

UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION (COLUMBUS)

In re:

WELLS FARGO COVID FORBEARANCE
SETTLEMENT
LITIGATION

CASE NO. 2:24-cv-01026-MHW-EPD

(Judge Michael H. Watson)

(Magistrate Judge Elizabeth A. Preston Deavers)

FIRST AMENDED SETTLEMENT AGREEMENT

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FIRST AMENDED SETTLEMENT AGREEMENT

This First Amended Settlement Agreement (the “Agreement”) is made and entered into as of the Execution Date between the Plaintiffs, both individually and on behalf of the Class, and Wells Fargo (the “Settling Parties”).¹ This Agreement is intended by the Settling Parties to fully, finally, and forever resolve, discharge, and settle the claims described herein, upon the following terms and conditions.

WHEREAS, Plaintiffs are prosecuting the above captioned Actions on their own behalf and on behalf of the proposed Class against Wells Fargo;

WHEREAS, in the early days of the COVID-19 pandemic, many Wells Fargo customers expressed concern about financial hardship and their ability to make their next Mortgage payment;

WHEREAS, in an attempt to help those Customers who were concerned they would not be able to make their next Mortgage payment, Wells Fargo provided Mortgage Forbearances to certain Customers who had expressed hardship or potential hardship, but had not explicitly requested a Forbearance, including some customers who did not want a Forbearance;

WHEREAS, a Forbearance temporarily suspends a Customer’s obligation to make payments on their Mortgage;

WHEREAS, Wells Fargo believes that the vast majority of Customers who received a Forbearance requested or wanted and used the Forbearance;

WHEREAS, since 2020, Wells Fargo has worked to address any Customer complaints regarding Forbearances and to make any injured Customers whole;

WHEREAS, Plaintiffs’ pleadings filed in the respective Actions alleged, among other things, that Wells Fargo placed Customers, including Plaintiffs, into a Forbearance without their informed consent, and asserted claims for breach of contract, breach of fiduciary duty, fraud, unjust

¹ Capitalized terms are defined in Section I.

enrichment, negligence, negligent misrepresentation and violations of TILA, RESPA, FCRA, RICO and the State Statutes, among others;

WHEREAS, Wells Fargo denies each and all of the claims and allegations of wrongdoing made by Plaintiffs; denies that it has violated any law or other duty; denies that it has engaged in any wrongdoing or any other act or omission that would give rise to liability or cause Plaintiffs' injuries, damages, or entitlement to any relief; denies that it placed any individual into a Forbearance in an attempt to make a profit; and would contest certification of a non-settlement Rule 23(b)(3) damages class and/or a Rule 23(b)(1) or Rule 23(b)(2) declaratory and injunctive relief class if Plaintiffs sought to certify such classes; and states that it is entering into this Agreement to avoid the further uncertainty, expense, inconvenience, delay, and distraction of burdensome and protracted litigation, and thereby to put to rest this controversy with respect to Plaintiffs and the Class and avoid the risks inherent in complex litigation;

WHEREAS, the Settling Parties have engaged in extensive formal and informal discovery concerning the strength and value of Plaintiffs' claims;

WHEREAS, the Consolidated Plaintiffs and Wells Fargo attended mediation sessions in front of Robert A. Meyer on July 21, 2021, August 5, 2021, and August 20, 2021, which resulted in an impasse;

WHEREAS, the *Echard* Plaintiffs and Wells Fargo attended mediation sessions in front of the Honorable Andrew Guilford (Ret.) on April 6, 2022, April 28, 2022, May 18, 2022, and July 19, 2022, which resulted in Judge Guilford making, and the parties accepting, a mediator's settlement proposal;

WHEREAS, the *Echard* Plaintiffs and Wells Fargo executed a settlement agreement on or about September 8, 2022;

WHEREAS, the *Echard* Plaintiffs thereafter moved for preliminary approval of the *Echard* Settlement in front of the Honorable Michael Watson of the U.S. District Court for the Southern District of Ohio;

WHEREAS, the Consolidated Plaintiffs moved to intervene in the *Echard* action and object to the *Echard* Settlement;

WHEREAS, on March 15, 2023, Judge Watson stayed the *Echard* action pending resolution of *In re Wells Fargo Forbearance Litigation* without ruling on the pending motion for preliminary approval of the *Echard* Settlement;

WHEREAS, on October 3, 2023 and October 24, 2023, the Consolidated Plaintiffs, Wells Fargo, and the *Echard* Plaintiffs attended mediation sessions in front of the Honorable Layn Phillips (Ret.);

WHEREAS, following the two October 2023 mediation sessions, Judge Phillips made, and the Consolidated Plaintiffs and Wells Fargo accepted, a mediator's recommendation to settle the Actions on the monetary and class composition terms described herein to which the *Echard* Plaintiffs subsequently assented;

WHEREAS, the Settling Parties attended a third mediation session in front of the Honorable Layn Phillips (Ret.) on December 3, 2023, to address issues other than the proposed class definition and settlement amount;

WHEREAS, on February 8, 2024, Defendants and the Consolidated Plaintiffs filed status reports in *Echard* at Dkt. Nos. 175, 176;

WHEREAS, a Term Sheet was fully executed on February 12, 2024 ("Term Sheet");

WHEREAS, as a condition of the Term Sheet, the Parties agreed to seek transfer of the Consolidated Action to the Southern District of Ohio;

WHEREAS, that motion to transfer was granted;

WHEREAS, the Settling Parties executed a settlement on or about April 15, 2024, which Plaintiffs thereafter submitted to the Court for preliminary approval on April 17, 2024;

WHEREAS, the Settling Parties executed a First Amendment to the Settlement Agreement on or about May 17, 2024;

WHEREAS, the Settling Parties executed a Second Amendment to the Settlement Agreement on or about June 6, 2024, which superseded and replaced the First Amendment to the Settlement Agreement;

WHEREAS, the Court entered an order on July 1, 2024, which suggested that the Settling Parties consider revising the settlement agreement executed by Plaintiffs and Wells Fargo on or about April 15, 2024 and associated notices;

WHEREAS, Plaintiffs and Wells Fargo have agreed to the terms of this arm's-length Agreement, which embodies all of the terms and conditions of the Settlement between the Settling Parties, which, subject to the approval of the Court as provided below, will supersede any and all prior agreements between the Settling Parties, including, but not limited, to the Term Sheet entered into by the Parties on or about February 12, 2024; the settlement agreement entered into by Wells Fargo and the *Echard* Plaintiffs on or about September 8, 2022; and the settlement agreement entered into by Plaintiffs and Wells Fargo on or about April 15, 2024, and which was subsequently amended on or about May 17, 2024 and June 6, 2024, respectively;

WHEREAS, Plaintiffs have concluded, after due investigation and after carefully considering the relevant circumstances, including, without limitation, the claims asserted in the Actions' respective pleadings, the legal and factual defenses thereto and the applicable law, that the claims asserted in the Actions have merit and it is in the best interests of the Plaintiffs and the Class to enter into this Agreement to avoid the uncertainties of litigation and to assure that the benefits set forth below are obtained for the Plaintiffs and the Class, and, further, that Plaintiffs' Counsel consider the Settlement set forth in this Agreement to be fair, reasonable, and adequate and in the best interests of the Plaintiffs and the Class; and

WHEREAS, the Plaintiffs and Wells Fargo stipulate that the fact of this Agreement, any of the terms in this Agreement, any documents filed in support of this Agreement, or any statement made in the negotiation thereof shall not be deemed or construed to be an admission or evidence of (i) any violation of any statute or law, (ii) any liability or wrongdoing by Wells Fargo,

(iii) liability on any claims or allegations or the value thereof, or (iv) the propriety of certifying a litigation class in any proceeding, and shall not be used by any person for any purpose whatsoever in the Actions or any other legal proceeding, including but not limited to arbitrations, mediations, or subsequent litigations other than a proceeding to enforce the terms of this Agreement;

NOW, THEREFORE, IT IS HEREBY STIPULATED AND AGREED by and among the Settling Parties, by and through their attorneys of record, that, subject to the approval of the Court, the Actions and the Class Released Claims shall be finally and fully settled, compromised, and dismissed on the merits and with prejudice upon and subject to the terms and conditions of this Agreement, as follows:

I. DEFINITIONS

As used in the Agreement, the following terms have the meanings specified below:

1. “Actions” means, collectively, *Echard v. Wells Fargo Bank, N.A.*, Case No. 2:21-cv-05080-MHW-KAJ, currently pending in the United States District Court for the Southern District of Ohio, and *In re Wells Fargo Forbearance Litigation*, Case No. 2:24-cv-01026-MHW-EPD, currently pending in the United States District Court for the Southern District of Ohio, which were consolidated for settlement purposes only on June 12, 2024 under the case captioned *In re Wells Fargo COVID Forbearance Settlement Litigation*, Case No. 2:24-cv-1026.

2. “Administrator” or “Settlement Administrator” or “Claims Administrator” means Epiq Class Action & Claims Solutions, Inc.

3. “Agreement” means this First Amended Settlement Agreement entered into by the Settling Parties, which supersedes and replaces the settlement agreement entered into by the Settling Parties on or about April 15, 2024, as later amended on May 17, 2024 and June 6, 2024, respectively.

4. “Allocation Plan” means the plan to distribute Supplemental Payments to Eligible Class Members out of the Supplemental Payment Fund as set forth in Paragraph IV.D.2. of this Agreement.

5. “At-Issue Forbearance” means a Forbearance that Wells Fargo initially provided to a Customer Without Adequate Informed Consent between March 1, 2020 and December 31, 2021 without regard for the Forbearance’s end date.

6. “Automatic Payment” means the *pro-rata* fixed sum payments made to Eligible Class Members out of the Automatic Payment Fund as set forth in Paragraph IV.B.1.

7. “Automatic Payment Fund” means a \$69,000,000.00 fund that the Settlement Administrator will create after Final Approval utilizing funds from the Settlement Fund.

8. “Class” or “Class Member” means all persons in the United States who: (a) had a Mortgage serviced by Wells Fargo that was placed into a Forbearance Without Adequate Informed Consent between March 1, 2020 and December 31, 2021; and (b) were not a debtor or the Co-Borrower of a debtor in a Chapter 13 bankruptcy case on the date that the Mortgage was placed into the Forbearance; and (c) are not Wells Fargo’s officers, directors, or employees, Counsel for Wells Fargo, Class Counsel, or any judge involved in this action or their immediate families. The Class and Class Members include all individuals who signed the deed of trust, mortgage or other security document associated with a Mortgage even if they did not sign the underlying promissory note or loan.

9. "Class Counsel" refers to Consolidated Plaintiffs' Counsel and *Echard* Counsel, which the Court appointed as interim class counsel, for settlement purposes only, on June 12, 2024, until such time as the Court further appoints class counsel pursuant to Fed. R. Civ. P. 23(g). If the Court makes a further appointment of class counsel pursuant to Fed. R. Civ. P. 23(g), "Class Counsel" shall refer to those attorneys.

10. “Class List” means the list of Class Members to be created by Wells Fargo using the data and methodology that Wells Fargo previously provided to Consolidated Plaintiffs’ Counsel and *Echard* Counsel. The Class List will include information for the Class Members that is accessible to Wells Fargo in its system of record, including, to the extent that it is available, Class Member names, last known addresses, and email addresses.

11. “Class Notice” has the meaning set forth in Paragraph II.D. of the Agreement.
12. “Class Released Claims” has the meaning set forth in Paragraph III.A. of the Agreement.
13. “Class Releasers” has the meaning set forth in Paragraph III.A. of the Agreement.
14. “Class Releasees” has the meaning set forth in Paragraph III.A. of the Agreement.
15. “Class Representatives” means Plaintiffs Luis Castro, Marisol Castro, Pamela Delpapa, Jenna Doctor, Brian Echard, Patricia Foley, Samara Green, Patrick Healy, Barbara Prado, Renrick Robinson, and Vivian Robinson, and Heather Shimp.
16. “Co-Borrower” means an individual who is a co-signer on a Mortgage that Wells Fargo placed into an At-Issue Forbearance.
17. “Consolidated Action” or “*In re Wells Fargo Forbearance Litigation*” means *In re Wells Fargo Forbearance Litigation*, No. 2:24-cv-01026-MHW-EPD (S.D. Ohio), which consists of the following actions that were consolidated on August 19, 2022 for all pretrial proceedings: *Delpapa v. Wells Fargo Bank, N.A., et al.*, No. 2:24-cv-01026-MHW-EPD (S.D. Ohio); *Green v. Wells Fargo & Co., et al.*, No. 2:24-cv-01027 (S.D. Ohio); *Forsburg v. Wells Fargo & Co, et al.*, No. 2:24-cv-01030 (S.D. Ohio); and *Healy v. Wells Fargo Bank, N.A., et al.*, No. 2:24-cv-01028 (S.D. Ohio).
18. “Consolidated Plaintiffs” means Luis Castro, Marisol Castro, Pamela Delpapa, Jenna Doctor, Samara Green, Patrick Healy, Barbara Prado, Renrick Robinson, and Vivian Robinson.
19. “Consolidated Plaintiffs’ Counsel” shall refer to Derek Loeser, Gretchen Freeman Cappio, and Zachary Gussin of Keller Rohrback L.L.P.; Abbas Kazerounian and Jason Ibey of Kazerounian Law Group, APC; and Thad Bartholow and Karen Kellett of Kellett & Bartholow, PLLC.

20. “Counsel for Wells Fargo” shall refer to William Mayberry, Amy Williams, and Andrew Atkins of Troutman Pepper Hamilton Sanders, LLP and Christopher Viapiano and Brendan Cullen of Sullivan & Cromwell LLP.

21. “Court” shall refer to the United States District Court for the Southern District of Ohio.

22. “Customers” means individuals who had a Mortgage serviced by Wells Fargo.

23. “Day” or “Days” has the meaning ascribed to it in Federal Rule of Civil Procedure 6, and all time periods specified in this Agreement shall be computed in a manner consistent with that rule. All references to days shall be interpreted to mean calendar days, unless otherwise noted.

24. “Defendants” means Wells Fargo Bank, N.A. and Wells Fargo & Co.

25. “Distribution Plan” is the plan for distributing the Net Settlement Amount.

26. “*Echard*” or “*Echard Action*” means *Echard v. Wells Fargo Bank, N.A.*, Case No. 2:21-cv-05080-MHW-KAJ, currently pending in the United States District Court for the Southern District of Ohio.

27. “*Echard Counsel*” shall refer to Knoll Lowney, Claire Tonry, Marc Zemel, and Alyssa Koepfgen of Smith & Lowney PLLC and Nathan Hunter of Hunter & Hunter LLC.

28. “*Echard Plaintiffs*” means Brian Echard, Patricia Foley, and Heather Shimp.

29. “*Echard Settlement*” means the settlement in *Echard* filed with the Court on September 9, 2022 (Dkt. 108-1).

30. “Effective Date” means the first date by which all of the events and conditions specified in Paragraph VIII.A. of the Agreement have occurred and have been met.

31. “Eligible Class Member” means a Class Member who did not exclude himself or herself from the Settlement by the Exclusion/Objection Deadline.

32. “Exclusion/Objection Deadline” means the deadline for requesting exclusion from the Class or objecting to the Settlement, which shall be sixty (60) Days from the Notice Deadline.

33. “Execution Date” means the latest date associated with a signature on the fully executed Agreement as set forth on the Agreement’s signature pages.

34. “FCRA” means the Fair Credit Reporting Act.

35. “Fee and Expense Applications” means the applications submitted by Consolidated Plaintiffs’ Counsel and *Echard* Counsel to the Court for an award of attorneys’ fees and reimbursement of reasonable expenses incurred in connection with prosecuting the Actions not to exceed the amount set forth in Paragraph VII.A. of the Agreement.

36. “Fee and Expense Award” means any amounts that are awarded by the Court in response to the Fee and Expense Applications.

37. “Final” means, with respect to any order of the Court, including, without limitation, the Judgment, that such order represents a final and binding determination of all issues within its scope and is not subject to further review on appeal or otherwise. Without limitation, an order becomes “Final” when: (a) no appeal has been filed and the prescribed time for commencing any appeal has expired; or (b) an appeal has been filed and either (i) the appeal has been dismissed and the prescribed time, if any, for commencing any further appeal has expired, or (ii) the order has been affirmed in its entirety and the prescribed time, if any, for commencing any further appeal has expired. For purposes of this Agreement, an “appeal” includes appeals as of right, discretionary appeals, interlocutory appeals, proceedings involving writs of certiorari or mandamus, and any other proceedings of like kind. Any appeal or other proceeding pertaining solely to any order issued with respect to an application for attorneys’ fees and expenses consistent with this Agreement shall not in any way delay or preclude the Judgment from becoming Final.

38. “Final Approval” has the meaning set forth in Paragraph II.G. of the Agreement.

39. “Final Approval Hearing” means the hearing, to be scheduled by the Court, at which the Court will consider the Motion for Final Approval.

40. “Final Approval Order” has the meaning set forth in Paragraph II.G. of the Agreement.

41. “Forbearance” means any temporary suspension of a customer’s monthly mortgage payment obligations.

42. “Judge Watson” shall refer to the Honorable Michael H. Watson of the U.S. District Court for the Southern District of Ohio.

43. “Judgment” means the order of judgment and dismissal of the Action with prejudice.

44. “Mortgage” means a loan secured by residential real estate, including a purchase money loan (aka “mortgage loan”) home equity loan, or home equity line of credit.

45. “Net Settlement Amount” means all amounts in the Settlement Fund, including interest, which is available for distribution to Eligible Class Members after payment of any Fee and Expense Awards approved by the Court, any Service Awards approved by the Court, and the Settlement Administrator’s Costs and Expenses.

46. “Notice Deadline” means the deadline for the Settlement Administrator to send the Notice of Settlement and Claim Form to the Class Members in accordance with the Notice Plan and which shall be forty-five (45) Days after Preliminary Approval.

47. “Notice of Settlement” means the written notice of the Settlement that will be provided to the Class in substantially the same form and with substantially the same content as **Exhibit A.**

48. “Notice Plan” has the meaning set forth in Paragraph II.E. of the Agreement concerning the proposed form of notice to the Class.

49. “Opt-Out” means a person who falls within the definition of the Class who has timely and validly elected to be excluded from the Class pursuant to the procedures set forth in Paragraph VIII.C. of the Agreement. It does not include any person whose request for exclusion is challenged by Defendants and the challenge is not overruled by the Court or withdrawn by Defendants, any person whose communication is not treated as a request for exclusion, and/or any person whose request for exclusion is not valid or is otherwise void.

50. “Opt-Out List” is the list of Class Members who submit valid and timely Requests for Exclusion from the Class as set forth in Paragraph VIII.C. of the Agreement.

51. “Plaintiffs” means, collectively, the *Echard* Plaintiffs and the Consolidated Plaintiffs.

52. “Preliminary Approval” has the meaning set forth in Paragraph II.D. of the Agreement.

53. “Preliminary Approval Order” has the meaning set forth in Paragraph II.D. of the Agreement.

54. “Proactive Wells Fargo Business Decision” means:

- a. Customers who requested Forbearance on one Mortgage account between March 9, 2020 and April 7, 2020, and were provided a Forbearance on one or more other Mortgage accounts;
- b. Customers who contacted Wells Fargo by phone between March 9, 2020 and March 31, 2020, expressing COVID-19 impact and who were provided a Forbearance without an express request;
- c. Customers who sent a secured email to Wells Fargo conveying COVID-19 impact or hardship, or requesting assistance or information, between March 20, 2020 and April 2, 2020, and who were provided a Forbearance without an express request;
- d. Customers who had a pending application in the home preservation process as of March 25, 2020 and who were provided a Forbearance without an express request; and
- e. Customers who were in an active Chapter 7, 11 or 12 bankruptcy case and who filed a document with the bankruptcy court expressing COVID impact or requesting payments relief between March 18, 2020 and June 8, 2020 and who were provided a Forbearance without an express request.

55. “Protective Orders” means the Stipulated Protective Orders entered in the respective Actions.

56. “Remaining Amounts” means any monies that remain in the Settlement Fund after the Settlement Administrator distributes: (a) the Automatic Payments; (b) Supplemental Payments; (c) any Fee and Expense Award approved by the Court; (d) any Service Awards approved by the Court; and (e) the Settlement Administrator’s Costs and Expenses.

57. “RESPA” means the Real Estate Settlement Practices Act.

58. “RICO” means the Racketeer Influenced and Corrupt Organizations Act.

59. “Service Award” means any amounts that are awarded by the Court to Plaintiffs for their service as Class Representatives as described in Paragraph VII.E of the Agreement.

60. “Service Award Applications” has the meaning set forth in Paragraph VII.E of the Agreement.

61. “Settlement” means the settlement of the claims released by the Agreement.

62. “Settlement Administrator’s Costs and Expenses” means the Settlement Administrator’s costs and expenses to administer the Settlement.

63. “Settlement Fund” means the \$185,000,000 that will be deposited by Wells Fargo into an interest bearing account administered by the Settlement Administrator, plus any interest earned thereon, to cover the amounts to be paid for: (a) the Automatic Payments; (b) Supplemental Payments; (c) any Fee and Expense Award approved by the Court; (d) any Service Awards approved by the Court; and (e) the Settlement Administrator’s Costs and Expenses.

64. “Settlement Website” means the website created by the Settlement Administrator with a URL acceptable to the Settling Parties subject to Wells Fargo’s final right of approval.

65. “Settling Parties” means the Plaintiffs, both individually and on behalf of the Class, and Wells Fargo.

66. “State Statutes” means the California Consumer Credit Reporting Act, California Rosenthal Fair Debt Collection Practices Act, California Unfair Competition Law, Georgia Fair

Business Practices Act, New York Deceptive Trade Practices Act, Virginia Business Conspiracy Statute, Texas Debt Collection Act, Florida Consumer Collections Practices Act and the Ohio Deceptive Trade Practices Act.

67. “Supplemental Payment Fund” means the fund that the Settlement Administrator will create and utilize to distribute Supplemental Payments to Eligible Class Members pursuant to the Allocation Plan set forth in Paragraph V.A. The Supplemental Payment Fund will consist of the amounts remaining in the Settlement Fund after: (a) making Automatic Payments to Eligible Class Members from the Automatic Payment Fund; (b) deducting any Fee and Expense Award and Service Awards approved by the Court; and (c) paying for the Settlement Administrator’s Costs and Expenses.

68. “Supplemental Payments” means payments from the Supplemental Payment Fund for which Eligible Class Members may be considered pursuant to the Allocation Plan as set forth in Paragraph IV.B.2. of this Agreement.

69. “Term Sheet” means the Term Sheet agreed to by the Settling Parties on or about February 12, 2024.

70. “TILA” means the Truth in Lending Act.

71. “Wells Fargo” means Wells Fargo Bank, N.A. and Wells Fargo & Co.

72. “Without Adequate Informed Consent” means:

- a. the Mortgage entered Forbearance via Wells Fargo’s online banking or interactive voice response (“IVR”) portal before May 11, 2020, unless the customer (i) made no payments from the date that the Forbearance was requested and continuing during the entire Forbearance period²; (ii) also requested Forbearance via Wells Fargo’s online banking or IVR portal on or after May 11, 2020; or (iii) requested a Forbearance extension; or

² This exclusion shall not apply to customers who were set up on forbearance before April 15, 2020 and for whom Wells Fargo turned off automatic ACH mortgage payments.

- b. the Mortgage entered Forbearance as a result of a Proactive Wells Fargo Business Decision, unless the customer (i) requested forbearance online or through the IVR portal on or after May 11, 2020; or (ii) requested a Forbearance extension; or
- c. Wells Fargo previously determined that the Forbearance was provided in error.

73. As used in the Agreement, the plural of any defined terms includes the singular thereof and vice versa, except where the context requires otherwise.

74. “Plaintiff Stoff” means named plaintiff Michael Stoff in the *Stoff* Action.

75. “*Stoff* Action” means *Stoff v. Wells Fargo Bank, N.A.*, Case No. 37-2020-00020808-CU-BT-CTL, currently pending in the Superior Court of the State of California, County of San Diego.

76. “*Stoff* Class Members” means the class of individuals certified by the court in the *Stoff* Action in its February 5, 2024 Minute Order, which is defined as “All mortgagees with a mortgage in California whose accounts were current, who received a CARES Act forbearance on or after March 27, 2020 and whose account was reported as ‘in forbearance’ (or something similar) by Defendant to a consumer reporting agency.”

77. “*Stoff* Complaint” means the Third Amended Class Action Complaint filed in the *Stoff* Action on March 23, 2023.

78. “*Stoff* Claim” means Plaintiff Stoff’s cause of action for violation of California Civil Code § 1785.25(a) as set forth in the *Stoff* Complaint and pled as of March 23, 2023.

79. “*Stoff* Subclass” and “*Stoff* Subclass Members” means *Stoff* Class Members who are also members of the Class.

II. PRELIMINARY APPROVAL ORDER, NOTICE ORDER, AND SETTLEMENT HEARING

A. Transfer of *In re Wells Fargo Forbearance Litigation*

1. The Consolidated Plaintiffs and Wells Fargo filed a stipulated motion to transfer *In re Wells Fargo Forbearance Litigation* from the U.S. District Court for the Northern District of California to the U.S. District Court for the Southern District of Ohio. That order was granted on February 29, 2024.

2. The Consolidated Plaintiffs filed a Notice of Related Case pursuant to S.D. Ohio Civ. R. 3.1(b), seeking relation of *In re Wells Fargo Forbearance Litigation* and *Echard*. The Court designated the cases as related on April 3, 2024. On June 12, 2024, the Court consolidated *Echard* into the Consolidated Action for settlement purposes and renamed that action “*In re Wells Fargo COVID Forbearance Settlement Litigation*,” and appointed Consolidated Plaintiffs’ Counsel and *Echard* Counsel as interim class counsel for settlement purposes only. This Agreement and all related requests, including the Notice of Refiling, the Motion for Final Approval, Motion(s) for Appointment of Class Counsel pursuant to Rule 23(g), and Motions for Service Awards, Litigation Fees, and Costs, all will be presented in *In re Wells Fargo COVID Forbearance Settlement Litigation*.

B. Certification of Class

For settlement purposes only, the Settling Parties agree to certification of the Class pursuant to Fed. R. Civ. P. 23(a) and (b)(3). The Settling Parties do not agree to, and Plaintiffs do not pursue, class certification pursuant to Fed. R. Civ. P. 23(b)(2). The Settling Parties’ stipulation to the certification of the Class is for purposes of the Settlement set forth in this Agreement only. Wells Fargo’s agreement to certification of the Fed. R. Civ. P. 23(b)(3) Class is solely for the purpose of this Agreement and does not, and shall not, constitute, in this or any other proceeding, an admission by Wells Fargo of any kind or any determination that certification of a class for trial or other litigation purposes in the Actions or any other separate action is, or would be, appropriate. If the Settlement is not granted Final Approval or this Agreement is otherwise terminated or rendered null and void, the certification of the Class shall be automatically vacated and shall not

constitute evidence of or any determination that the requirements for certification of a class for trial or other litigation purposes in the Actions or any other action are satisfied; in such circumstances, Wells Fargo reserves all rights to challenge certification of any class for trial or other litigation purposes in the Actions or in any other action on all available grounds as if no class had been certified in the Actions for purposes of the Settlement.

C. Appointment of Class Counsel

If the Court has not already appointed Class Counsel, then concurrently with the filing of the Motion for Final Approval with the Court as set forth in paragraph II.G below, *Echard* Counsel and Consolidated Plaintiffs' Counsel will petition for appointment of Class Counsel as provided by separate agreement addressing leadership, decision-making and other divisions of responsibilities, if such agreement is reached. If no agreement is reached, *Echard* Counsel and Consolidated Plaintiffs' Counsel shall each simultaneously file, concurrently with the Motion for Final Approval separate motions pursuant to Fed. R. Civ. P. 23(g) seeking appointment as Class Counsel with authority to act on behalf of the Class, unless ordered otherwise by the Court. Consolidated Plaintiffs' Counsel and *Echard* Counsel expressly reserve the right to make any argument regarding any matter they deem appropriate in connection with these motions. Notwithstanding the appointment of Class Counsel, all counsel may seek court-awarded litigation expenses and attorneys' fees for time and expenses reasonably expended in the Actions by a single or separate motions in the Actions as set forth in paragraph VII.A.

D. Motion for Preliminary Approval

Plaintiffs previously submitted a Joint Motion for Preliminary Approval of Class Action Settlement and Certification of Settlement Class on April 17, 2024, which is still pending before the Court. Class Counsel shall submit a Notice of Refiling and Proposed Order that would, for

settlement purposes only: (1) preliminarily approve this Settlement (“Preliminary Approval”); and (2) certify a conditional settlement class pursuant to Fed. R. Civ. P. 23(a) and (b)(3). Motions to appoint Class Counsel shall be made separate from the Motion for Final Approval as set forth in paragraph II.C.

E. Class Notices

As part of the Motion for Preliminary Approval, Consolidated Plaintiffs’ Counsel and *Echard* Counsel shall submit to the Court for approval a proposed form of, method for, and schedule for dissemination of notice to the Class that is acceptable to Wells Fargo (the “Notice Plan”). The Notice Plan shall include direct notice by email, where an email address is available in Wells Fargo’s records, or by postcard, where no email address is known. In addition, a Settlement Website will be established by the Settlement Administrator, with a URL acceptable to the Settling Parties subject to Wells Fargo’s final right of approval. The Motion for Preliminary Approval shall ask the Court to find that the proposed form of and method for dissemination of notice to the Class constitutes valid, due, and sufficient notice to the Class; constitutes the best notice practicable under the circumstances; and complies fully with the requirements of Fed. R. Civ. P. 23 and constitutional due process. The proposed form of notice to the Class pursuant to the Notice Plan (“Class Notice”) is attached hereto as **Exhibit A**. The Preliminary Approval Order, Class Notice, and Notice Plan must be agreed to by Wells Fargo before submission to the Court.

Wells Fargo shall provide the Class List to Class Counsel and the Settlement Administrator as soon as practicable after the Execution Date, but no later than five (5) Days after Preliminary Approval. The Settlement Administrator will use reasonable efforts to update and confirm the accuracy of the Class Members’ contact information in the Class List through the United States Postal Service change of address system.

On or before the Notice Deadline (forty-five (45) Days after Preliminary Approval), the Settlement Administrator shall send the Notice of Settlement and Claim Form to the Class Members in accordance with the Notice Plan.

F. Class Action Fairness Act Notices

Wells Fargo, through the Administrator, shall be responsible for providing all notices required by the Class Action Fairness Act of 2005, 28 U.S.C. § 1715.

G. Motion for Final Approval and Entry of Final Judgment

As soon as practicable following the Exclusion/Opt Out Deadline and not less than fourteen (14) days prior to the date set by the Court to consider whether this Settlement should be finally approved, Class Counsel shall submit a Motion for Final Approval of the Settlement by the Court, a courtesy copy of which shall be sent to Wells Fargo prior to submission by Class Counsel, who shall evaluate in good faith Wells Fargo's proposed edits and confer regarding any edits with which they disagree. Class Counsel further agree that the Motion for Final Approval will be limited to solely discussing the fairness and adequacy of the Settlement Agreement without any discussion of the *Echard* Settlement or the conduct of counsel. Class Counsel shall seek entry of the Final Approval Order and Judgment, which shall be approved as to form and content by Wells Fargo prior to submission by Class Counsel, containing at least the following:

1. Finding that the Court has personal jurisdiction over Plaintiffs and all Class Members and that the Court has subject matter jurisdiction to approve this Settlement and Agreement;
2. Certifying the Class, pursuant to Fed. R. Civ. P. 23(a) and (b)(3), solely for purposes of this Settlement;
3. Fully and finally approving this Agreement and its terms as being fair, reasonable, and adequate within the meaning of Fed. R. Civ. P. 23, and directing its consummation pursuant to its terms and conditions;
4. Finding that the notice given to the Class Members pursuant to the Notice Plan and Class Notice (i) constituted the best notice practicable under the circumstances; (ii) constituted notice that was reasonably calculated under the circumstances to apprise Class Members of the pendency of the Actions, of their right to object to or exclude themselves from the proposed

Settlement as applicable, of their right to appear at the Final Approval Hearing, and of their right to seek relief; (iii) constituted reasonable, due, adequate, and sufficient notice to all Persons entitled to receive notice; and (iv) complies in all respects with the requirements of Fed. R. Civ. P. 23, due process, and any other applicable law;

5. Finding that Class Counsel and Plaintiffs adequately represented Class Members for purposes of entering into and implementing this Agreement and Settlement;

6. Directing that the Actions and claims for damages be dismissed with prejudice and, except as otherwise explicitly provided for in the Agreement, without costs;

7. Discharging and releasing the Class Releasees from all Class Released Claims;

8. Permanently barring and enjoining the institution and prosecution, by Class Releasers, of any and all of the Class Released Claims;

9. Approving the Opt-Out List and determining that the Opt-Out List is a complete list of all persons who have timely and validly requested exclusion from the Class, and accordingly, who shall neither share in nor be bound by the Final Approval Order and Judgment;

10. Determining that the Agreement and the Settlement provided for therein and any proceedings taken pursuant to it are not and should not in any event be offered or received as evidence of a presumption, concession, acknowledgment, or an admission of liability or of any wrongdoing by Wells Fargo or the Class Releasees or of the suitability of these or similar claims to class treatment for litigation, trial, or any other purpose except settlement; provided, however, that reference may be made to this Agreement and the Settlement provided for herein in such proceedings as may be necessary to effectuate the Agreement;

11. Reserving continuing and exclusive jurisdiction over the Settlement, including all future proceedings concerning the administration, consummation, and enforcement of this Agreement;

12. Authorizing the Settling Parties, without further approval from the Court, to agree to and adopt such amendments, modifications, and expansions of this Agreement as shall be

consistent in all material respects with the Final Approval Order and Judgment and not limit the rights of the Settling Parties or Class Members; and

13. Containing such other and further provisions consistent with the terms of this Agreement to which the Settling Parties expressly consent in writing.

H. Non-Suit

Upon the date that the Court enters the Preliminary Approval Order, Plaintiffs and all Class Members shall be barred and enjoined from commencing or instituting any new action or any proceeding of any kind (including, but not limited, to an action for actual damages, statutory damages, and/or exemplary or punitive damages) in any court of law, arbitration tribunal, administrative forum, or other forum of any kind worldwide, based on the Class Released Claims.

III. RELEASES

Upon the Effective Date, and pursuant to the Court's entry of the Final Approval Order and Judgment, the Settling Parties provide the following releases:

A. Plaintiffs and Class Release of Wells Fargo

Plaintiffs and each and every Class Member, individually or together, and each and every one of their former, present, or future agents, predecessors, successors, heirs, legatees, executors, administrators, insurers, assigns, and trustees, ("Class Releasers") releases and fully discharges Wells Fargo, and each of its former, present, or future agents, insurers, predecessors, successors, subsidiaries, parent company(ies), affiliates, officers, directors, employees, and attorneys ("Class Releasees") from all claims asserted in the Actions and from any and all past and/or present claims, counterclaims, lawsuits, set-offs, costs, losses, rights, demands, charges, complaints, actions, causes of action, obligations, or liabilities of any and every kind, whether class, individual, or otherwise in nature, including, without limitation, those known or unknown or capable of being known; those which are unknown but might be discovered or discoverable based upon facts other than or different from those facts known or believed at this time; those which are foreseen or unforeseen, suspected or unsuspected, asserted or unasserted, and/or contingent or non-contingent;

and those which are accrued, unaccrued, matured or not matured, under the laws of any jurisdiction, which they, whether directly, representatively, derivatively, or in any other capacity, ever had, now have, or hereafter can, shall, or may have, resulting from, arising from, or relating in any way to the At-Issue Forbearances that Class Releasees provided to the Class Releasers (the “Class Released Claims”).

1. No Future Actions Following Release

The Class Releasers shall not after the Effective Date seek (directly or indirectly) to commence, institute, maintain, or prosecute any suit, action, or complaint of any kind (including, but not limited to, claims for actual damages, statutory damages, restitution, and exemplary or punitive damages) against Class Releasees (including pursuant to the Actions), based on the Class Released Claims, in any forum worldwide, whether on his or her own behalf or as part of any putative, purported, or certified class or as part of an action by any other plaintiff on his or her behalf.

2. Covenant Not to Sue

Class Releasers hereby covenant not to sue the Class Releasees with respect to any Class Released Claims, including any claims that Class Releasers, or any of them, does not know or suspect to exist in his or her favor at the time of the release that if known by him or her, might have affected his or her settlement with and release of the Class Releasees, or might have affected his or her decision not to object to or opt-out of this Settlement. Class Releasers shall be permanently barred and enjoined from instituting, commencing, or prosecuting any claims against the Class Releasees of any kind (including, but not limited to, for actual damages, statutory damages, restitution, and exemplary or punitive damages) based on the Class Released Claims.

The Class Releasers contemplate and agree that this Agreement may be pleaded as a bar to a lawsuit, and an injunction may be obtained preventing any action from being initiated or maintained, in any case sought to be prosecuted on behalf of any Class Releasers (including, but

not limited to, for actual damages, statutory damages, and exemplary or punitive damages) based on the Class Released Claims.

3. Waiver of California Civil Code § 1542 and Similar Laws

In addition, the Class Releasers expressly acknowledge that they are familiar with and, upon Final Approval of this Settlement, waive and release with respect to the Class Released Claims any and all provisions, rights, and benefits conferred (a) by Section 1542 of the Civil Code of the State of California, which reads:

A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF KNOWN BY HIM OR HER MUST HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR;

(b) by any and all equivalent, similar, or comparable federal or state rules, regulations, laws, or principles of law of any other jurisdiction that may be applicable herein; and/or (c) any law or principle of law of any jurisdiction that would limit or restrict the effect or scope of the provisions of the release set forth in the Agreement. The Class Releasers expressly agree that for the consideration received under this Agreement, it is their intention to release, and they are releasing, all Class Released Claims, including any claims that Class Releasers, or any of them, does not know or suspect to exist in his or her favor at the time of the release that if known by him or her, might have affected his or her settlement with and release of the Class Releasees, or might have affected his or her decision not to object to or opt-out of this Settlement. The Class Releasers acknowledge that they may hereafter discover claims or facts other than or different from those which they know, believe, or suspect to be true with respect to the subject matter of the Class Released Claims, but the Class Releasers expressly waive and fully, finally, and forever settle and release any and all past, present, and future claims, counterclaims, lawsuits, set-offs, costs, losses, rights, demands, charges, complaints, actions, causes of action, obligations, or liabilities of any

and every kind, whether class, individual, or otherwise in nature, including, without limitation, those known or unknown or capable of being known; those which are unknown but might be discovered or discoverable based upon facts other than or different from those facts known or believed at this time; those which are foreseen or unforeseen, suspected or unsuspected, asserted or unasserted, and/or contingent or non-contingent; and those which are accrued, unaccrued, matured or not matured, all from the beginning of the world until the Effective Date, under the laws of any jurisdiction, which Class Releasers or any of them, whether directly, representatively, derivatively, or in any other capacity, ever had, now have, or hereafter can, shall, or may have, arising out of the Class Released Claims. The release of unknown, unanticipated, unsuspected, unforeseen, and unaccrued losses or claims in this paragraph is contractual and not a mere recital.

4. Dismissal

Subject to Court approval, all Class Releasers shall be bound by this Agreement, and all of their claims shall be dismissed with prejudice and released, even if they never received actual notice of the Actions or this Settlement.

5. Agreement To Be Bound

All members of the Class shall be subject to and bound by the provisions of this Settlement Agreement, the Class Released Claims, and the Judgment with respect to all Class Released Claims regardless of whether such Class Members obtain payment pursuant to the Settlement.

B. Release Carve out for *Stoff* Subclass Members

Notwithstanding the foregoing Section III.A, *Stoff* Subclass Members do not release Class Releasees from the *Stoff* Claim. This carve out for *Stoff* Subclass Members is limited to the *Stoff* Claim and all other Class Released Claims are released. Class Releasees reserve the right to argue in the *Stoff* Action that any payments that *Stoff* Subclass Members receive from the Settlement Fund should offset any potential recovery in the *Stoff* Action. Plaintiff *Stoff* reserves the right to argue in the *Stoff* Action that any payments that *Stoff* Subclass

Members receive from the Settlement Fund should not offset any potential recovery in the *Stoff* Action.

IV. SETTLEMENT CONSIDERATION

In full, complete, and final settlement of any and all claims in the Actions, and as consideration for the releases provided by this Agreement, Wells Fargo agrees as follows:

A. Settlement Fund

Within forty-five (45) Days after Preliminary Approval of the Settlement, Wells Fargo agrees to deposit the sum of \$185,000,000 into a Settlement Fund to be maintained by the Settlement Administrator and used to pay for the following obligations under this Agreement: (1) Automatic Payments to Eligible Class Members from the Automatic Payment Fund; (2) Supplemental Payments to Eligible Class Members from the Supplemental Payment Fund; (3) any Fee and Expense Award(s) approved by the Court; (4) any Service Awards approved by the Court; and (5) all costs and expenses associated with administering the Settlement. In no event shall Wells Fargo deposit any additional funds into the Settlement Fund to cover any obligations set forth in the Agreement. Wells Fargo shall have no responsibility or liability for the maintenance, preservation, investment, or distribution of any amount of the Settlement Fund.

B. Distribution of Net Settlement Amount.

The Net Settlement Amount shall be distributed according to the Distribution Plan. In summary:

1. Automatic Payments.

Within thirty (30) Days of the Effective Date, the first \$69 million (\$69,000,000.00) will be distributed equally to Eligible Class Members based upon the number of At-Issue Forbearances. Eligible Class Members who are co-borrowers on a Mortgage that received an At-Issue Forbearance will be treated as a single Class Member for the purposes of receiving an Automatic Payment.

2. Supplemental Payment Fund.

a. The remainder of the Net Settlement Amount shall be placed into a Supplemental Payment Fund and available to pay Supplemental Payments to Eligible Class Members based on an Allocation Plan. Supplemental Payments to Eligible Class Members shall be made as soon as reasonably practicable. The Allocation Plan shall allow Eligible Class Members who are co-borrowers on a Mortgage to receive Supplemental Payments for individually incurred damages.

b. No later than April 12, 2024, (sixty (60) days after the execution of the Term Sheet), Consolidated Plaintiffs' Counsel shall provide *Echard* Counsel and Counsel for Wells Fargo a proposed Allocation Plan which shall be designed in a manner to ensure that it (i) will not be dilutive of the recovery that Eligible Class Members would have received under the *Echard* Settlement, and (ii) will compensate for the forms of damages compensable under the *Echard* Settlement. *Echard* Counsel shall have the right to review the Allocation Plan for the purpose of confirming that it is not dilutive, and, in the event that *Echard* Counsel reasonably believes the Allocation Plan does not prevent dilution, Plaintiffs shall meet and confer in an effort to resolve the issue. If Plaintiffs are unable to reach an agreement on a final proposed Allocation Plan, they agree to first raise the dispute with Layn Phillips to attempt to mediate a resolution, and, if that is unsuccessful, to submit the dispute to the Court for its consideration. Plaintiffs agree that Wells Fargo shall not incur any mediator expense in connection with any disagreement over the Allocation Plan. Submission of the Motion for Preliminary Approval, the hearing on the Motion for Preliminary Approval, and the implementation of the Notice Plan shall not be delayed by any disagreement among Plaintiffs regarding the Allocation Plan. The Allocation Plan shall be submitted to the Court for approval with the Motion for Preliminary Approval.

c. Subject to the conditions set forth in paragraph IV.B.2.b, Wells Fargo bears no responsibility and plays no role in the Allocation Plan.

3. Remaining Amounts

Remaining Amounts shall be distributed *pro-rata* to Eligible Class Members who cashed a previous Settlement check on a Mortgage account basis (i.e., co-borrowers on Mortgage treated as a single Class Member), unless Eligible Class Members would receive less than \$10, in which case the Remaining Amounts would be distributed to a *cy pres* recipient approved by the Court or treated pursuant to state unclaimed funds procedures.

4. Administrative Costs and Expenses

All necessary costs to administer the terms of this Settlement, including but not limited to the costs of the Notice Plan and the Settlement Administrator, and payment of taxes, shall be paid for exclusively out of the Settlement Fund, provided, however, that payment of any expenses of the Settlement Administrator in excess of \$577,500 shall require application and approval by the Court. Wells Fargo shall have no responsibility or liability for the maintenance, preservation, investment, or distribution of any amount of the Settlement Fund. Up to \$500,000.00 from the Settlement Fund may be used to pay the Settlement Administrator for initial costs and expenses for implementing the terms of the Agreement after Preliminary Approval but before Final Approval.

V. NOTICE AND ADMINISTRATION OF SETTLEMENT

A. Claim Form

The Claim Form shall be prepared in connection with the Allocation Plan and submitted to the Court with the Notice of Refiling. The Claim Form will allow Class Members to submit and complete the Claim Form online and by electronic signature and will include a link to the Settlement Website and/or a QR Code or any other appropriate available technology to allow Class Members to submit claims electronically. Class Members will also be able to complete, sign, and mail a copy of the completed Claim Form to the Settlement Administrator, or upload it to the Settlement Website.

B. Notice

The Notice shall be substantially in conformance with the format and content set forth in **Exhibit A** to this Agreement, subject to reasonable modifications required by the Court.

C. Time to Appeal

The time to appeal from an approval of the Settlement shall commence upon the Court's entry of the Judgment regardless of whether or not the Fee and Expense Application(s) has been submitted to the Court or resolved.

D. No Liability for Distribution of the Settlement Fund

The Settling Parties shall not have any liability with respect to the distribution of payments; the determination, administration, or calculation of claims; or any losses incurred in connection with any such matters. In addition to the releases set forth herein, the Class Releasers hereby fully, finally, and forever release, relinquish, and discharge the Class Releasees, and their counsel from any and all such liability. No Person shall have any claim against the Settlement Administrator based on the distributions made substantially in accordance with this Agreement.

VI. DUTIES OF THE SETTLEMENT ADMINISTRATOR

A. The Settlement Administrator Will Administer the Settlement

The Settlement Administrator shall be responsible for the following tasks:

1. Conducting a National Change of Address search to obtain up-to-date address information on Class Members prior to disseminating the Notice of Settlement;
2. Printing and disseminating the Notice of Settlement by email (where available) and first-class mail (where email is not available) to each and every Class Member;
3. Printing and disseminating the applicable Claim Form by email (where available) and first-class mail (where email is not available) to each and every Class Member;
4. Furnishing promptly to Class Counsel and Counsel for Wells Fargo copies of any Requests for Exclusion, Opt-Out Forms, objections, or other written or electronic communications from each Class Member that the Settlement Administrator receives;

5. Determining the amount of the Automatic Payments and the Supplemental Payments owed to Eligible Class Members in accordance with this Agreement;
6. Keeping track of each request for exclusion and Opt-Out form, including maintaining the original mailing envelope in which the request for exclusion or Opt-Out form was mailed and reporting to Counsel for both sides the total number and identities of those who have requested exclusion or returned completed Opt-Out forms;
7. Taking all steps necessary to implement the Distribution Plan, including issuing Automatic Payments and Supplemental Payments;
8. Skip-tracing or otherwise attempting to ascertain current address information for each Settlement check returned as undeliverable;
9. Placing a stop-pay order on all Settlement checks not cashed before their void date;
10. Working with Class Counsel to take appropriate measures to maximize the number of Class Members who receive and deposit the Automatic and Supplemental Payment checks awarded to them, which actions may include providing additional notice, reissuing checks, and extending deadlines as mutually agreed to by Class Counsel and Wells Fargo;
11. Performing all tax reporting duties required by federal, state, and/or local law related to the administration of the Settlement Fund, any Automatic Payments, Supplemental Payments, Fee and Expense Award(s), and Service Awards pursuant to this Settlement Agreement;
12. Responding to inquiries of Class Members regarding the terms of Settlement and procedures for filing objections, requests for exclusion, and Claim Forms;
13. Referring to Class Counsel all inquiries by Class Members regarding matters not within the Settlement Administrator's duties specified herein and contemporaneously giving Class Counsel, and Counsel for Wells Fargo notice of all such inquiries;

14. Responding to inquiries of Class Counsel regarding Class Members who have contacted Class Counsel regarding the terms of the Settlement and contemporaneously giving Class Counsel and Counsel for Wells Fargo notice of all such inquiries;

15. Apprising Class Counsel, and Counsel for Wells Fargo of the activities of the Settlement Administrator via a weekly report, including status reports regarding the Class Notice, requests for exclusion, completed Opt-Out forms, and completed Claim Forms received, and promptly providing copies to Class Counsel, and Counsel for Wells Fargo of such documents and all electronic or written communications between the Settlement Administrator and any Class Member;

16. Responding to requests for further information from Class Members via a toll-free number or an email, including providing a copy of this Settlement Agreement, the operative Complaints in the Actions, or any other materials available on the Settlement Website, to any Class Member who requests such documents;

17. Creating and maintaining the Settlement Website, and removing the Settlement Website from the Internet promptly if the Settlement is terminated or if the Court denies Final Approval of the Settlement, and, in any event, within one hundred and eighty (180) Days after all Remaining Amount payments have been disbursed;

18. Obtaining approval from the Settling Parties for the name of the Settlement Website before publishing;

19. Maintaining adequate records of its activities, including the dates of the mailing of Class Notice(s), second mailing, requests for exclusion, and Opt-Out forms, returned mail and other communications, and attempted written or electronic communications with Class Members;

20. Confirming in writing the substance of its activities and its completion of the administration of the Settlement;

21. Responding timely to communications from Class Counsel or Counsel for Wells Fargo;
22. Reporting timely each Automatic Payment, Supplemental Payment, and Remaining Amounts payment on an IRS Form W-2 and IRS Form 1099 to each applicable Class Member;
23. Reporting timely on an IRS Form 1099 the Fee and Expense Award(s) and Service Awards to the Consolidated Plaintiffs' Counsel, *Echard* Counsel, and Class Representatives, respectively;
24. Providing assistance with mailing the CAFA notices required by the Settlement Agreement which shall be provided to the appropriate federal and state officials within ten (10) Days after the filing of the Preliminary Approval Motion pursuant to 28 U.S.C. § 1715;
25. Emailing and/or calling Class Members who did not cash their Automatic Payment or Supplemental Payment checks so that a new Settlement check can be issued;
26. Disbursing any Remaining Amounts of the Settlement Fund in accordance with Paragraph IV.B.3. of the Agreement; and
27. Performing such other tasks as Class Counsel and Counsel for Wells Fargo mutually agree or that are specified in this Agreement.

B. The Settlement Administrator shall keep all information it obtains relating to the identification and contact information of Class Members strictly confidential pursuant to the Protective Orders previously entered in the Actions and use it only for the sole purposes described herein and shall destroy or return all such information to Counsel for Wells Fargo upon completion of the Settlement administration tasks. Furthermore, upon completion of its duties, the Settlement Administrator shall destroy or return to Consolidated Plaintiffs' Counsel, *Echard* Counsel and Counsel for Wells Fargo all documents related to the Actions, including all documents it received in connection with this case from the Settling Parties, Class Members, Plaintiffs, or any other individuals (including, but not limited to, objections, Requests for Exclusion, and Opt-Out Forms).

C. Consolidated Plaintiffs' Counsel, *Echard* Counsel and Counsel for Wells Fargo will provide the Settlement Administrator with a copy of this Settlement Agreement which identifies and lists duties to be performed by the Settlement Administrator, as described above.

D. All disputes relating to the Settlement Administrator's ability and need to perform its duties shall be resolved jointly by Class Counsel and Counsel for Wells Fargo consulting in good faith. If Class Counsel and Counsel for Wells Fargo are unable to reach agreement, either may raise the disagreement with the Court.

VII. SERVICE AWARDS, ATTORNEYS' FEES, AND REIMBURSEMENT OF EXPENSES

A. Fee and Expense Application(s)

Consolidated Plaintiffs' Counsel and *Echard* Counsel each may submit an application or applications (the "Fee and Expense Application(s)") to the Court for payment of: (a) an award of attorneys' fees; plus (b) reimbursement of reasonable and actual expenses incurred in connection with prosecuting the Actions; plus (c) any interest on such attorneys' fees and expenses at the same rate and for the same periods as earned by the Settlement Fund as may be awarded by the Court. Consolidated Plaintiffs' Counsel and *Echard* Counsel agree that the Fee Application(s) will not seek an amount in excess of twenty five percent (25%) of the Settlement Fund for attorneys' fees, plus reasonable and actual expenses. The apportionment of the litigation fees and costs awarded by the Court will be divided among *Echard* Counsel and Consolidated Plaintiffs' Counsel as provided under the separate agreement between them, if such agreement is reached, unless otherwise ordered by the Court. If no such agreement has been reached, the apportionment of the litigation fees and costs, as between Consolidated Plaintiffs' Counsel and *Echard* Counsel, shall be determined by the Court on separate motions submitted in the respective Actions or as ordered otherwise by the Court. Nothing in this Settlement Agreement precludes any party from objecting to another party's Fee and Expense Application.

B. Payment of Fee and Expense Award

Any amounts that are awarded by the Court pursuant to the paragraph above (the “Fee and Expense Award”) shall remain in the Settlement Fund until resolution of all appeals related to the Fee and Expense Award, at which time it shall be paid by the Settlement Administrator from the Settlement Fund, unless ordered otherwise by the Court or agreed to by Consolidated Plaintiffs’ Counsel and *Echard* Counsel.

C. Award of Attorneys’ Fees and Expenses Shall Not Impact the Effectiveness of this Agreement

The procedure for and the allowance or disallowance by the Court of the Fee and Expense Application(s) are not part of the Settlement set forth in this Agreement and are to be considered by the Court separately from the Court’s consideration of the fairness, reasonableness, and adequacy of the Settlement set forth in this Agreement. Any order or proceeding relating to the Fee and Expense Application(s), or any appeal from any Fee and Expense Award or any other order relating thereto or reversal or modification thereof, shall not operate to (i) delay the implementation of this Agreement, including making the distributions to Eligible Class Members as further set forth in Paragraph IV.B.1-3 of this Agreement, or (ii) terminate or cancel this Agreement. Further, no order of the Court or modification or reversal on appeal of any order of the Court concerning any Fee and Expense Award shall constitute grounds for delaying the implementation, or cancellation or termination of, this Agreement.

D. No Liability for Attorneys’ Fees and Expenses of Consolidated Plaintiffs’ Counsel and *Echard* Counsel

Neither the Class Releasees nor their counsel shall have any responsibility for, interest in, or liability whatsoever with respect to any payment(s) to Consolidated Plaintiffs’ Counsel or *Echard* Counsel pursuant to this Agreement and/or to any other Person who may assert some claim thereto or any Fee and Expense Award that the Court may make in the Actions, other than as set forth in this Agreement. Similarly, neither the Class Releasees nor their counsel shall have any responsibility for, interest in, or liability whatsoever with respect to allocation among Consolidated

Plaintiffs' Counsel or *Echard* Counsel, and/or any other person who may assert some claim thereto, of any Fee and Expense Award that the Court may make in the Actions.

E. Class Representatives' Service Award Application

Consolidated Plaintiffs' Counsel, *Echard* Counsel, and Class Representatives may submit application(s) to the Court for a Service Award ("Service Award Applications"). Consolidated Plaintiffs' Counsel, *Echard* Counsel and Class Representatives agree that the Service Award Applications shall not exceed \$12,500 for each Class Representative for their time, effort, and expense in prosecuting this litigation and achieving this Settlement. Any Service Awards that are awarded by the Court shall be paid from the Settlement Fund. Any Service Awards, plus interest that has accrued on the Service Award while held in escrow, shall be paid by the Settlement Administrator from the Settlement Fund within thirty (30) Days of the Effective Date.

VIII. CONDITIONS OF SETTLEMENT AND EFFECT OF DISAPPROVAL, CANCELLATION, OR TERMINATION

A. Effective Date.

The Effective Date of this Agreement shall be conditioned on the occurrence of all of the following events:

1. Wells Fargo no longer has any right to terminate this Agreement, nor is there a possibility of termination of this Agreement as set forth herein or, if Wells Fargo does have such right, Wells Fargo has given written notice to Plaintiffs' Counsel that it will not exercise such right and Plaintiffs, through Class Counsel, no longer have the right to terminate this Agreement pursuant to VIII.E;
2. The Court has finally approved the Settlement as described herein, following notice to the Class and a hearing, as prescribed by Fed. R. Civ. P. 23, and has entered the Final Approval Order and Judgment;
3. The Class Released Claims and the Actions are dismissed with prejudice pursuant to the Final Approval Order and Judgment; and

4. The expiration of appeal periods and/or resolution of all appeals relating to the Final Approval Order or Judgment, provided that an appeal solely concerning attorneys' fees or service awards shall not delay the Effective Date:

- a. If no appeal is taken from the Final Approval Order or Judgment, the date after the time to appeal therefrom has expired; or
- b. If any appeal is taken from the Final Approval Order or Judgment, the date after all appeals therefrom, including petitions for rehearing or re-argument, petitions for rehearing en banc, and petitions for certiorari or any other form of review, have been finally disposed of, such that the time to appeal therefrom has expired, in a manner resulting in an affirmance without material modification of the relevant order or judgment.

B. Failure of Effective Date to Occur

If all of the conditions specified in this Section are not met, then this Settlement Agreement shall be cancelled and terminated and any funds deposited with the Settlement Administrator, including any interest thereon accrued, shall be returned to Wells Fargo, subject to and in accordance with the provisions set forth herein unless the Settling Parties mutually agree in writing to proceed with this Settlement Agreement. The effectiveness of the Settlement is expressly conditioned on the Settlement Agreement being approved by the Court and any appellate court reviewing the Settlement without it being rejected or required to be materially modified by any Court ruling or any order resulting from an appeal or other review. If the Settlement is not finally approved by the Court and any appellate court reviewing it without material modification, the Agreement shall terminate and cease to have any effect.

C. Requests for Exclusion/Opt-Outs

Any Class Member who wishes to opt-out of the Class must do so on or before the Exclusion/Objection Deadline specified in the Class Notice in the manner laid out in the Class Notice.

1. In order to become an Opt-Out, a Class Member must mail a request for exclusion to the Settlement Administrator with a post-mark date no later than the Exclusion/Objection Deadline. The request for exclusion must be personally signed by the Class Member and include all information specified in the Class Notice. Opt-Outs may opt-out of the Class only on an individual basis; so-called “mass” or “class” opt-outs shall not be allowed and shall be of no force or effect. For the avoidance of doubt, no Class Member, or any person acting on behalf of or in concert with that Class Member, may submit a request for exclusion of any other Class Member. If a Class Member submits both a request for exclusion and a Claim Form, the Claim Form shall take precedence and the Class Member shall not be deemed to have validly excluded themselves from the Settlement. In the event that two Class Members are co-borrowers on the same Mortgage account and one Class Member opts out of the Settlement, both Class Members will be treated as opt-outs with respect to that Mortgage and neither Class Member will be eligible to receive a Settlement payment with respect to that Mortgage; provided, however, that if the co-borrower who did not opt out of the Settlement has a different eligible Mortgage, the co-borrower who did not opt out can receive a Settlement payment with respect to the different eligible Mortgage.

2. No later than five (5) Days after the Exclusion/Objection Deadline, the Settlement Administrator shall provide Consolidated Plaintiffs’ Counsel, *Echard* Counsel, and Counsel for Wells Fargo a complete and final list of Opt-Outs. With the Motion for Final Approval of the Settlement, Class Counsel will file with the Court a complete list of Opt-Outs, including the name, city, and state of the person requesting exclusion (the “Opt-Out List”).

- a. With respect to any Opt-Outs, Wells Fargo reserves all legal rights and defenses, including, but not limited to, any defenses relating to whether the person qualifies as a Class Member and/or has standing to bring any claim.
- b. Wells Fargo may challenge the validity of any Opt-Out by filing a motion with the Court within five (5) Days of the Settlement Administrator providing Counsel for Wells Fargo a complete and final list of Opt-Outs. The Court shall have jurisdiction to resolve any disputes regarding the validity of Opt-Outs. Any decision by Wells Fargo not to dispute an Opt-Out shall not be a waiver, determination, or preclusive finding against the Class Releasees in any proceeding.
- c. In the event that the number of Opt-Outs meets the conditions set forth in a confidential supplemental letter agreement between the Parties, Wells Fargo, in its sole discretion, may terminate this Agreement pursuant to Paragraph VIII.E. The supplemental letter shall not be submitted to the Court except in the event of a dispute thereunder or a separate Court order, in which case the Parties shall seek to file it only under seal.

D. Objections

Class Members who wish to object to any aspect of the Settlement, including any Fee and Expense Application, must file with the Court a written statement containing their objections prior to the Exclusion/Objection Deadline and abide by the requirements laid out in the Class Notice. The written objections must also be mailed to the Settlement Administrator with a post-mark date no later than the Exclusion/Objection Deadline, with a copy to Class Counsel and Wells Fargo's Counsel. The written statement must include all required information as specified in the Notice of

Settlement, including but not limited to a description of all objections to the Settlement, the reasons for said objections, and any legal authority supporting the objections. Class Members who opt-out of the Settlement shall not have the right to object to the Settlement and shall not have standing to do so. Any award or payment of attorneys' fees made to the counsel of an objector to the Settlement shall be made only by Court order and upon a showing of a substantial benefit conferred to the Class. Any award of attorneys' fees by the Court will be conditioned on the objector and his or her attorney stating under penalty of perjury that no payments shall be made to the objector based on the objector's participation in the matter other than as ordered by the Court.

Neither the Settling Parties nor any person acting on their behalf shall seek to solicit or otherwise encourage anyone to object to the Settlement, or appeal from any order of the Court that is consistent with the terms of this Settlement.

E. Termination

Plaintiffs, through Class Counsel, and Wells Fargo shall have the right, but not the obligation, to terminate this Agreement if: (1) the Court rejects, modifies, or denies approval of any portion of this Agreement or the proposed Settlement that results in a substantial modification to a material term of the proposed Settlement; or (2) the Court, or any appellate court(s), does not enter or completely affirm, or alters, narrows, or expands, any portion of the Final Approval Order, that results in a substantial modification to a material term of the proposed Settlement. Further, Wells Fargo shall have the right, but not the obligation, to terminate the Agreement if (1) the number of Opt-Outs meets the conditions set forth in the confidential supplemental letter agreement between the Settling Parties; or (2) the Court does not enter the Preliminary Approval Order within one hundred and eighty (180) days of Plaintiffs' filing the Notice of Refiling; or (3) the Court does not enter the Final Approval Order within one hundred and eighty (180) days of Plaintiffs' filing of the Motion for Final Approval. The terminating party must exercise the option to withdraw from and terminate this Agreement, as provided in this Section, by a signed writing served on the other Settling Parties no later than ten (10) Days after receiving notice of the event

prompting the termination. If, but only if, this Agreement is terminated pursuant to this Section then:

1. The Settling Parties will be returned to their positions *status quo ante* and this Agreement shall be null and void and shall have no force or effect and all of its provisions, and all negotiations, statements, and proceedings relating to it shall be without prejudice to the rights of Plaintiffs, Wells Fargo, or any Class Member, all of whom shall be restored to their respective positions existing immediately before the execution of this Agreement, except that the Settling Parties shall cooperate in requesting that the Court set a new scheduling order such that no Party's substantive or procedural rights are prejudiced by the settlement negotiations and proceedings; and

2. Neither this Agreement, the fact of its having been made, nor the negotiations leading to it, shall be admissible or entered into evidence for any purpose whatsoever.

F. Other Orders

No Settling Party shall have any obligation whatsoever to proceed under any terms other than those substantially in the form provided and agreed to herein; provided, however, that no order of the Court concerning any Fee and Expense Application(s), or any modification or reversal on appeal of such order, shall constitute grounds for cancellation or termination of this Agreement by any Settling Party. Without limiting the foregoing, Wells Fargo shall have, in its sole and absolute discretion, the option to terminate the Settlement in its entirety in the event that the Judgment, upon becoming Final, does not provide for the dismissal with prejudice of the Actions and the Class Released Claims.

IX. NO ADMISSION OF LIABILITY

A. Final and Complete Resolution

The Settling Parties intend the Settlement as described herein to be a final and complete resolution of all disputes between them with respect to the Actions, and to compromise claims that

are contested, and it shall not be deemed an admission by any Settling Party as to the merits of any claim or defense or any allegation made in the Actions.

B. Federal Rule of Evidence 408

The Settling Parties agree that this Settlement Agreement, its terms, and the negotiations surrounding this Settlement Agreement shall be governed by Federal Rule of Evidence 408 and any state-law equivalents and shall not be admissible or offered or received into evidence in any suit, action, or other proceeding, except upon the written agreement of the Settling Parties hereto, pursuant to an order of a court of competent jurisdiction, or as shall be necessary to give effect to, declare, or enforce the rights of the Settling Parties with respect to any provision of this Agreement.

C. Use of Agreement as Evidence

Whether or not this Agreement becomes Final or is terminated pursuant to its terms, the Settling Parties expressly agree that neither this Agreement nor the Settlement, any act performed or document executed pursuant to or in furtherance of this Agreement or the Settlement may be deemed to be or may be used as an admission of, or evidence of: (a) the validity of any claims released by the Agreement, any allegation made in the Actions, or any violation of any statute or law or of any wrongdoing or liability of Wells Fargo, and evidence thereof shall not be discoverable or used, directly or indirectly, in any way, whether in the Actions or in any other proceeding; or (b) any liability, fault, or omission of the Class Releasees in any civil, criminal, or administrative proceeding in any court, administrative agency, or other tribunal. Neither this Agreement nor the Settlement, nor any act performed or document executed pursuant to or in furtherance of this Agreement or the Settlement, shall be admissible in any proceeding for any purpose, except to enforce the terms of the Settlement; provided, however, in the event this Settlement becomes Final, the Class Releasees may file this Agreement (including the Exhibits), the Final Approval Order, and/or the Judgment in any action for any purpose, including, but not limited to, in order to support a defense or counterclaim based on principles of res judicata,

collateral estoppel, release, good-faith settlement, judgment bar or reduction, or any other theory of claim preclusion or issue preclusion or similar defense or counterclaim.

X. REPRESENTATIONS AND WARRANTIES

A. This Agreement and the Settlement shall be subject to the ordinary and customary judicial approval procedures under Fed. R. Civ. P. 23. Until and unless this Agreement is dissolved or becomes null and void by its own terms, or unless otherwise ordered by the Court, or if Final Approval is not achieved, Plaintiffs and Wells Fargo represent and warrant that they shall take all appropriate steps in the Actions necessary to obtain the transfer as set forth in II. A (1), preserve the jurisdiction of the Court, use reasonable efforts to cause the Court to grant Preliminary and Final Approval of this Agreement as promptly as possible, and take or join in such other steps as may be necessary to implement this Agreement and to effectuate the Settlement. This includes the obligation to (a) oppose non-meritorious objections and to defend the Agreement and the Settlement before the Court and on appeal, if any; (b) seek approval of this Agreement and of the Settlement by the Court; (c) move for the entry of the orders required to effectuate Preliminary and Final Approval; and (d) join in the entry of such other orders as are necessary to effectuate this Agreement.

B. Any Fee and Expense Award that Consolidated Plaintiffs' Counsel and *Echard* Counsel may seek upon application to the Court pursuant to this Agreement shall include all attorneys' fees and litigation costs that Consolidated Plaintiffs' Counsel and *Echard* Counsel and any of the current and former owners, predecessors, successors, partners, shareholders, agents (alleged or actual), representatives, employees, and affiliates of Consolidated Plaintiffs' Counsel and *Echard* Counsel, seek or may have any right or claim to in connection with the Actions and the Class Released Claims.

C. Plaintiffs represent and warrant that other than Consolidated Plaintiffs' Counsel and *Echard* Counsel, as those terms are defined herein, there is no other person having any interest in

any award of attorneys' fees, expenses, or litigation costs in connection with the Actions, Agreement, or Settlement.

D. Plaintiffs and Wells Fargo represent and warrant that he, she, it, or they have full authorization and capacity to enter into this Agreement and to carry out the obligations provided for herein. Each Person executing this Agreement on behalf of a Settling Party, entity, or other Person(s) covenants, warrants, and represents that he, she, or it has been fully authorized to do so by that Settling Party, entity, or other Person(s). The Plaintiffs and Wells Fargo represent and warrant that he, she, it, or they intend to be bound fully by the terms of this Agreement.

E. Plaintiffs and Wells Fargo represent and warrant that they have not, nor will they, unless expressly authorized to do so by the terms of this Agreement, (a) attempt to void this Agreement in any way; (b) Opt-Out of the Settlement under this Agreement; (c) solicit or encourage in any fashion a member of the Class to Opt-Out; or (d) solicit or encourage in any fashion any effort by any Person to object to the Settlement under this Agreement.

F. If any Person breaches the terms of any of the representations and warranties in this section, the Court shall retain jurisdiction over this matter to entertain actions by a Settling Party against such Person for breach and/or any Settling Party's request for a remedy for such breach.

G. Consolidated Plaintiffs' Counsel and *Echard* Counsel represent and warrant that they will not seek out or solicit, and have no present intention to pursue individual or class claims (save for those asserted by existing clients who have already filed suit) against Wells Fargo or any of the Class Releasees with respect to matters within the scope of the Class Released Claims unless this Settlement is not granted Preliminary or Final Approval by the Court. The Settling Parties understand and agree that nothing in this paragraph imposes or shall be construed to prohibit or restrict Consolidated Plaintiffs' Counsel and *Echard* Counsel from representing persons who seek representation for such claims arising subsequent to the date of this Agreement.

H. Wells Fargo and Plaintiffs and Consolidated Plaintiffs' Counsel and *Echard* Counsel represent and warrant that they will comply with the Protective Orders that apply to the

Actions and will not use or seek to use the fact or content of the Settlement in the Actions in connection with any other claim, action, or litigation against any Class Releasee (excepting only actions to enforce or construe this Agreement).

I. Consolidated Plaintiffs' Counsel and *Echard* Counsel represent and warrant to Wells Fargo that they have the authority to execute this Agreement on behalf of Plaintiffs, and themselves, and thereby to bind Plaintiffs, to all terms and conditions of this Agreement, and, subject to Court approval, to bind all Class Members to the terms and conditions of this Agreement.

XI. MISCELLANEOUS PROVISIONS

A. Voluntary Settlement

The Settling Parties agree that the terms of the Settlement as described herein were negotiated in good faith by the Settling Parties with the assistance of an independent mediator, and reflect a settlement that was reached voluntarily after consultation with competent legal counsel.

B. Reasonable Best Efforts to Effectuate this Settlement

The Settling Parties: (a) acknowledge that it is their intent to consummate this Agreement; and (b) agree to cooperate to the extent reasonably necessary to effectuate and implement the terms and conditions of this Agreement and to exercise their best efforts to accomplish the terms and conditions of this Agreement.

C. Subsequent Events Impacting Administration

In the event that there are any developments in the effectuation and administration of this Agreement that are not dealt with by the terms of this Agreement, then such matters shall be dealt with as agreed upon by the Settling Parties, and failing agreement, as shall be ordered by the Court.

D. Claims in Connection with Administration

No Person shall have any claim against Plaintiffs, Wells Fargo, Consolidated Plaintiffs' Counsel, *Echard* Counsel, Counsel for Wells Fargo, the Settlement Administrator, or the Class Releasees or their agents based on administration of the Settlement substantially in accordance with the terms of the Agreement or any order of the Court or any appellate court.

E. Binding Effect

This Agreement shall be binding upon, and inure to the benefit of, the successors and assigns of the Settling Parties hereto. Without limiting the generality of the foregoing, each and every covenant and agreement herein by Plaintiffs shall be binding upon all Class Members.

F. Authorization to Enter Settlement Agreement

The undersigned representatives of Wells Fargo represent that they are fully authorized to enter into and to execute this Agreement and any modifications or amendments to the Agreement on behalf of Wells Fargo. Consolidated Plaintiffs' Counsel and *Echard* Counsel, on behalf of Plaintiffs and the Class, represent that they are, subject to Court approval, expressly authorized to take all action required or permitted to be taken by or on behalf of the Class pursuant to this Agreement to effectuate its terms and to enter into and execute this Agreement and any modifications or amendments to the Agreement on behalf of the Class that they deem appropriate.

G. Notices

All notices and responses to notices under this Agreement shall be in writing. Each such notice or response shall be given either by email unless otherwise specified herein or in the notice to the Class; and, if directed to any Class Member, shall be addressed to Class Counsel. The emails for the potential Class Counsel are set forth below. If directed to Wells Fargo, notices and responses shall be addressed to Counsel for Wells Fargo at the email addresses set forth below or such other email addresses as Class Counsel or Wells Fargo may designate, from time to time, by giving notice to all Settling Parties hereto in the manner described in this paragraph.

The email addresses for potential Class Counsel are:

Derek Loeser, dloeser@kellerrohrback.com

Gretchen Freeman Cappio, gcappio@kellerrohrback.com

Zachary Waid Gussin, zgussin@kellerrohrback.com

Abbas Kazerounian, ak@kazlg.com

Jason Ibey, jason@kazlg.com

Thad Bartholow, thad@kblawtx.com

Karen Kellett, kkellett@kblawtx.com

Knoll Lowney, knoll@smithandlowney.com

Claire Tonry, claire@smithandlowney.com

Marc Zemel, marc@smithandlowney.com

Alyssa Koepfgen, alyssa@smithandlowney.com

If directed to Wells Fargo, email address notice to:

William C. Mayberry, bill.mayberry@troutman.com

Amy P. Williams, amy.williams@troutman.com

Andrew Atkins, andrew.atkins@troutman.com

H. No Party Deemed to Be the Drafter

None of the Settling Parties hereto shall be deemed to be the drafter of this Agreement or any provision hereof for the purpose of any statute, case law, rule of interpretation, or construction that would or might cause any provision to be construed against the drafter hereof.

I. Choice of Law

This Agreement shall be considered to have been negotiated, executed and delivered, and to be wholly performed, in the State of Ohio, and the rights and obligations of the Settling Parties to this Agreement shall be construed and enforced in accordance with, and governed by, the internal, substantive laws of the State of Ohio without giving effect to that State's choice of law principles.

J. Amendment

This Agreement shall not be modified in any respect except by a writing executed by Wells Fargo, or at Wells Fargo's election, Counsel for Wells Fargo, and Plaintiffs or Class Counsel, and the waiver of any rights conferred hereunder shall be effective only if made by written instrument of the waiving party. Should an amendment occur before Final Approval, the Settling Parties shall file a notice with the Court and notify the Class through a posting on the Settlement Website. If

such amendments occur after Final Approval, further approval of the Court is not necessary provided that Wells Fargo and Class Counsel mutually determine that the changes are consistent with the Court's Final Approval Order and Final Judgment and do not materially alter the Settlement Agreement. Up until the deadline for Service Award Applications, Plaintiffs retain sole discretion to name one or more Eligible Class Members as additional or substitute Class Representatives, without amendment of this Agreement, subject to the approval of the Court at the Final Approval Hearing.

K. Waiver

The waiver by any party of any breach of this Agreement shall not be deemed or construed as a waiver of any other breach, whether prior, subsequent, or contemporaneous, of this Agreement. Nothing in the Settlement Agreement (including the fact of Settlement) constitutes or shall be construed as a waiver by Wells Fargo of whatever rights it may have under any arbitration agreement, including with respect to any claim, lawsuit, or judicial proceeding initiated by a member of the Class who has opted-out of the Settlement.

L. Execution in Counterparts

This Agreement may be executed in one or more counterparts. All executed counterparts and each of them shall be deemed to be one and the same instrument. Counsel for the Settling Parties to this Agreement shall exchange among themselves original signed counterparts and a complete set of executed counterparts shall be filed with the Court.

M. Integrated Agreement

This Agreement constitutes the entire agreement between the Settling Parties with respect to the Settlement. This Agreement supersedes all prior negotiations and agreements, including, but not limited, to the Term Sheet entered into by the Parties on or about February 12, 2024 and the settlement agreement entered into by Wells Fargo and the *Echard* Plaintiffs on or about September 8, 2022, and may not be modified or amended except by a writing signed by the Settling Parties and their respective counsel. The Settling Parties acknowledge, stipulate, and agree that

no covenant, obligation, condition, representation, warranty, inducement, negotiation, or understanding concerning any part of the subject matter of this Agreement has been made or relied on except as expressly set forth in this Agreement. It is understood by the Settling Parties that, except for the matters expressly represented herein, the facts or law with respect to which this Agreement is entered into may turn out to be other than or different from the facts now known to each Settling Party or believed by such party to be true. Each Settling Party therefore expressly assumes the risk of the facts or law turning out to be different and agrees that this Agreement shall be in all respects effective and not subject to termination by reason of any such different facts or law.

N. Attorneys' Fees and Costs

Except as otherwise expressly provided in this Agreement, each party shall bear its own costs and attorneys' fees.

O. Return or Destruction of Confidential Materials

The Settling Parties agree to continue to comply with the Protective Orders entered in the Actions at the conclusion of the case. All agreements made and orders entered during the course of the Actions relating to the confidentiality of information shall survive this Agreement.

P. Intended Beneficiaries

No provision of this Agreement shall provide any rights to, or be enforceable by, any Person that is not one of the Plaintiffs, a Class Member, Wells Fargo, one of the Class Releasees, Class Counsel, or Counsel for Wells Fargo, except that this Agreement will be binding upon and inure to the benefit of the successors and assigns of the Settling Parties. No Class Representative,

Class Member, or Class Counsel may assign or otherwise convey any right to enforce any provision of this Agreement.

Q. Regular Course of Business

The Settling Parties agree that nothing in this Agreement shall be construed to prohibit communications between Class Releasees, on the one hand, and Class Members, on the other hand, in the regular course of business.

R. Tax Consequences

No representations or advice regarding the tax consequences of this Agreement have been provided by any Settling Party. The Settling Parties further understand and agree that each Settling Party, each Class Member, Consolidated Plaintiffs' Counsel, *Echard* Counsel, and Plaintiff shall be responsible for his, her, its, or their own taxes, if any, resulting from this Agreement and any payments made pursuant to this Agreement.

S. Qualified Settlement Fund

The Settling Parties agree that the Settlement Fund shall be maintained as a qualified settlement fund within the meaning of Treasury Regulation § 1.468 B-1, and that the Settlement Administrator, within the meaning of Treasury Regulation § 1.468 B-2(k)(3), shall be responsible for filing tax returns and any other tax reporting for or in respect of the Settlement Fund and paying from the Settlement Fund any taxes owed with respect to the Settlement Fund. Defendants shall have no obligation to replenish the Settlement Fund as a result of any taxes owed or paid out of the Settlement Fund or for any other reason. The Settling Parties agree that the Settlement Fund shall be treated as a qualified settlement fund from the earliest date possible and agree to any relation-back election required to treat the Settlement Fund as a qualified settlement fund from the earliest date possible.

T. Taxes for the Settlement Fund

All taxes relating to the Settlement Fund shall be paid out of the Settlement Fund, shall be considered an administrative expense, and shall be timely paid by the Settlement Administrator without prior order of the Court.

U. Bankruptcy Proceedings

1. The Settling Parties agree that any Class Member who is in active bankruptcy proceedings or previously was a party to bankruptcy proceedings during the period of time covered in the definition of the Class may only participate in the Settlement subject to applicable bankruptcy law and procedures. Wells Fargo is under no obligation to notify any bankruptcy court that has, had, or may have jurisdiction over such Class Member's bankruptcy proceedings or any trustee or examiner appointed in such Class Member's bankruptcy proceedings of this Agreement or the benefits conferred by the Agreement and the Settlement.

2. The Settling Parties agree that any dispute concerning the rights of the bankruptcy estate to the proceeds of any payment under the Settlement or Service Award shall be adjudicated by the applicable Bankruptcy Court. The Settlement Administrator shall follow any direction of the Bankruptcy Court with respect to the proceeds of any payment or Service Award.

V. No Conflict Intended; Headings

Any inconsistency between this Agreement and the exhibits attached hereto shall be resolved in favor of this Agreement. The headings used in this Agreement are intended for the convenience of the reader only and shall not affect the meaning or interpretation of this Agreement.

W. Class Member Obligations

Under no circumstances shall the Settlement or Agreement or any release herein be deemed to alter, amend, or change the terms and conditions of any account or loan to which any Class Member is or was a party, or to provide a defense to any action to collect any such loan, nor shall the Agreement or any release herein be deemed to have any effect in any bankruptcy case, in any foreclosure proceeding, or in any other action involving a Class Member hereto, nor shall the

Settlement or the Agreement create or be construed as evidence of any violation of law or contract. In the event this Agreement is so construed as to a particular Class Member, it can be declared by Wells Fargo to be null and void as to that Class Member only (and in such latter event, the release as to Class Released Claims as to that Class Member shall also be void).

X. Press Release

Plaintiffs, Consolidated Plaintiffs' Counsel, and *Echard* Counsel shall not issue, or otherwise cause to be issued, any press release, advertisement, or response to media inquiry without first obtaining Wells Fargo's approval on the fairness and accuracy of the content of such press release, advertisement, or response with respect to the Action. Under no circumstance shall Plaintiffs, Consolidated Plaintiffs' Counsel, Wells Fargo, or *Echard* Counsel disclose to any third party (i) any confidentially designated discovery obtained in the Action and/or (ii) any non-public information regarding the Settling Parties' negotiation of this Settlement and/or this Agreement, except as may be otherwise permitted in this Agreement. Nothing within this provision shall restrain Plaintiffs, Consolidated Plaintiffs Counsel, *Echard* Counsel or Class Counsel from discussing publicly available information regarding the Action in any court filings or in non-public communications within their law firms, or with their lawyers, family members, clients or prospective clients provided that any such statements shall not be defamatory to Wells Fargo.

Y. Further Disputes

If any disputes arise out of the finalization of the settlement documentation, said disputes are to be resolved by the Honorable Judge Layn Phillips (Ret.) by way of expedited telephonic mediation, and if mediation is unsuccessful, then by way of final, binding, non-appealable determination. If any such issues relate to a disagreement among Consolidated Plaintiffs' Counsel and *Echard* Counsel, Wells Fargo shall not be responsible for any part of the cost of such mediation.

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IN WITNESS WHEREOF, the Settling Parties hereto, through their fully authorized representatives, have entered into this Agreement as of the date first below written, and have executed this Settlement Agreement on the date indicated below each respective signature.

PLAINTIFF LUIS CASTRO

By:



Luis Castro

Date: 7/22/24, 2024

PLAINTIFF MARISOL CASTRO

By:



Marisol Castro

Date: 7/22/24, 2024

PLAINTIFF PAMELA DELPAPA

By:

Pamela Delpapa

Date: _____, 2024

PLAINTIFF JENNA DOCTOR

By:

Jenna Doctor

Date: _____, 2024

IN WITNESS WHEREOF, the Settling Parties hereto, through their fully authorized representatives, have entered into this Agreement as of the date first below written, and have executed this Settlement Agreement on the date indicated below each respective signature.

PLAINTIFF LUIS CASTRO

By:

Luis Castro

Date: _____, 2024

PLAINTIFF MARISOL CASTRO

By:

Marisol Castro

Date: _____, 2024

PLAINTIFF PAMELA DELPAPA

By:

DocuSigned by:


C3FDE573A7BD488...
Pamela Delpapa

Date: July 22, 2024, 2024

PLAINTIFF JENNA DOCTOR

By:

Jenna Doctor

Date: _____, 2024

IN WITNESS WHEREOF, the Settling Parties hereto, through their fully authorized representatives, have entered into this Agreement as of the date first below written, and have executed this Settlement Agreement on the date indicated below each respective signature.

PLAINTIFF LUIS CASTRO

By:

Luis Castro

Date: _____, 2024

PLAINTIFF MARISOL CASTRO

By:

Marisol Castro

Date: _____, 2024

PLAINTIFF PAMELA DELPAPA

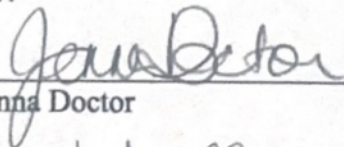
By:

Pamela Delpapa

Date: _____, 2024

PLAINTIFF JENNA DOCTOR

By:

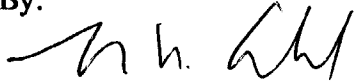


Jenna Doctor

Date: July 22, 2024

PLAINTIFF BRIAN ECHARD

By:



Brian Echard

Date: July 17, 2024

PLAINTIFF PATRICIA FOLEY

By:

Patricia Foley

Date: _____, 2024

PLAINTIFF SAMARA GREEN

By:

Samara Green

Date: _____, 2024

PLAINTIFF PATRICK HEALY

By:

Patrick Healy

Date: _____, 2024

PLAINTIFF BARBARA PRADO

By:

Barbara Prado

Date: _____, 2024

PLAINTIFF BRIAN ECHARD

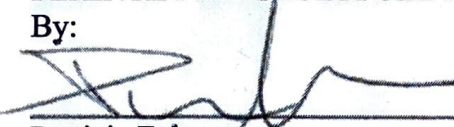
By:

Brian Echard

Date: _____, 2024

PLAINTIFF PATRICIA FOLEY

By:



Patricia Foley

Date: July 18, 2024

PLAINTIFF SAMARA GREEN

By:



Samara Green

Date: 07/22/2024, 2024

PLAINTIFF PATRICK HEALY

By:

Patrick Healy

Date: _____, 2024

PLAINTIFF BARBARA PRADO

By:

Barbara Prado

Date: _____, 2024

PLAINTIFF BRIAN ECHARD

By:



Brian Echard

Date: July 17, 2024

PLAINTIFF PATRICIA FOLEY

By:

Patricia Foley

Date: _____, 2024

PLAINTIFF SAMARA GREEN

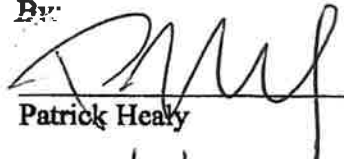
By:

Samara Green

Date: _____, 2024

PLAINTIFF PATRICK HEALY

By:



Patrick Healy

Date: 7/19/24, 2024

PLAINTIFF BARBARA PRADO

By:

Barbara Prado

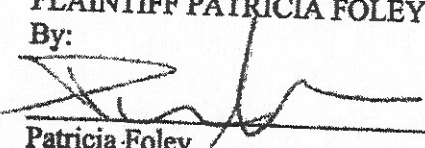
Date: _____, 2024

PLAINTIFF BRIAN ECHARD
By:

Brian Echard

Date: _____, 2024

PLAINTIFF PATRICIA FOLEY
By:



Patricia Foley

Date: July 18, 2024

PLAINTIFF SAMARA GREEN
By:

Samara Green

Date: _____, 2024

PLAINTIFF PATRICK HEALY
By:

Patrick Healy

Date: _____, 2024

PLAINTIFF BARBARA PRADO
By:



Barbara Prado

Date: 7/22, 2024

PLAINTIFF RENRICK ROBINSON

By:

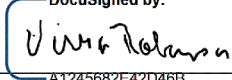
DocuSigned by:

Renrick Robinson

Date: July 23, 2024, 2024

PLAINTIFF VIVIAN ROBINSON

By:

DocuSigned by:

Vivian Robinson

Date: July 23, 2024, 2024

PLAINTIFF HEATHER SHIMP

By:

Heather Shimp

Date: _____, 2024

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PLAINTIFF RENRICK ROBINSON

By:

Renrick Robinson

Date: _____, 2024

PLAINTIFF VIVIAN ROBINSON

By:

Vivian Robinson

Date: _____, 2024

PLAINTIFF HEATHER SHIMP

By:



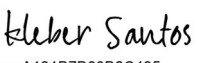
Heather Shimp

Date: July 17, 2024

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DEFENDANT WELLS FARGO BANK, N.A.

By: DocuSigned by:


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Title: SEVP, CEO of Consumer Lending

Date: 7/15/2024, 2024