**
17) **OF PROPOSED DERIVATIVE**
18) **SETTLEMENT**

16 This Document Relates To:
17 ALL ACTIONS

17) Date: July 3, 2019
18) Time: 10:00 a.m.
19) Dept. 613
20) Hon. Teri L. Jackson

ELECTRONICALLY

FILED

Superior Court of California,
County of San Francisco

06/21/2019

Clerk of the Court

BY: VANESSA WU

Deputy Clerk

1 I, DANIEL H. WEINSTEIN, hereby declare as follows:

2 1. I am a retired California state court jurist, having served as California Supreme Court
3 Justice (Pro Tem), Court of Appeal Justice (1st Dist.), and California Superior Court Judge (San
4 Francisco Cty.). I am currently a mediator with and a founder of JAMS in San Francisco, California,
5 and served as the mediator in these consolidated shareholder derivative actions (the "Action"). I
6 submit this Declaration in support of the Parties' renewed request for preliminary approval of the
7 proposed Settlement in the Action. I make this declaration based on personal knowledge and if called
8 and sworn as a witness could and would testify competently thereto.

9 2. The Action involves allegations of unlawful conduct relating to Wells Fargo's auto
10 insurance sales practices. CPI Plaintiffs, who are shareholders of Wells Fargo & Company ("Wells
11 Fargo" or the "Company"), allege that current and former officers and directors of Wells Fargo
12 breached their fiduciary duties in connection with certain alleged practices at Wells Fargo concerning
13 its automobile collateral protection insurance ("CPI"), automobile Guaranteed Asset Protection
14 ("GAP") and home mortgage rate-lock ("Rate-Lock") programs, and the Servicemembers Civil Relief
15 Act ("SCRA"). Defendants deny these allegations.

16 3. The Parties in this Action have come to an agreement to settle the case (the
17 "Settlement"). The Settlement involves the implementation and funding of Corporate Governance
18 Reforms which will benefit Wells Fargo and its shareholders today and for years to come.

19 4. The Corporate Governance Reforms, detailed in Exhibit A to the Settlement, include
20 the discontinuation of forced-placed automobile CPI, amendments to corporate charters and bylaws,
21 increased oversight and monitoring of business units, leadership changes and creation of certain new
22 positions, increased reporting from business units, and payments to impacted customers. The
23 Corporate Governance Reforms are specifically designed to address and remedy issues that gave rise
24 to this Action relating to Wells Fargo's CPI, GAP, and Rate-Lock programs and the SCRA, and were
25 negotiated at length between the Parties with my assistance.

1 11. During these negotiations, the Parties provided me with detailed information regarding
2 their respective positions, as well as their views on corporate governance reforms, a critical component
3 of any potential derivative settlement. I found these submissions to be extremely valuable in helping me
4 understand the relative merits of each Party's positions, and to identify the issues that were likely to
5 serve as primary drivers and obstacles to achieving a settlement. Counsel for the Parties presented
6 significant arguments regarding their clients' respective positions, and it was apparent to me that all sides
7 possessed strong, non-frivolous arguments, and that no side was assured of victory. Because the Parties
8 submitted their positions and arguments in the context of a confidential mediation process, I cannot
9 reveal their content. I can say, however, that the arguments and positions asserted by all involved were
10 the product of much hard work, and they were complex and highly adversarial. After reviewing all of
11 the information, I concluded that a trial of this matter would be long, contentious, and expensive and that
12 the outcome would be uncertain.

13 12. Following these initial discussions, I engaged in extensive efforts to try to establish
14 common ground between the Parties' respective positions. During this period, I engaged in additional
15 communications with counsel by phone and e-mail in an ongoing effort to resolve the Action. The
16 continuing negotiations, while cordial and professional, were contentious and hard-fought.

17 13. Progress was made and, in December 2018, the Parties filed a stipulation and
18 proposed scheduling order postponing the filing of, and briefing on, defendants' demurrers to the
19 Second Amended Consolidated Complaint pending further settlement negotiations. The Court
20 entered this stipulation on December 21, 2018.

21 14. I then made a mediator's proposal to the Parties to settle the Action, premised on the
22 Company's implementation and/or maintenance of the Corporate Governance Reforms for the
23 benefit of Wells Fargo. The collection of reforms agreed to by the Parties also address issues that
24 gave rise to the Action and, importantly, will continue to be maintained in the future as set forth in the
25 Parties' Stipulation and Agreement of Compromise.

26 15. Based on my prior experience presiding over settlement negotiations of derivative
27 actions, I am familiar with the unique availability of governance reforms to add value in resolving
28 derivative actions, and they are often part of any negotiated resolution. Here, as I understood during

1 the negotiations, facts alleged in the Action and proposals made by CPI Plaintiffs in prosecuting and
2 seeking to resolve the Action, were all significant, material and contributing factors taken into account
3 by Wells Fargo in implementing the Corporate Governance Reforms. Wells Fargo has explicitly
4 acknowledged this in the Settlement. The Reforms were meaningful and obtained by CPI Plaintiffs
5 through hard-fought negotiations.

6 16. The terms of the Settlement also reflect that this Action was resolved as part of an
7 effort to resolve all derivative actions brought in both state and federal court asserting derivative
8 claims regarding both Sales Practices and CPI. I believe, and Wells Fargo agreed, that it was in Wells
9 Fargo's interest to mediate and resolve all of the Sales Practices and CPI derivative actions at once.
10 The value of the Settlement to Wells Fargo, therefore, must be considered along with the other
11 consideration Wells Fargo received through all of the Sales Practices and CPI settlements, which
12 includes both the corporate governance reforms in this Action and the \$240 million payment plus other
13 benefits that Wells Fargo will receive through the separately negotiated settlement of the Federal Sales
14 Practices Derivative Action.

15 17. Only after the Parties had agreed on these settlement terms did they begin to discuss
16 issues relating to an award of attorneys' fees and expenses to be paid to CPI Plaintiffs' Counsel for
17 the benefits conferred on Wells Fargo by the Settlement. Again, I served as the mediator in such
18 negotiations and, ultimately, Wells Fargo agreed to pay a fee and expense amount of \$2,500,000.00
19 to CPI Plaintiffs' Counsel for their efforts, subject to Court approval.

20 18. In sum, this Settlement was the product of an extremely hard-fought negotiation. While
21 I cannot delve into the specifics regarding each Party's positions and thinking because many
22 discussions occurred during confidential mediation communications, I can say that there were many
23 complex issues that required significant thought and practical solutions. I can also attest that the
24 negotiations were vigorous, fully at arm's-length, and conducted in good faith, with no collusion
25 whatsoever.

26 **THE SETTLEMENT REPRESENTS A FAIR COMPROMISE**

27 19. Based on my experience as a mediator, a former judge and a litigator, I believe that this
28 Settlement represents an outcome that is reasonable, fair, and adequate and in the best interests of

1 Wells Fargo and its shareholders. I further believe it was in the best interests of all of the Parties that
2 they avoid the burdens and risks associated with taking a case of this size and complexity to trial and
3 that they agree on the Settlement now presented to the Court for approval.

4 I declare under penalty of perjury under the laws of the State of California that the foregoing is
5 true and correct. Executed on June 19, 2019, in San Francisco, California.

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8 HON. DANIEL WEINSTEIN (RET.)
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