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8 UNITED STATES DISTRICT COURT
9 CENTRAL DISTRICT OF CALIFORNIA

11 CHARLES HEIMAN and MISTY)
12 ALEXANDER, individually and on)
behalf of all others similarly situated,)

13 Plaintiffs,)

14 v.)

15)
16 WELLS FARGO & COMPANY, a)
Delaware Corporation; WELLS)
17 FARGO BANK, N.A., d/b/a Wells)
Fargo Dealer Services, Inc., a South)
18 Dakota Corporation; BALBOA)
INSURANCE COMPANY, a)
19 California Corporation; NATIONAL)
GENERAL INSURANCE COMPANY)
20 (individually and as successor-in-)
interest to Balboa Insurance Company),)
21 a North Carolina Corporation; DAWN)
MARTIN HARP; BILL KATAFIAS;)
and DOES 1 through 10, inclusive,)

22)
23 Defendants.)
24)
25)
26)
27)
28)

Case No. 8:17-cv-01395

CLASS ACTION COMPLAINT

DEMAND FOR JURY TRIAL

1 1. Plaintiffs Charles Heiman and Misty Alexander (collectively “Plaintiffs”),
2 individually and on behalf of all others similarly situated, bring this class action against
3 Defendants Wells Fargo & Company (“Wells Fargo”), Wells Fargo Bank, N.A., doing
4 business as Wells Fargo Dealer Services, Inc. (“Wells Fargo Bank”), Balboa Insurance
5 Company (“Balboa”), National General Insurance Company, individually and as
6 successor-in-interest to Balboa (“National General”), Dawn Martin Harp (“Harp”), Bill
7 Katafias (“Katafias”), and John Does 1-10 (all collectively “Defendants”).

8 2. Plaintiffs’ allegations are based upon personal knowledge as to their own acts
9 and upon information and belief as to all other matters alleged herein, including the
10 investigation of counsel, publicly available information, news articles, press releases, and
11 additional analysis. Plaintiffs believe that substantial evidentiary support will exist for the
12 allegations set forth herein after a reasonable opportunity for discovery.

13
14 **I. NATURE OF THE ACTION**

15 3. After nearly a decade of deception, Defendants’ fraudulent scheme of duping
16 hundreds of thousands of auto loan customers into paying for unnecessary and unwanted
17 auto collateral protection insurance and additional fees and charges has finally come to
18 light. As a direct result of Defendants’ continuous scheme, consumers nationwide are still
19 feeling the effects of being forced into paying for unnecessary auto insurance policies,
20 incurring substantial unwarranted fees and charges, suffering from negative credit
21 reporting and other delinquencies, and/or having their vehicles repossessed.

22 4. Plaintiffs bring this proposed class action on behalf of themselves and all
23 other persons who had an automobile loan originated by Defendant Wells Fargo Bank,
24 N.A. through its division, Wells Fargo Dealer Services and, in connection therewith, were
25 charged for lender-placed or “force-placed” automobile insurance policies, called
26 “collateral protection insurance” (“CPI”), provided by Balboa and/or National General on
27 the secured personal property within the applicable statute of limitations (the “Class
28 Period”).

1 5. Lenders often require borrowers to purchase and agree to maintain insurance
2 coverage on automobiles purchased as a condition to funding automobile loans. Plaintiffs
3 were required to obtain and maintain such insurance as a condition of their automobile
4 loan from Wells Fargo Bank.

5 6. In the event that borrowers fail to maintain insurance on their automobiles
6 while they still owe money to the lender, lenders, through agreements with insurers/service
7 providers, can choose to replace borrowers' insurance policies with more expensive ones,
8 in the form of CPI. Lenders charge the premium associated with such policies to
9 borrowers' accounts, as well as attendant fees, adding to borrowers' monthly payments.
10 Many states require that borrowers be informed of the fact that they will be force-placed
11 prior to the lender purchasing such insurance for their vehicles.

12 7. In order to ascertain which borrowers have automobile insurance policies that
13 have lapsed, lenders such as Wells Fargo Bank maintain agreements with service
14 providers, such as Balboa and/or its affiliates and National General, to track and monitor
15 whether their borrowers maintain the required insurance. If the borrowers' voluntary
16 automobile insurance has lapsed, the service provider then mails any notices required by
17 law, and provides the CPI if necessary. When Balboa or National General provided CPI,
18 Wells Fargo Bank would pay for the policy and then charge borrowers' accounts for the
19 policy as well as any related fees, raising the borrowers' monthly payments.

20 8. Defendants acted together to exploit Wells Fargo Bank's ability to force-place
21 insurance to reap additional, unjustified profits in the form of premiums, commissions,
22 fees and other financial benefits at the expense of borrowers who were charged for force-
23 placed insurance but had not let their voluntary automobile insurance lapse and/or were
24 not properly notified of the force-placed insurance as required under state law. *See Wells*
25 *Fargo Announces Plan to Remediate Customers For Auto Insurance Coverage* (July 27,
26 2017), attached hereto as Exhibit A.
27
28

1 9. However, Wells Fargo’s announced plans to refund millions to borrowers
2 does not cover those borrowers who paid premiums, fees, and other charges when Wells
3 Fargo and Wells Fargo Bank used Balboa and/or its affiliates as their insurance tracking
4 and CPI provider in the scheme. Even now, Wells Fargo has blamed its outside provider,
5 National General, for the wrongful placement of CPI, even though this scheme predates
6 National General’s involvement and was, in fact, originated and orchestrated by Wells
7 Fargo and Wells Fargo Bank.

8 10. Defendants’ web of relationships, and the arrangements between them,
9 funneled unjust and unearned profits and/or other illicit benefits to the Defendants through
10 their collusive activities. Each Defendant participated in the scheme with the knowledge
11 and collusion of the other participants as described in greater detail herein.

12 11. In this action, Plaintiffs challenge Wells Fargo Bank’s practice of charging
13 borrowers for CPI from Balboa and/or National General even though the borrowers’
14 voluntary insurance had not lapsed. This unnecessary force-placement of insurance was
15 unauthorized by contract, unjustified, and unfairly imposed costs and undue burden on the
16 borrowers in violation of the law.

17 12. Throughout the Class Period, Defendants have engaged individually and in
18 concert with one another, in unlawful, abusive and unfair practices with respect to CPI,
19 which practices included, among other things: (a) purchasing CPI and/or charging
20 borrowers for CPI whose voluntary automobile insurance had not lapsed; (b) charging
21 class members fees and interest related to the unlawfully purchased CPI; (c) receiving
22 commissions and/or other things of value from providers of CPI; (d) forcing borrowers to
23 pay for duplicative insurance coverage; (e) wrongfully reporting borrowers as delinquent
24 and/or wrongly repossessing vehicles in connection with the scheme; (f) using the mail
25 and wires to conduct a scheme to defraud Plaintiff and the Class by unlawful purchasing
26 and charging borrowers for unnecessary CPI; (g) misrepresenting that Defendants were
27 force-placing insurance on Plaintiffs’ and Class Members’ automobiles lawfully, but
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1 instead, doing so as a means of generating illicit, unreasonable and unwarranted financial
2 benefits for each of the Defendants in violation of the Racketeer and Corrupt
3 Organizations Act (“RICO”), 18 U.S.C. § 1962(c); and (h) conspiring to take advantage of
4 their contractual authority to issue CPI to Plaintiffs and Class members pursuant to pre-
5 arranged agreements that return an undisclosed and improper financial benefit to each
6 Defendant in violation of RICO, 18 U.S.C. § 1962(d).

7
8 13. Plaintiffs assert the following claims against Defendants: (a) claims for
9 violation of the Racketeer Influenced and Corrupt Organizations Act, 18 U.S.C. § 1962(c),
10 as further described below; (b) claims for engaging in a conspiracy to defraud Plaintiffs
11 and the Class in violation of RICO 18 U.S.C. § 1962(d); and (c) claims for violation of
12 California Business & Professions Code § 17200, *et seq.*

13 14. Accordingly, Plaintiffs challenge Defendants’ unlawful conduct and seeks
14 statutory and compensatory damages.

15 **II. PARTIES**

16 **A. Plaintiffs**

17 15. Plaintiff Charles Heiman (“Plaintiff Heiman”) resides in Hondo, Texas, and is
18 a citizen of Texas.

19 16. Plaintiff Heiman purchased a 2002 Chevrolet Silverado truck, financed with
20 an executed loan agreement with Wells Fargo Bank. Since his purchase of the vehicle, he
21 has at all times maintained comprehensive and collision coverage as per the terms of the
22 loan.

23 17. In 2008, Plaintiff Heiman received a notice purportedly from Wells Fargo
24 Bank indicating that he did not have the proper insurance on his truck and that a CPI
25 policy would be force-placed on his vehicle if he did not provide proof of coverage.
26 Plaintiff Heiman immediately contacted his insurance agent, who then contacted Wells
27 Fargo Bank and Balboa Insurance Company to provide proof of coverage.
28

1 18. Wells Fargo Bank and Balboa Insurance Company force-placed a CPI policy
2 on the truck despite having proof that Plaintiff Heiman maintained adequate insurance
3 coverage. Plaintiff Heiman was forced to pay for the CPI and the attendant fees, including
4 late fees on the auto loan account.

5 19. While Plaintiff Heiman disputed the placement of the CPI policy and its
6 charges to his auto loan account, Wells Fargo Bank repossessed the truck and reported
7 Plaintiff to the various credit agencies.

8 20. Subsequently, Wells Fargo Bank and Balboa Insurance Company admitted
9 that the CPI policy had been placed in error, removed the policy, and refunded the
10 premium to Plaintiff Heiman's account. However, they did not immediately return his
11 truck to his possession, claiming they would need sixty days to do so.

12 21. When Plaintiff Heiman went to the yard in which Wells Fargo Bank was
13 keeping his truck, he found that all of his personal possessions from inside the vehicle had
14 been removed and that roofing materials, including buckets of tar, had been placed into the
15 truck. Additionally, Plaintiff Heiman observed dings, scratches and other damage to the
16 truck that had not been on the vehicle previously.

17 22. While fighting with Wells Fargo Bank for the return of his vehicle, Plaintiff
18 Heiman was forced to purchase a second truck, in order to maintain his job. In addition to
19 sales taxes, transaction costs and/or other costs and inconveniences Plaintiff Heiman was
20 forced to bear, because Wells Fargo Bank had reported the repossession to the credit
21 bureaus, Plaintiff Heiman ultimately paid more for this second vehicle that he otherwise
22 would have without the erroneous information on his credit report.

23 23. Wells Fargo Bank eventually allowed Plaintiff Heiman to pick up his now
24 damaged truck from their yard, refusing to deliver the truck to him. However, Wells Fargo
25 Bank refused to pay for the damage to his vehicle.

26 24. As a result of the incorrect information on his credit report, Plaintiff Heiman
27 has been harmed financially, including significant detrimental effects on his ability to
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1 finance the new purchase of a car. Throughout his ordeal with Wells Fargo Bank and
2 Balboa Insurance Company, both Defendants denied any wrongdoing.

3 25. Plaintiff Misty Alexander (“Plaintiff Alexander”) resides in Saginaw, Texas
4 and is a citizen of Texas.

5 26. Plaintiff Alexander executed a loan with Wells Fargo Bank in 2013 for her
6 Land Rover vehicle. Since her purchase of the vehicle, she has maintained both
7 comprehensive and collision coverage of the car via Allstate Insurance.

8 27. Despite the fact that at all times she maintained insurance on her vehicle,
9 Plaintiff Alexander was charged repeatedly for CPI since 2013. Records of such charges
10 are in Defendants’ possession. The CPI charges and additional fees in connection with
11 such charges were debited automatically from her Wells Fargo checking account.

12 28. Plaintiff Alexander repeatedly informed Wells Fargo Bank and National
13 General of her voluntary insurance policy and forwarded the proof of that insurance after
14 each instance of force-placement. Wells Fargo Bank subsequently failed to fully refund
15 the charges for CPI, including the subsequent late fees they charged to her account.

16 29. On information and belief, Wells Fargo Bank also reported Plaintiff
17 Alexander to credit bureaus for purported delinquencies related to her supposed failure to
18 procure insurance and/or timely pay all charges wrongly assessed.

19
20 **B. Defendants**

21 30. Defendant Wells Fargo & Company is a Delaware corporation and a bank
22 holding company with its principal place of business located in San Francisco, California.
23 Upon information and belief, Wells Fargo participated in the conduct alleged herein from
24 its offices in San Francisco, including the decisions (and/or ratification of decisions) to
25 enter into agreements with National General to wrongfully force-placed CPI on hundreds
26 of thousands of borrowers throughout the United States in order to generate revenue via
27 commission sharing, unearned fees assessed to borrower accounts, reselling wrongfully
28 repossessed vehicles and/or other financial benefits.

1 31. Defendant Wells Fargo Bank, N.A., through its division Wells Fargo Dealer
2 Services, is a national association bank chartered in South Dakota with its principal place
3 of business in Irvine, California. The members of Wells Fargo Bank's Board of Directors
4 also serve as Directors of Wells Fargo. Wells Fargo Bank directly owns the loans which
5 are secured by the Class Members' automobiles, which are located throughout the United
6 States. Wells Fargo Bank is the primary entity used by Wells Fargo for the origination and
7 servicing of automobile loans. Upon information and belief, executives within Wells
8 Fargo Bank at its Irvine headquarters implemented and oversaw operations of the CPI
9 scheme in order to benefit financially, including through commissions on the wrongfully
10 placed CPI and/or through additional fees assessed to the accounts of those same
11 borrowers, along with other benefits.

12
13 32. Defendant Balboa Insurance Company was a California corporation
14 headquartered in Irvine, California. When Wells Fargo Bank initiated its CPI program,
15 Balboa and/or its affiliates were the outside service providers for all aspects of the
16 program, including insurance tracking, borrower notification and policy placement. As a
17 result, Balboa provided CPI policies on vehicles located throughout the United States,
18 including California. Balboa's participation in the scheme was approved by and managed
19 by executives located in Irvine, California, and all CPI policies were issued from Irvine,
20 California. At the time of their original agreement with Wells Fargo Bank, Balboa was a
21 wholly-owned subsidiary of Bank of America. In June 2011, Balboa was sold to QBE
22 Insurance Group Limited and its operations were taken over by QBE Insurance
23 Corporation and its affiliates. In October 2015, National General Holdings Corp. acquired
24 the lender-placed insurance business of QBE Insurance Group Limited, including the CPI
25 business, which it subsequently branded National General Lender Services. Upon
26 information and belief, Balboa participated in the wrongful conduct alleged herein in order
27 to benefit financially and each of its successors-in-interest continued to deny any
28 wrongdoing for its previous actions.

1 33. Defendant National General Insurance Company is a North Carolina
2 corporation headquartered in Winston-Salem, North Carolina. National General
3 administers the CPI portion of the National General Lender Services business on behalf of
4 its parent corporation, National General Holdings Corp. It also provided both the
5 insurance tracking services and the CPI policies on automobiles located through the United
6 States, including California, for Wells Fargo Bank from January 2012 until September
7 2016. Upon information and belief, National General continues to deny that either Balboa
8 or National General acted improperly. Upon information and belief, National General
9 participated in the wrongful conduct alleged herein in order to benefit financially.
10

11 34. Defendant Dawn Martin Harp is the former president of Wells Fargo Dealer
12 Services, a position she held for six years prior to her retirement in April 2017. Prior to
13 becoming president of Dealer Services, she served as the chief operating officer since at
14 least 2008 with particular concentration in the Indirect Auto Finance unit. Upon
15 information and belief, Harp also served as an executive vice president for Wells Fargo.
16 Harp resides in Dana Point, California. Upon information and belief, in her position with
17 Wells Fargo Bank, Ms. Harp orchestrated and/or oversaw and helped to effectuate the
18 scheme complained of herein.

19 35. Defendant Bill Katafias is the former executive vice president and head of the
20 Indirect Auto Finance team at Wells Fargo Dealer Services. In this role, Katafias was
21 involved in retail production oversight of regional dealer partners, the centralized direct
22 lending operation, operational risk management of indirect sales, and recreational finance.
23 He left his role at Wells Fargo Bank in February 2017, where he had been since 2008. At
24 all times, he was involved in overseeing the day-to-day operations of the CPI scheme for
25 Wells Fargo Dealer Services. Katafias resides in Ladera Ranch, California. Upon
26 information and belief, in his position with Wells Fargo Bank, Mr. Katafias helped to
27 implement and/or effectuate the scheme complained of herein.
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1 **III. JURISDICTION AND VENUE**

2 36. This Court has jurisdiction over the subject matter of this action pursuant to
3 18 U.S.C. §§ 1961, 1962, and 1964. This Court has original diversity jurisdiction pursuant
4 to the Class Action Fairness Act, 28 U.S.C. § 1332(d)(2), because this lawsuit has been
5 brought as a class action on behalf of a proposed Class including hundreds of thousands of
6 members, the aggregate claims of the putative Class members exceed \$5 million exclusive
7 of interest and costs, and one or more of the members of the putative Class are citizens of a
8 different state than each of the Defendants.

9
10 37. In addition, this Court has diversity jurisdiction over Plaintiffs' state law
11 claims pursuant to 28 U.S.C. § 1332(a). The matter in controversy is greater than \$75,000
12 and this matter is between citizens of different states. This Court also has supplemental
13 jurisdiction over Plaintiffs' state law claims pursuant to 28 U.S.C. § 1367.

14 38. Venue is proper in this district under 28 U.S.C. § 1391(b) because Defendants
15 reside and/or regularly conduct business in this district and/or a substantial part of the
16 events giving rise to the claims occurred in this district.

17 **IV. FACTUAL ALLEGATIONS**

18 **A. Wells Fargo and Wells Fargo Bank Collusively Preyed on Borrowers in**
19 **Pursuit of Unearned Profits**

20 39. On July 27, 2017, Wells Fargo announced that it would compensate
21 approximately 570,000 customers who were wrongfully charged for CPI. According to
22 the announcement, a review undertaken in July 2016 revealed that approximately 490,000
23 borrowers had CPI placed when they already had adequate voluntary insurance,
24 approximately 60,000 did not receive the disclosures required by law prior to the
25 placement of CPI, and approximately 20,000 suffered a car repossession after the wrongful
26 CPI charges contributed to a default on their car loan. Wells Fargo said it would pay
27 approximately \$80 million to these borrowers, in cash and account adjustments, to cover
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1 the costs of the premiums, as well as some fees and, for those who suffered repossession,
2 the partial value of the car. *See* Exhibit A.

3 40. This announcement came following an explosive New York Times article
4 uncovering an internal investigation that revealed 800,000 borrowers were affected by the
5 wrongful placement of CPI. *See Wells Fargo Forced Unwanted Auto Insurance on*
6 *Borrowers*, July 27, 2017, attached hereto as Exhibit B.

7 41. Wells Fargo attempted to avoid responsibility, placing the blame for the
8 mistaken force-placements on its outside vendor, National General, in its press release, and
9 praising itself for acting quickly to investigate customer complaints from July 2016. Yet
10 the public face-saving was too little too late for Wells Fargo, as Wells Fargo Bank has
11 been the subject of numerous complaints about their CPI practices for years to the
12 Consumer Financial Protection Bureau (“CFPB”). *Id.*

13 42. Indeed, Wells Fargo and Wells Fargo Bank were investigated and sued by the
14 Department of Justice (“DOJ”) on behalf of servicemembers whose cars had been
15 wrongfully repossessed in violation of the Servicemembers Civil Relief Act (“SCRA”).
16 Although Wells Fargo claims it became aware of issues at Wells Fargo Bank and
17 National General in July 2016, Wells Fargo Bank, had been investigated and sued by the
18 DOJ for at least a year prior for its conduct related to car loan delinquencies and
19 repossessions. *See Justice Department Reaches \$4 Million Settlement with Wells Fargo*
20 *Dealer Services for Illegally Repossessing Service members’ Cars*, September 29, 2016,
21 attached hereto as Exhibit C. *See also* Consent Order For a Civil Money Penalty *In the*
22 *Matter of Wells Fargo Bank, N.A.* dated September 29, 2016, attached hereto as Exhibit D.

23 43. The DOJ began an investigation in March 2015 and found that Wells Fargo
24 Bank had been engaging in unlawful conduct with respect to service members’ vehicles
25 *since at least 2008*. Wells Fargo Bank agreed to pay \$20 million in civil penalties, with an
26 additional \$4.1 million to the wronged servicemembers, as a result of the investigation and
27 to change its CPI practices, particularly with regard to sending out accurate notifications to
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1 servicemembers and verifying that the information they presented to courts when pursuing
2 delinquent payments and/or repossessions was in fact accurate. The Consent Order was
3 signed by the members of the Board of Directors for Wells Fargo Bank, who also served
4 as members of the Board of the Directors for Wells Fargo. *See id.*

5 44. This was simply the latest scandal to hit Wells Fargo and its subsidiaries,
6 following the disclosure last year that branch workers had been directed to open millions
7 of unauthorized credit card and bank accounts for customers in order to meet internal
8 company goals. As a result, Wells Fargo Bank was fined \$185 million for that scandal just
9 last year and its CEO, who was also the CEO of Wells Fargo, John Stumpf, was forced to
10 resign.
11

12 45. Other previous scandals to hit Wells Fargo and its subsidiary in recent years
13 include improper mortgage charges, some related to the force-placed insurance on homes,
14 the improper targeting of immigrants and older customers with memory problems in
15 opening new accounts, and filing false documentation in courts in mortgage disputes with
16 borrowers. There have been further reports that Wells Fargo Bank also opened
17 unauthorized “phantom” accounts in the name of brokerage and small business clients.

18 46. Prudential Financial Inc. also cut ties with Wells Fargo Bank earlier this year,
19 after being sued by former executives in its investigation division for wrongful termination
20 following their discovery that Wells Fargo Bank employees had been signing up bank
21 customers for Prudential MyTerm life insurance policies without their knowledge or
22 permission. The bank employees, who were not licensed to sell insurance, were supposed
23 to direct interested customers to special kiosks located in the banks or to Prudential’s
24 online portal. Instead, they opened accounts in the customers’ name and withdrew the
25 premiums directly from their bank accounts, sometimes canceling the policy after a month
26 or two.

27 47. In the summer of 2016, concurrent with the DOJ’s ongoing investigation into
28 Wells Fargo Bank’s CPI policies with respect to servicemembers, Wells Fargo hired

1 outside consultant Oliver Wyman to investigate the conduct of Wells Fargo Bank and its
2 outside vendor, National General. Despite the scope of the DOJ's investigation and
3 findings, *going all the way back to 2008*, Wells Fargo directed Oliver Wyman only to
4 review conduct and any resultant placement of insurance starting in January 2012.

5 48. Upon information and belief, despite the ongoing investigation, Wells Fargo
6 Bank ended its CPI program entirely in September 2016, at the direction of Wells Fargo.
7 Only two service providers were involved during the entirety of the program: Balboa, from
8 the program's inception in 2006 through 2011, and National General, from 2012 until the
9 program's end in 2016.

10 49. Oliver Wyman completed its investigative report in February 2017.
11 However, Wells Fargo and Wells Fargo Bank stayed silent, failing to announce the results
12 of their own investigation until July 27, 2017, only after the publication of the New York
13 Times report. *See Wells Fargo Planned to Eventually Tell Public about Auto Insurance*
14 *Programs – Executive*, July 28, 2017, attached hereto as Exhibit E. Wells Fargo also
15 blamed Harp and Katafias, among others, for the failures of Wells Fargo Bank. *Id.* No
16 mention was made about the existence of the same problems before National General's
17 involvement, despite the DOJ's findings of malfeasance going as far back as 2008 when
18 Balboa was the service provider.

19 50. In a similar vein of understating the expanse of the wrongdoing, despite the
20 fact that it had commissioned the report, Wells Fargo disagreed with the conclusions.
21 While Oliver Wyman found that over 800,000 customers had been wrongfully charged for
22 CPI, and in some instances were still paying for it, Wells Fargo said that only 570,000
23 borrowers were affected. The Oliver Wyman report found that 274,000 borrowers had
24 been pushed into delinquency due to the unlawful practice, that 100,000 had not received
25 proper notifications prior to force-placement, and that almost 25,000 borrowers suffered
26 wrongful vehicle repossessions. In its own self-serving press release, Wells Fargo tried to
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1 downplay the statistics, stating that only 60,000 failed to receive proper notice and only
2 20,000 suffered wrongful repossession. *See Wells Fargo Forced.*

3 51. Neither the numbers of affected borrowers from the Oliver Wyman report nor
4 Wells Fargo's alternative numbers include those wrongfully force-placed when Balboa
5 was the service provider.

6 52. Because Wells Fargo disagrees with its own report, but has yet to make any
7 supporting information publicly available, it is unknown at this time how many borrowers
8 were actually affected by the unlawful placement of CPI or whether all damaged
9 borrowers are being compensated by its announced repayment plan.

10 53. For its part, National General denies any wrongdoing. A spokesperson for the
11 insurance company, Christine Worley, Director of Investor Relations at National General
12 Holding Corp., said that it "feels confident with its compliance in this highly regulated
13 industry. We have always refunded premiums directly to our financial institutions
14 customers in a timely manner and provided all necessary notifications in compliance with
15 law and industry practice." *See Wells Fargo to Refund \$80 Million to Auto-Loan*
16 *Customers for Improper Insurance Practices*, July 28, 2017.

17 54. This latest misconduct has analysts concerned about the lack of controls on
18 the conduct of Wells Fargo Bank by itself and its parent, Wells Fargo. "The steady drip of
19 revelations is concerning as it makes quantifying and qualifying the extent of the internal
20 control failures difficult," said Isaac Boltansky, an analyst at Compass Point Research &
21 Trading. *Wells Fargo May Have Charged 500,000 Clients for Unwanted Insurance*, July
22 28, 2017, attached hereto as Exhibit F. Another analyst from Atlantic Equities,
23 Christopher Wheeler remarked, "What has been shown is that the bank was run for
24 superior revenue growth, and the controls around managing that were clearly insufficient."
25
26 *Id.*

27 55. In fact, in January 2017, Wells Fargo Bank praised the efforts of Harp when it
28 announced her retirement from Wells Fargo Dealer Services, effective April 2017, citing

1 the growth of the division and its revenues under her management. *See Dawn Martin*
2 *Harp to Retire as President of Wells Fargo Dealer Services*, January 11, 2017, attached
3 hereto as Exhibit G.

4 56. The continuing revelations of illicit conduct throughout multiple divisions of
5 Wells Fargo Bank shows a continuing, knowing pattern of behavior to pursue unearned,
6 illicit profits from its customers. The wrongful placement of hundreds of thousands of CPI
7 policies was simply another scheme by Wells Fargo and Wells Fargo Bank to charge
8 wrongfully its borrowers and acquire unearned profits. Wells Fargo and Wells Fargo Bank
9 were determined to continue this scheme and so only contracted with service providers
10 who were willing to participate, such as Balboa and National General.

11 57. Typically, when lenders provide financing to borrowers for the purchase of an
12 automobile, they frequently require that the borrower secure comprehensive and collision
13 coverage for that vehicle within the terms of the loan, so that the lender's interest is
14 protected in case of accidents or other damage to the vehicle.

15 58. In order to determine which borrowers are maintaining their required
16 coverage, lenders employ third party service providers to track the insurance of cars within
17 their lending portfolios. Often, these vendors also provide an insurance policy for the
18 lenders to purchase if a vehicle is found to be uninsured. The lender then passes on the
19 charge to the borrowers, adding fees and premium charges to the loan balance and/or the
20 monthly payment due under the terms of the loan agreement.

21 59. The purchasing of a policy for a borrower's vehicle under the terms of the
22 loan agreement is called forced-placement and is referred to as CPI within the industry.

23 60. Prior to making a forced-placement, service providers must send notifications
24 to the borrower that they are required to maintain insurance on their vehicle by the terms
25 of their loan and, if they fail to secure their own coverage, the lender will authorize the
26 service provider to purchase a policy for them, often at higher prices than the borrower
27 would be able to secure on the voluntary insurance market. Some states have more
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1 fulsome notification requirements than others, notably Arkansas, Michigan, Mississippi,
2 Tennessee and Washington.

3 61. The CPI industry is mostly concentrated in credit unions and smaller banking
4 institutions, whose auto loan portfolios represent a more significant percentage of their
5 overall business. Wells Fargo Bank is one of the few of the largest American banks to
6 require CPI terms in its loans. Its CPI program began in 2006 and ended in September
7 2016.

8 62. Upon information and belief, in 2006, Wells Fargo Bank entered into an
9 agreement with Balboa, at the behest of its parent corporation, Wells Fargo. As a result,
10 Balboa and/or its affiliates provided insurance tracking, notification to borrowers, and CPI
11 policies on behalf of Wells Fargo Bank from 2006 until the end of 2011.

12 63. Upon information and belief, Balboa was chosen as the automobile insurance
13 tracking and CPI provider because of their willingness to share commissions on the CPI
14 sales, as well as provide other things of value, with Wells Fargo Bank.

15 64. Upon information and belief, following the sale of Balboa to QBE Insurance
16 Company, Wells Fargo Bank entered an agreement with National General, at the behest of
17 its parent corporation, Wells Fargo. National General would provide insurance tracking
18 services for Wells Fargo Bank and force-place a policy on any uninsured vehicle that it
19 found, following notice to the borrower. This agreement was effective January 1, 2012.

20 65. Upon information and belief, National General was chosen as the automobile
21 insurance tracking and CPI provider because of their willingness to share commissions on
22 the CPI sales, as well as provide other things of value, with Wells Fargo Bank.

23 66. Under the original terms of the deal, Wells Fargo Bank would pay National
24 General for any policies it force-placed, including fees and commissions, as Balboa had
25 done before. Wells Fargo Bank would then receive a portion of the commission back from
26 National General, as part of a revenue-sharing arrangement. In turn, Wells Fargo Bank
27 would charge the borrower's loan account, which sometimes would be linked to a Wells
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1 Fargo bank account for automatic payments. The original scheme continued, simply with
2 a new service provider.

3 67. According to the Oliver Wyman report, Wells Fargo Bank stopped taking
4 commissions in February 2013. However, it continued to assess fees and other charges on
5 borrowers' loan accounts in the event that a CPI policy was placed.

6 68. Upon information and belief, in order to maximize revenue under the terms of
7 their arrangement, National General instituted and continued to use a tracking system that
8 failed to find coverage for automobiles in Wells Fargo Bank's loan portfolio at a higher
9 rate than actually existed within the portfolio. It also failed to ensure that proper
10 notification to borrowers about their lack of insurance was issued prior to the forced-
11 placement of the CPI policies.

12 69. Upon information and belief, despite the fact that the nationwide rate of car
13 owners who fail to maintain insurance on their vehicle is about 14%, throughout the Class
14 Period, National General found a significantly higher rate among Wells Fargo Bank's
15 portfolio, as much as 50% higher.

16 70. The artificially high rate of coverage lapses combined with National
17 General's purposefully designed notification system which failed to warn borrowers of the
18 impending force-placement of CPI, ensured that National General would be able to sell
19 hundreds of thousands more policies and recoup millions in unearned profits from the
20 fraudulent policy premiums and commissions.

21 71. Furthermore, National General instituted policies and procedures, both formal
22 and informal, that both made it more difficult for borrowers to prove they had voluntary
23 coverage and intentionally slowed down the process of CPI removal. The effect of such
24 policies was to ensure that Wells Fargo Bank and National General would be able to
25 charge additional fees to Class members, even if the CPI premium itself was eventually
26 refunded.
27
28

1 72. Wells Fargo Bank, meanwhile, reaped the benefits, enjoying the added
2 revenue stream of commissions from the CPI, as well as added fees to borrowers'
3 accounts, and other benefits. Some of the other financial benefits to Wells Fargo Bank
4 included fees from overdrawn accounts, for those borrowers' whose auto loan payments
5 were automatically deducted from their checking or savings accounts, as well as extra fees
6 and charges assessed to customers after reporting their delinquency on credit reports prior
7 to selling them other products.

8 73. Wells Fargo Bank's role in this scheme was managed by Harp, as Chief
9 Operating Officer and then President of Wells Fargo Dealer Services, and by Katafias, the
10 head of Indirect Auto Lending at Wells Fargo Dealer Services, throughout the Class
11 Period. Both former executives were identified as being responsible for oversight of
12 National General by Franklin Codel, Head of Consumer Lending for Wells Fargo.

13 74. Indirect Auto Lending is, in fact, the bulk of Wells Fargo Bank's auto loan
14 portfolio, with 3.7 million loans compared to less than 250,000 for direct auto lending.
15 Katafias, identified as Harp's deputy by Codel, was the executive in charge of all aspects
16 of indirect auto lending and financing during the Class Period. Upon information and
17 belief, both he and Harp were tasked by Wells Fargo and Wells Fargo Bank to pursue any
18 and all revenue streams from this portfolio, including any way to maximize profits to both
19 their division and other Wells Fargo Bank divisions, such as Consumer Lending, and both
20 were incentivized and benefited monetarily by the acts complained of herein.

21
22 **B. Plaintiff and Members of the Classes Suffered Harm as a Result of**
23 **Defendants' Collusive Practices**

24 75. Defendants reaped immense profits at the expense of borrowers through their
25 CPI scheme. While Defendants continued to line their pockets, borrowers were forced to
26 pay for unnecessary and unwanted CPI, and were further duped into paying charges to
27 maintain their accounts, avoid further late fees and interest charges, and avoid repossession
28 of their vehicles. Borrowers also had to expend substantial time and resources trying to

1 prove to Wells Fargo Bank that they in fact had proper insurance coverage in place and in
2 trying to repair their credit history.

3 76. Often borrowers were unaware that Balboa and/or National General had even
4 issued the force-placed CPI policies, as they and Wells Fargo Bank failed to notify its
5 customers of the costly and duplicative insurance policies that they unilaterally purchased
6 on borrowers' behalves. Wells Fargo's failure to notify borrowers of anticipated—or
7 previously force-placed—CPI was not only unethical, but in violation of the law.
8 According to a Wells Fargo consultant, between 2012 and 2016, almost 100,000 CPI
9 policies violated the disclosure requirements of five states—Arkansas, Michigan,
10 Mississippi, Tennessee and Washington. Even when borrowers notified Defendants about
11 the wrongfully placed coverage, Defendants routinely refused to remove the policies or
12 refund past payments.
13

14 77. For many borrowers, the harm extended far beyond the payment of
15 unnecessary force-placed CPI. For example, for those borrowers who had arranged for
16 their monthly loan payments to be automatically deducted from their checking accounts,
17 many borrowers were unaware that Wells Fargo had imposed additional charges,
18 oftentimes leading borrowers' accounts to become overdrawn as a result of the increase in
19 the automatic deduction. Borrowers were then charged additional fees and penalties on
20 their overdrawn accounts.

21 78. Wells Fargo and/or Wells Fargo Bank also maximized its profits by crafting
22 its payment system to apply payments in a designated sequential order, thereby squeezing
23 the most out of the interest payments that borrowers would pay over the life of their loans.

24 79. For some borrowers, the wrongful placement of CPI drove them into
25 delinquency on their car loans, ultimately leading Wells Fargo Bank to repossess their
26 cars, sell them and then continue to hound borrowers for funds to pay off the loans.
27
28

1 80. Borrowers also suffered the imposition of extra fees, charges and higher
2 interest rates from other financial institutions based on credit delinquencies that Wells
3 Fargo Bank had reported on borrowers' car loans as a result of the wrongfully placed CPI.

4 81. At the expense of borrowers, Wells Fargo orchestrated the arrangement
5 between Wells Fargo Bank, and Balboa and then National General as a part of its overall
6 plan to maximize revenue at all costs. The wrongful earnings of Wells Fargo Bank as a
7 result of the CPI scheme flowed to Wells Fargo, leading to higher revenues, which it
8 reported quarterly and annually to shareholders.

9 82. Wells Fargo's current attempt to remedy its wrongs by making borrowers
10 "whole" is inadequate, as many borrowers have suffered the effects of Wells Fargo's
11 wrongdoing far beyond the imposition of unwarranted CPI.

12 83. As a result of the CPI scheme, the Oliver Wyman report concluded that
13 borrowers are owed at least \$73 million. Despite disagreeing with the report, particularly
14 with the number of borrowers harmed, Wells Fargo announced it would be distributing
15 \$80 million to affected borrowers. However, Wells Fargo's own press release indicated
16 that some borrowers would only receive refunds of "certain fees," and has offered no
17 accounting of how it decided which fees would be refunded. Furthermore, there is no
18 compensation forthcoming to any borrower from the time period when Balboa was the CPI
19 provider.
20

21 84. As a result of the CPI scheme, Plaintiffs and Class members suffered
22 substantial damages, including wrongful CPI charges, assessed fees, additional expenses
23 and costs, damage to their credit reports, delinquencies and/or repossessions.

24 **V. TOLLING**

25 85. Plaintiffs and members of the Classes had no way of knowing the true nature
26 and extent of Defendants' CPI scheme necessary to prosecute their claims. As
27 demonstrated by Wells Fargo's belated announcement of the investigation into its Wells
28 Fargo Bank which commenced over a year ago, Defendants were intent on hiding their

1 behavior from regulators and borrowers. In fact, National General continues to deny it did
2 anything improper.

3 86. Defendants were under a continuous duty to disclose to Plaintiffs and
4 members of the Classes the true character, quality, and nature of the charges that they
5 assessed to borrowers' accounts.

6 87. Defendants knowingly and actively concealed the CPI scheme, and Plaintiffs
7 and members of the Classes reasonably relied upon Defendants' knowing and active
8 concealment. Plaintiffs and members of the Classes thus had no way of knowing the true
9 character, quality and nature of the charges that they were assessed.

10 88. Given Defendants' knowing and active concealment, Plaintiffs and members
11 of the Classes could not have discovered, through the exercise of reasonable diligence, the
12 true nature of Defendants' unlawful conduct and unwarranted charges to their accounts.

13 89. Accordingly, the applicable statutes of limitations have been tolled by
14 operation of the discovery rule and Defendants' fraudulent concealment with respect to all
15 claims alleged herein, and Defendants are estopped from relying on any statutes of
16 limitations in defense of this action. Further, Defendants' conduct, as directed by Wells
17 Fargo and Wells Fargo Bank, was part of a continuing, systematic practice, with the last
18 act in the fraudulent scheme taking place within the applicable statute of limitations. As
19 such, the Defendants are liable for all acts undertaken as part of the scheme as continuing
20 violations.

21 VI. CLASS ACTION ALLEGATIONS

22 90. Plaintiffs bring this action pursuant to Federal Rule of Civil Procedure 23 on
23 behalf of the following Class and Sub-Class:
24

25
26 **Nationwide Class:** All persons who were charged premiums and/or related
27 fees for collateral protection insurance placed by Wells Fargo Bank prior to
28 September 30, 2016, within the applicable statute of limitations.

Texas Sub-Class: All residents of Texas who were charged premiums and/or
related fees for collateral protection insurance placed by Wells Fargo Bank

1 prior to September 30, 2016, within the applicable statute of limitations (the
2 “Texas Sub-Class”).¹

3 91. Excluded from the proposed Class and Sub-Class are Wells Fargo, as well as
4 its agents, officers, and directors, and their families, as well as its parent companies,
5 subsidiaries, and affiliates. Any judicial officer assigned to this case is also excluded.
6 Plaintiff reserves the right to revise the definition of the Class and Sub-Class based upon
7 subsequently discovered information.

8 92. This action is brought and may be properly maintained as a class action under
9 Federal Rules of Civil Procedure 23(a) and 23(b)(3).

10 93. The Classes are so numerous that joinder of all members is impracticable.
11 Plaintiffs believe that there are hundreds of thousands of proposed members of the Classes
12 throughout the United States.

13 94. Common questions of law and fact exist as to all members of the Classes and
14 predominate over any issues solely affecting individual members of the Classes. The
15 common questions of law and fact include but are not limited to:

16 a) whether Defendants unlawfully purchased CPI for borrowers whose
17 voluntary automobile insurance had not lapsed;

18 b) whether Defendants wrongfully charged members of the Classes fees
19 and interest related to the unlawfully purchased CPI;

20 c) whether Defendants received commissions and/or other things of value
21 from providers of CPI;

22 d) whether Defendants unlawfully forced borrowers to pay for duplicative
23 coverage;
24

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26
27
28 ¹ The Nationwide Class and the Texas Sub-Class are collectively referred to as “the
Classes.”

1 e) whether Defendants used the mail and wires to conduct a scheme to
2 defraud Plaintiff and the Class by unlawfully purchasing and charging borrowers for
3 unnecessary CPI;

4 f) whether Defendants misrepresented that they were force-placing
5 insurance on Plaintiff's and members of the Classes' automobiles lawfully, but instead did
6 so to generate unreasonable and unwarranted profit for each of the Defendants;

7 g) whether Defendants conspired to take advantage of their contractual
8 authority to issue CPI to Plaintiff and members of the Classes pursuant to pre-arranged
9 agreements that returned an undisclosed and improper financial benefit to each Defendant;
10

11 h) whether Defendants violated 18 U.S.C. § 1962(c);

12 i) whether Defendants violated 18 U.S.C. § 1962(d);

13 j) whether Defendants violated Cal. Bus. & Prof. Code § 17200, *et. seq.*;
14 and

15 k) whether Plaintiffs and members of the Classes are entitled to actual
16 damages, statutory damages, treble damages, punitive damages, restitution, restitutionary
17 disgorgement, and/or other equitable or declaratory relief.

18 95. Plaintiffs' claims are typical of the claims of the Classes. As alleged herein,
19 Plaintiff and members of the Classes all sustained damages arising out of the same course
20 of unlawful conduct by Defendant.

21 96. Plaintiffs are willing and prepared to serve the Classes in a representative
22 capacity with all of the obligations and duties material thereto. Plaintiffs will fairly and
23 adequately protect the interests of the Classes and has no interests adverse to, or which
24 conflict with, the interests of the other members of the Classes.

25 97. Plaintiffs' interests are co-extensive with, and not antagonistic to, those of the
26 absent members of the Classes. Plaintiffs will undertake to represent and protect the
27 interests of the absent members of the Classes.
28

1 98. Plaintiffs have engaged the services of the undersigned counsel. Counsel is
2 experienced in complex litigation, will adequately prosecute this action, and will assert and
3 protect the rights of, and otherwise represent, Plaintiffs and the absent members of the
4 Classes.

5 99. A class action is superior to all other available methods for the fair and
6 efficient adjudication of this controversy. Plaintiffs know of no difficulty to be
7 encountered in the management of this litigation that would preclude its maintenance as a
8 class action.

9 100. Class action status is warranted under Rule 23(b)(3) because questions of law
10 or fact common to the members of the Classes predominate over any questions affecting
11 only individual members, and a class action is superior to other available methods for the
12 fair and efficient adjudication of this controversy.

13 101. The interest of members of the Classes in individually controlling the
14 prosecution of separate actions is theoretical and not practical. Prosecution of the action
15 through multiple representatives would be objectionable and Plaintiffs anticipate no
16 difficulty in the management of this matter as a class action.

17 VII. CLAIMS

18 FIRST CLAIM

19 VIOLATION OF THE RACKETEER INFLUENCED 20 AND CORRUPT ORGANIZATIONS ACT, 18 U.S.C. § 1962(C) 21 ON BEHALF OF THE NATIONWIDE CLASS AND THE SUB-CLASS AGAINST 22 ALL DEFENDANTS

23 102. Plaintiffs hereby incorporate by reference the preceding paragraphs as if they
24 were fully set forth herein.

25 103. Plaintiffs, each member of the Classes, and Defendants are “persons,” as that
26 term is defined in 18 U.S.C. §§ 1961(3) and 1962(c).
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1 **B. Enterprise**

2 104. For purposes of this claim, the RICO “enterprise” is an association-in-fact, as
3 the term is defined in 18 U.S.C. §§ 1961(4) and 1962(c), consisting of Wells Fargo, Wells
4 Fargo Bank, Balboa, National General, Harp, Katafias, and Non-Parties Affiliated with the
5 RICO Enterprise identified above, including their respective officers, directors, employees,
6 agents and direct and indirect subsidiaries (the “Enterprise”). The Enterprise is separate
7 and distinct from the persons that constitute the Enterprise.

8 105. The Enterprise was primarily managed by Wells Fargo and Wells Fargo Bank
9 in conjunction with Balboa and then later, National General, and other members.

10 106. The companies and individuals that constitute the Enterprise were associated
11 for the common purpose of defrauding borrowers by charging them for CPI that was not
12 necessary. The purpose thereof was to induce borrowers to pay amounts which Wells
13 Fargo and Wells Fargo Bank were not entitled to collect.

14 107. At all relevant times, the Enterprise was engaged in and its activities affected
15 interstate commerce. The proceeds of the Enterprise were distributed to its participants.

16 108. The Enterprise has operated from at least January 2012 and its operation is
17 ongoing. The Enterprise has an ascertainable structure separate and apart from the pattern
18 of racketeering activity in which the participants engage.

19 **C. The Pattern of Racketeering Activity**

20 109. At all relevant times, in violation of 18 U.S.C. § 1962(c), Wells Fargo, Wells
21 Fargo Bank, Balboa, National General, Harp, and Katafias conducted the affairs of the
22 Enterprise through a pattern of racketeering activity as defined in RICO, 18 U.S.C. §
23 1961(5) by virtue of the conduct described in this complaint. Wells Fargo, Wells Fargo
24 Bank, Balboa, National General, Harp, and Katafias have conducted the affairs of the
25 Enterprise and participated in the operation and management thereof at least through the
26 following conduct:
27
28

1 a) Wells Fargo and/or Wells Fargo Bank entered into agreements with
2 Balboa, and later, National General, in which they agreed to use these companies as the
3 provider of CPI.

4 b) In exchange for agreeing to use Balboa and later, National General, as
5 its CPI provider, Balboa and National General initially agreed to funnel a portion of the
6 CPI charges back to Wells Fargo and/or Wells Fargo Bank, disguising such payments as
7 “commissions.”

8 c) However, the commissions were not legitimate, but instead were
9 designed solely as a mechanism to funnel money back to Wells Fargo and/or Wells Fargo
10 Bank as a quid pro quo for using Balboa and/or National General as its CPI provider.

11 d) These payments were disguised as “commissions” to hide the true
12 nature of these payments.

13 e) In addition, Wells Fargo and Wells Fargo Bank and Balboa and
14 National General generated illicit profits by falsely representing to borrowers that CPI was
15 required, and charging borrowers for CPI, when the borrowers were actually not required
16 to pay for CPI.

17 f) In or around February 2013, Wells Fargo and/or Wells Fargo Bank
18 reportedly ceased accepting “commissions,” but they and National General continued to
19 profit through the Enterprise.

20 g) For example, National General continued to profit from the sale of CPI
21 to borrowers who were not required to pay for such insurance.

22 h) Wells Fargo also generated additional profits because, once CPI was
23 force-placed on a borrower’s vehicle, additional fees were charged and the amount was
24 often automatically deducted from the borrower’s account, often forcing the account into
25 delinquency and generating yet more fees for Wells Fargo.
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1 i) In some cases, borrowers' vehicles were repossessed, which further
2 increased the charges and fees Wells Fargo imposed on borrowers and allowing Wells
3 Fargo and/or Wells Fargo Bank to profit from the resale of the vehicle.

4 j) Wells Fargo also continued to receive loan monitoring services from
5 National General, a cost that should be carried by Wells Fargo as the loan servicer, not
6 shouldered by borrowers whose insurance was unlawfully force-placed.

7 k) In all cases, borrowers were not fully informed about the amounts
8 charged as CPI. In many instances, borrowers received no notice, even when legally
9 required and in other cases where notice was delivered, the notices falsely represent that
10 borrowers were required to pay for CPI.

11 l) In addition, the notices and billing statements were designed to lull
12 borrowers into believing that no fraudulent scheme was occurring and that Wells Fargo
13 and/or Wells Fargo Bank and Balboa and National General were simply exercising their
14 rights under borrowers' loan agreements. Wells Fargo and/or Wells Fargo Bank and
15 Balboa and National General sent these unremarkable statements through the mail to lull
16 Plaintiff and the Class members into a false sense of security, making it less likely that
17 borrowers would object to the improper charges, complain to the authorities, or bring
18 lawsuits.

19 m) Correspondence between Wells Fargo and/or Wells Fargo Bank and
20 Balboa and National General were further exchanged by means of wire communication in
21 interstate commerce writings.

22 n) Additionally, amounts extracted from borrowers by way of the
23 fraudulent scheme were exchanged between Wells Fargo and/or Wells Fargo Bank and
24 Balboa and National General by way of wire transfer.
25
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1 **D. The Predicate Acts of Mail and Wire Fraud**

2 110. The pattern of racketeering activity consisted of mail and/or wire fraud in
3 violation of 18 U.S.C. §§ 1341 and 1343. Specifically, Wells Fargo and/or Wells Fargo
4 Bank and Balboa and later National General engaged in an intentional scheme or artifice to
5 defraud borrowers whose loans were serviced by Wells Fargo and/or Wells Fargo Bank
6 and to obtain money or property from said borrowers and loan owners through false or
7 fraudulent pretenses, representations and promises.

8 111. The false statement and omissions, and mail and/or wire communications
9 were made by Wells Fargo and/or Wells Fargo Bank and Balboa and National General in
10 furtherance of the scheme constituted predicate acts of mail and/or wire fraud.

11 112. It was reasonably foreseeable to Wells Fargo and/or Wells Fargo Bank and
12 Balboa and National General that the mails and/or wires would be used in furtherance of
13 the scheme, and the mails and/or wires were in fact used to further and execute the
14 scheme.

15 113. The nature and pervasiveness of the Enterprise necessarily entailed frequent
16 wire and/or mail transmissions. The precise dates of such transmissions cannot be alleged
17 without access to the books and records of Wells Fargo and/or Wells Fargo Bank and
18 Balboa and National General. Nevertheless, Plaintiffs can allege such transmissions
19 generally.

20 114. For the purpose of furthering and executing the scheme, Wells Fargo and/or
21 Wells Fargo Bank and Balboa and National General regularly transmitted and caused to be
22 transmitted by means of wire communication in interstate commerce writings, electronic
23 data and funds, and also regularly caused matters and things to be placed in post offices or
24 authorized depositories, or deposited or caused to be deposited matters or things to be sent
25 or delivered by private or commercial interstate carrier. For example:
26
27
28

1 a) Wells Fargo and/or Wells Fargo Bank and Balboa and National
2 General issued materially false and misleading notices and billing statements relating to
3 CPI to borrowers via mail and wires;

4 b) Wells Fargo and/or Wells Fargo Bank and Balboa and National
5 General also communicated to borrowers with respect to force-placed insurance issues by
6 telephone;

7 c) Wells Fargo and/or Wells Fargo Bank and Balboa and National
8 General issued monthly statements via mail and/or wires falsely representing that
9 borrowers were required to pay CPI charges;

10 d) Wells Fargo and/or Wells Fargo Bank and/or Balboa and/or National
11 General received illicit CPI payments from borrowers via mail and/or wire;

12 e) Wells Fargo and/or Wells Fargo Bank transmitted a portion of the illicit
13 CPI charges collected from borrowers to Balboa and/or National General via mail and/or
14 wire; and
15

16 f) Wells Fargo and/or Wells Fargo Bank and Balboa and National
17 General utilized the mails and/or wires for the purpose of furthering and executing the
18 scheme. In certain cases, Wells Fargo Bank and Balboa and/or National General also
19 issued standardized notices to borrowers.

20 115. These letters contained both affirmative misrepresentations about the nature
21 of the charges, and were also intended to deceive borrowers into believing that the charges
22 assessed to their account were legitimate.

23 116. Plaintiffs and other borrowers within the Classes also received standardized
24 monthly billing statements from Wells Fargo and/or Wells Fargo Bank. The identification
25 of amounts charged to borrowers for CPI on these billing statements also played a role in
26 furthering the overall scheme to defraud, as it allowed Wells Fargo and/or Wells Fargo
27 Bank to collect unauthorized amounts from borrowers.
28

1 117. These are only examples of certain instances of the pattern of racketeering
2 activity consisting of mail and/or wire fraud violations engaged in by Wells Fargo and/or
3 Wells Fargo Bank and Balboa and National General. Each electronic and/or postal
4 transmission was incident to an essential part of the scheme. As detailed above, Wells
5 Fargo and/or Wells Fargo Bank and National General engaged in similar activities with
6 respect to each member of the Classes.

7 118. Each such electronic and/or postal transmission was incident to an essential
8 part of the scheme.

9 119. Additionally, each such electronic and/or postal transmission constituted a
10 predicate act of wire and/or mail fraud in that each transmission furthered and executed the
11 scheme to defraud borrowers.

12 120. All Defendants participated in the scheme to defraud knowingly, willfully and
13 with a specific intent to defraud borrowers into paying and/or incurring falsely inflated,
14 unauthorized charges in connection with force-placed insurance policies.

15 121. The predicate acts of mail and wire fraud constitute a pattern of racketeering
16 activity as defined in 18 U.S.C. § 1961(5). The predicate acts were not isolated events, but
17 related acts aimed at the common purpose and goal of defrauding borrowers and loan
18 owners to pay and incur the falsely inflated, unauthorized charges with respect to force-
19 placed insurance and thereby enable Wells Fargo, Wells Fargo Bank, Balboa and National
20 General to reap illicit profits.

21 122. All Defendants participated in the predicate acts. These activities amounted to
22 a common course of conduct, with similar pattern and purpose, intended to deceive
23 borrowers.

24
25 **E. Injury to Plaintiffs and the Classes**

26 123. As a direct and proximate result of violations of 18 U.S.C. § 1962(c) by
27 Defendants, Plaintiffs and the Classes have been injured in their business or property
28 within the meaning of 18 U.S.C. § 1964(c). Plaintiffs and the Classes paid and/or were

1 charged unauthorized insurance charges by reason, and as a direct, proximate and
2 foreseeable result, of the scheme alleged.

3 124. Plaintiffs and the Classes were also charged overdraft fees, and other
4 amounts, after Wells Fargo and/or Wells Fargo Bank deducted the unlawful amounts from
5 Plaintiff's accounts, and/or otherwise assessed charges that they were not entitled to
6 collect.

7 125. Moreover, overcharging Plaintiffs and the Classes for force-placed insurance
8 was an integral and necessary part of the scheme, as those overcharges constituted
9 purported servicing advances that Wells Fargo and/or Wells Fargo Bank were entitled to
10 recoup from the proceeds of the loans.

11 126. Under the provisions of 18 U.S.C. § 1964(c), Wells Fargo, Wells Fargo Bank,
12 and National General are jointly and severally liable to Plaintiffs and the Classes for three
13 times the damages sustained, plus the costs of bringing this suit, including reasonable
14 attorneys' fees.

15 **SECOND CLAIM**

16 **VIOLATION OF THE RACKETEER INFLUENCED AND CORRUPT** 17 **ORGANIZATIONS ACT, 18 U.S.C. § 1962(D) – RICO CONSPIRACY** 18 **ON BEHALF OF THE NATIONWIDE CLASS AND THE SUB-CLASS** 19 **AGAINST ALL DEFENDANTS**

20 127. Plaintiffs hereby incorporate by reference the preceding paragraphs as if they
21 were fully set forth herein.

22 128. RICO, 18 U.S.C. § 1962(d), provides that it “shall be unlawful for any person
23 to conspire to violate any of the provisions of subsection (a), (b), or (c) of this section.”

24 129. Wells Fargo has violated 18 U.S.C. § 1962(d) by conspiring to violate 18
25 U.S.C. § 1962(c) with Wells Fargo Bank, Balboa, National General, Harp, and Katafias.

26 130. As set forth in Count One, above, at all relevant times, Plaintiffs and the
27 Classes were “persons” within the meaning of RICO, 18 U.S.C. §§ 1961(3) and 1962(c).
28

1 131. As also set forth above, at all relevant times, defendants Wells Fargo, Wells
2 Fargo Bank, Balboa, National General, Harp, and Katafias were “persons” within the
3 meaning of RICO, 18 U.S.C. §§ 1961(3) and 1962(d).

4 132. Wells Fargo, Wells Fargo Bank, National General, Balboa, Harp, and
5 Katafias formed the previously alleged association-in-fact Enterprise, within the meaning
6 of 18 U.S.C. § 1961(4), for the common purpose of fraudulently overcharging borrowers
7 and loan owners with respect to force-placed insurance. The purpose thereof was to
8 induce borrowers and loan owners to pay or incur fraudulently inflated, unauthorized
9 charges with respect to force-placed insurance.

10 133. The Enterprise was engaged in, and its activities affected interstate commerce
11 within the meaning of 18 U.S.C. § 1962(c).

12 134. As set forth in Count One, above, Wells Fargo, Wells Fargo Bank, Balboa,
13 National General, Harp, and Katafias conducted or participated, directly or indirectly, in
14 the conduct of the Enterprise’s affairs through a pattern of racketeering activity within the
15 meaning of 18 U.S.C. § 1961(5) in violation of 18 U.S.C. § 1962(c).

16 135. Wells Fargo, Wells Fargo Bank, Balboa, National General, Harp, and
17 Katafias were each associated with the Enterprise and agreed and conspired to violate 18
18 U.S.C. § 1962(c), and agreed to conduct and participate, directly or indirectly, in the
19 conduct of the affairs of the Enterprise through a pattern of racketeering activity in
20 violation of 18 U.S.C. § 1962(d).

21 136. Wells Fargo, Wells Fargo Bank, Balboa, National General, Harp, and
22 Katafias committed and caused to be committed a series of overt acts in furtherance of the
23 conspiracy and to affect the objects thereof.

24 137. As a direct and proximate result of the overt acts and predicate acts of in
25 furtherance of violating 18 U.S.C. §1962(d) by conspiring to violate 18 U.S.C. § 1962(c),
26 Plaintiffs and the Classes have been and are continuing to be injured in their business and
27 property in an amount to be determined at trial. Such injuries include, but are not limited
28

1 to, fraudulently inflated and unnecessary charges with respect to force-placed insurance, as
2 a direct, proximate and foreseeable result of the scheme alleged herein.

3 138. Under the provisions of 18 U.S.C. § 1964(c), Wells Fargo, Wells Fargo Bank,
4 Balboa, National General, Harp, and Katafias are jointly and severally liable to Plaintiffs
5 and the Classes for three times the damages sustained, plus the costs of bringing this suit,
6 including reasonable attorneys' fees.

7 **THIRD CLAIM**

8 **VIOLATION OF CALIFORNIA'S UNFAIR COMPETITION LAW** 9 **CAL. BUS. & PROF. CODE § 17200, ET SEQ.** 10 **ON BEHALF OF THE NATIONWIDE CLASS** 11 **AGAINST WELLS FARGO, WELLS FARGO BANK, HARP AND KATAFIAS**

12 139. Plaintiffs incorporate and reallege the allegations in the preceding paragraphs
13 as if fully set forth herein.

14 140. Plaintiffs bring their § 17200 claim on behalf of themselves and all borrowers
15 who were unlawfully (1) charged and/or paid for lender-placed auto collateral protection
16 insurance policies that they did not need, and (2) charged and/or paid for fees and interest
17 in connection with the unnecessary auto collateral protection insurance policies; and/or (3)
18 paid for lender-placed auto collateral protection insurance policies that included the costs
19 of commission payments.

20 141. Defendants were required to adhere to the requirements of California's Unfair
21 Competition Law, Cal. Bus. & Prof. Code § 17200 et seq. ("UCL"), when conducting
22 business with Plaintiffs and members of the Classes.

23 142. The UCL reaches claims made by out-of-state residents harmed by unlawful
24 conduct occurring inside California.

25 143. Moreover, these principal decision makers, including Harp and Katafias,
26 conceived of and managed the CPI scheme out of their California offices. Wells Fargo
27 and/or Wells Fargo Bank's operations in California were the locus of the decisions (and/or
28

1 ratification of decisions) to enter into agreements with Balboa and National General to
2 force-place auto collateral protection insurance on borrowers throughout the United States
3 with Balboa Insurance or National General Insurance that generated commissions in the
4 form of monetary and/or nonmonetary remuneration to Defendants. Moreover, the ability
5 to force-place insurance on members of the Classes resided with Wells Fargo Bank in
6 Irvine, California, who additionally communicated with members of the Class regarding
7 their supposed auto loan delinquencies out of their Santa Ana, California office.

8
9 144. The UCL prohibits any “unlawful” business act or practice. Defendants have
10 violated the UCL’s prohibition against engaging in unlawful acts or practices by violating
11 the Racketeer Influenced and Corrupt Organizations Act, 18 U.S.C. § 1962.

12 145. Plaintiffs reserve the right to allege other violations of law that constitute
13 other unlawful business acts or practices.

14 146. The UCL also prohibits any “unfair” business act or practice. As detailed in
15 the preceding paragraphs, Defendants engaged in unfair business acts or practices by,
16 among other things, (1) charging borrowers for unwanted and unnecessary auto collateral
17 protection insurance premiums; (2) charging borrowers for auto collateral protection
18 insurance premiums that included the cost of commissions paid to Defendants; and/or (2)
19 reaping financial benefits at the expense of Plaintiffs and the Classes, including fees from
20 overdrawn bank accounts, for those borrowers’ whose auto loan payments were
21 automatically deducted from their checking or savings accounts, as well as additional fees
22 and charges assessed to customers after reporting their delinquency on credit reports.

23 147. Defendants systematically engaged in these unfair and unlawful business
24 practices to the detriment of Plaintiffs and other members of the Classes.

25 148. The harm caused by these business practices vastly outweighs any legitimate
26 business utility they could possibly have.

27 149. There were reasonably available alternatives to further Defendants’ legitimate
28 business interests other than engaging in the above-described wrongful conduct.

1 150. Plaintiffs and other members of the Classes have been injured and have
2 suffered a monetary loss as a result of Defendants' violations of the UCL. Plaintiffs are
3 entitled to restitution in an amount to be determined at trial.

4 151. As a result of Defendant's violations of the UCL, Plaintiffs are also entitled to
5 recover attorneys' fees and costs to be paid by Defendants, as provided by Cal. Code of
6 Civil Procedure § 1021.5 and other applicable law.

7 **VIII. PRAYER FOR RELIEF**

8 WHEREFORE, Plaintiffs request that this Court enter a judgment against Defendant
9 and in favor of Plaintiffs, the Class, and Texas Sub-Class, and award the following relief:
10

11 a. that this action be certified as a class action pursuant to Rule 23 of the Federal
12 Rules of Civil Procedure, declaring Plaintiffs as the representatives of the Class and Texas
13 Sub-Class, and Plaintiffs' counsel as counsel for the Class and Texas Sub-Class;

14 b. that the conduct herein be declared, adjudged and decreed to be unlawful;

15 c. award Plaintiffs and members of the Classes appropriate relief, including
16 actual damages, statutory damages, treble damages, punitive damages, and restitutionary
17 disgorgement;

18 d. award all costs of prosecuting the litigation, including expert fees;

19 e. award pre- and post-judgment interest;

20 f. award attorneys' fees; and

21 g. grant such additional relief as this Court may deem just and proper.

22 **IX. DEMAND FOR JURY TRIAL**

23 Pursuant to Federal Rule of Civil Procedure 38(b), Plaintiffs hereby demand a trial
24 by jury as to all claims in this action.
25
26
27
28

1 Dated: August 14, 2017

Respectfully submitted,

2
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EXHIBIT A



Newsroom News Releases **Wells Fargo Announces Plan to Remediate Customers for Auto Insu...**

Wells Fargo Announces Plan To Remediate Customers For Auto Insurance Coverage

Company commits to consumer relief as part of resolving self-identified issue

Posted In: Consumer Lending, Corporate and Financial
 July 27, 2017

Newsroom

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- [Multimedia Resources](#)
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SAN FRANCISCO--(BUSINESS WIRE)--Wells Fargo & Company (NYSE: WFC) today announced a plan to remediate auto loan customers of Wells Fargo Dealers Services who may have been financially harmed due to issues related to auto Collateral Protection Insurance (CPI) policies.

Wells Fargo reviewed policies placed between 2012 and 2017 and identified approximately 570,000 customers who may have been impacted and will receive refunds and other payments as compensation. In total, approximately \$64 million of cash remediation will be sent to customers in the coming months, along with \$16 million of account adjustments, for a total of approximately \$80 million in remediation. Starting in August 2017, Wells Fargo will proactively reach out to impacted customers with letters and refund checks.

"In the fall of last year, our CEO and our entire leadership team committed to build a better bank and be transparent about those efforts," said Franklin Codel, head of Wells Fargo Consumer Lending, which includes the Dealer Services unit. "Our actions over the past year show we are acting on this commitment."

Customers' auto loan contracts require them to maintain comprehensive and collision physical damage insurance on behalf of the lender throughout the term of the loan. As permitted under those contracts, Wells Fargo would purchase CPI from a vendor on the customer's behalf if there was no evidence — either from the customer or the insurance company — that the customer already had the required insurance. CPI insurance protects against loss or damage to a vehicle serving as collateral to secure a loan and helps ensure that borrowers can pay for damages to a vehicle.

In response to customer concerns, in July 2016 Wells Fargo initiated a review of the CPI program and related third-party vendor practices. Based on the initial findings, the company discontinued its CPI program in September 2016. Since then, the company has gone through a comprehensive review using independent consultants to ensure the remediation plan it develops addresses customers' situations in a thorough and thoughtful way.

Wells Fargo's review determined that certain external vendor processes and internal controls were inadequate. As a result, customers may have been charged premiums for CPI even if they were paying for their own vehicle insurance, as required, and in some cases the CPI premiums may have contributed to a default that led to their vehicle's repossession.

"We take full responsibility for our failure to appropriately manage the CPI program and are extremely sorry for any harm this caused our customers, who expect and deserve better from us," said Codel. "Upon our discovery, we acted swiftly to discontinue the program and immediately develop a plan to make impacted customers whole."

Wells Fargo already has been providing CPI-related refunds to some customers and, beginning in August, will send letters and refund checks to customers who are due additional payments. The process is expected to be complete by the end of the year and is as follows:

- Approximately 490,000 customers had CPI placed for some or all of the time they had adequate vehicle insurance coverage of their own. We refunded the premium and interest for the duplicative coverage at the time the customer made us aware of their other insurance. These customers will receive additional refunds of certain fees and some additional interest. Refunds for this group total approximately \$25 million.
- In five states that have specific notification and disclosure requirements, approximately 60,000 customers did not receive complete disclosures from our vendor as required prior to CPI placement. In these cases, even if CPI was required, customers will receive a refund including premiums, fees and interest. Refunds for this group total approximately \$39 million.
- For approximately 20,000 customers, the additional costs of the CPI could have contributed to a default that resulted in the repossession of their vehicle. Those customers will receive additional payments as compensation for the loss of their vehicle. The payment amount will depend on each customer's situation and also will include payment above and beyond the actual financial harm as an expression of our regret for the situation. Refunds for this group total approximately \$16 million.

For each of these categories, Wells Fargo will also work with the credit bureaus to correct customers' credit records, if applicable. Also as an outcome of this review, Wells Fargo has taken additional steps to tighten oversight of third-party

vendors in Dealer Services. This is consistent with a broader effort to strengthen how the Dealer Services business manages risk and serves customers, which has included other recently announced actions to centralize operational functions and provide more consistency for customers, tighten credit standards, and implement a new structure.

About Wells Fargo

Wells Fargo & Company (NYSE: WFC) is a diversified, community-based financial services company with \$1.9 trillion in assets. Wells Fargo's vision is to satisfy our customers' financial needs and help them succeed financially. Founded in 1852 and headquartered in San Francisco, Wells Fargo provides banking, insurance, investments, mortgage, and consumer and commercial finance through more than 8,500 locations, 13,000 ATMs, the internet (wellsfargo.com) and mobile banking, and has offices in 42 countries and territories to support customers who conduct business in the global economy. With approximately 271,000 team members, Wells Fargo serves one in three households in the United States. Wells Fargo & Company was ranked No. 25 on Fortune's 2017 rankings of America's largest corporations. News, insights and perspectives from Wells Fargo are also available at Wells Fargo Stories.

Cautionary Statement About Forward-Looking Statements

This news release contains forward-looking statements about our future financial performance and business. Because forward-looking statements are based on our current expectations and assumptions regarding the future, they are subject to inherent risks and uncertainties. Do not unduly rely on forward-looking statements as actual results could differ materially from expectations. Forward-looking statements speak only as of the date made, and we do not undertake to update them to reflect changes or events that occur after that date. For information about factors that could cause actual results to differ materially from our expectations, refer to our reports filed with the Securities and Exchange Commission, including the discussion under "Risk Factors" in our Annual Report on Form 10-K for the year ended December 31, 2016, as filed with the Securities and Exchange Commission and available on its website at www.sec.gov.

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Business Wire NewsHQSM

EXHIBIT B

The New York Times

BUSINESS DAY

Wells Fargo Forced Unwanted Auto Insurance on Borrowers

By GRETCHEN MORGENSON JULY 27, 2017

More than 800,000 people who took out car loans from Wells Fargo were charged for auto insurance they did not need, and some of them are still paying for it, according to an internal report prepared for the bank's executives.

The expense of the unneeded insurance, which covered collision damage, pushed roughly 274,000 Wells Fargo customers into delinquency and resulted in almost 25,000 wrongful vehicle repossessions, according to the 60-page report, which was obtained by The New York Times. Among the Wells Fargo customers hurt by the practice were military service members on active duty.

Wells Fargo, one of the largest banks in the United States, is struggling to repair its image after a scandal in which its employees created millions of credit card and bank accounts that customers had never requested. That crisis, which came to a head last year, toppled Wells Fargo's chief executive and led to millions of dollars in fines.

9

ARTICLES REMAINING

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The bank also stands accused of having made improper adjustments to the terms of the home loans of customers who were in bankruptcy, which Wells Fargo denies.

Asked about the findings on auto insurance, Wells Fargo officials confirmed that the improper insurance practices took place and said the bank was determined to make customers whole.

“We have a huge responsibility and fell short of our ideals for managing and providing oversight of the third-party vendor and our own operations,” Franklin R. Codel, the head of consumer lending at Wells Fargo, said in an interview. “We self-identified this issue, and we made the right business decisions to end the placement of the product.”

The report, which was prepared by the consulting firm Oliver Wyman, looked at insurance policies sold to Wells customers from January 2012 through July 2016. The insurance, which the bank required, was more expensive than auto insurance that customers often already had obtained on their own.

National General Insurance underwrote the policies for Wells Fargo, which began to require the insurance on auto loans as early as 2006. The practice continued until the end of September.

Christine Worley, a spokeswoman for National General, declined to comment.

For borrowers, delinquencies arose quickly because of the way the bank charged for the insurance. Say, for example, that a customer agreed to a monthly payment of \$275 in principal and interest on her car loan, and arranged for the amount to be deducted from her bank account automatically. If she were not advised about the insurance and it increased her monthly payment to, say, \$325, her account could become overdrawn as soon as Wells Fargo added the coverage.

The report tried to determine how many Wells Fargo customers were hurt and how much they should be compensated. It estimated that the bank owed \$73 million to wronged customers.

State insurance regulations required Wells Fargo to notify customers of the insurance before it was imposed. But the bank did not always do so, the report said. And almost 100,000 of the policies violated the disclosure requirements of five states — Arkansas, Michigan, Mississippi, Tennessee and Washington.

Wells Fargo took issue with some of the figures in its own report. In a statement, Jennifer A. Temple, a bank spokeswoman, said the bank determined only 570,000 of its customers may qualify for a refund and that just 60,000 customers in the five states had not received complete disclosures before the insurance placement. Finally, she said, the bank estimated the insurance may have contributed to 20,000 wrongful repossessions, not 25,000.

“We take full responsibility for these errors and are deeply sorry for any harm we caused customers,” Ms. Temple added.

Requiring borrowers to be insured is common in the mortgage arena, where banks expect customers to carry enough homeowners’ insurance to protect the property backing their loans. The term for the practice is “lender-placed insurance.” Pressing such insurance on auto borrowers, however, is not as common: Representatives of Bank of America, Citibank and JPMorgan Chase said they did not offer the policies, though some smaller banks do.

In the Wells Fargo arrangement, National General receives all of the commissions on the insurance it sold to the bank’s borrowers. But for a time the bank shared in those revenues. Wells stopped sharing in the commissions in February 2013, according to the report.

Asked about the bank’s insurance practices, Bryan Hubbard, a spokesman for the Office of the Comptroller of the Currency, Wells Fargo’s regulator, said, “I cannot comment on specific ongoing supervisory matters or potential pending actions pertaining to a particular bank.”

Wells Fargo borrowers sustained financial damages beyond the costs of the insurance, the report said. The harm also included repossession costs, late fees, charges for insufficient funds and damage to consumers’ credit reports.

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In recent years, consumers have complained to federal regulators about lender-placed insurance on auto loans, the Consumer Financial Protection Bureau's database shows. Many complaints identified Wells Fargo. In one example, an unidentified Wells Fargo customer reported providing proof to the bank on three occasions that the car was already insured and the new insurance was unnecessary, only to continue receiving calls from bank employees demanding payment of insurance charges.

Wells Fargo automatically imposed the insurance through its Dealer Services unit. Its website says it has more than four million customers and provides a variety of banking services to 14,000 auto dealers around the nation. It says the company's lender-placed auto insurance "may be considerably more expensive than insurance you can obtain on your own."

Such policies typically cost more than \$1,000 a year, not counting interest. (Customers could pay them in full or finance them over time.) If a car was repossessed, the bank might charge a reinstatement fee of as much as \$500, so a borrower could face \$1,500 in charges.

Here is how the process worked: When customers financed cars with Wells Fargo, the buyers' information would go to National General, which was supposed to check a database to see if the owner had insurance coverage. If not, the insurer would automatically impose coverage on the customers' accounts, adding an extra layer of premiums and interest to their loans.

When customers who checked their bills saw the charges and notified Wells Fargo that they already had car insurance, the bank was supposed to cancel the insurance and credit the borrower with the amount that had been charged.

The Oliver Wyman report indicated that many customers appear not to have notified Wells Fargo of the redundant insurance. This may have been because their payments were deducted automatically from their bank accounts and they did not spot the charges.

9 According to documents on a Wells Fargo website titled "understanding your auto loan," the bank had strict rules about the order in which it would apply a
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ARTICLE 10

customer's car payment to costs associated with the loan: First to be deducted from a payment would be the interest owed on the car loan. Then the bank would deduct interest charged on the lender-placed insurance. The third deduction would be principal on the loan, followed by the amount of premium owed on the insurance.

This payment structure had the effect of increasing the overall interest borrowers paid on their loans, the Oliver Wyman report noted, because fewer dollars went to reducing the principal outstanding.

Wells Fargo was also aggressive in repossessing vehicles: Some customers endured multiple repossessions, the report said.

Last fall, Wells Fargo Dealer Services had a run-in with regulators, and it agreed to pay \$4 million in a settlement with the Justice Department over illegally repossessing cars of military service members. Since that settlement, three top executives have left the Dealer Services division.

A version of this article appears in print on July 28, 2017, on Page A1 of the New York edition with the headline: Wells Fargo Required Borrowers To Buy Needless Auto Insurance.

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EXHIBIT C

JUSTICE NEWS

Department of Justice

Office of Public Affairs

FOR IMMEDIATE RELEASE

Thursday, September 29, 2016

Justice Department Reaches \$4 Million Settlement with Wells Fargo Dealer Services for Illegally Repossessing Servicemembers' Cars

The Justice Department announced today that Wells Fargo Bank N.A., doing business as Wells Fargo Dealer Services, has agreed to change its policies and pay over \$4.1 million to resolve allegations that it violated the Servicemembers Civil Relief Act (SCRA) by repossessing 413 cars owned by protected servicemembers without obtaining a court order.

The settlement, which is still subject to court approval, was filed in the U.S. District Court for the Central District of California. The department launched an investigation after it received a complaint in March 2015 from the U.S. Army's Legal Assistance Program alleging that Wells Fargo had repossessed Army National Guardsman Dennis Singleton's used car in Hendersonville, North Carolina, while he was preparing to deploy to Afghanistan to fight in Operation Enduring Freedom. After Wells Fargo repossessed the car, it sold it at a public auction and then tried to collect a deficiency balance of over \$10,000 from Singleton and his family. In October 2014, while seeking assistance with debt consolidation, Army National Guardsman Singleton met with a National Guard attorney, who informed him of his rights under the SCRA. The attorney requested information from Wells Fargo about the original loan and repossession, and asked for copies of the correspondence and payment history. The attorney never received a response from Wells Fargo. The department's subsequent investigation corroborated Singleton's complaint and found a pattern of unlawful repossessions spanning over more than seven years.

"Wells Fargo Bank unlawfully repossessed hundreds of servicemembers' cars without the proper process, and the bank will now rightfully pay for its violations," said Principal Deputy Associate Attorney General Bill Baer. "The Justice Department is committed to protecting our country's servicemembers as they continue to fight for our freedom."

"Auto lenders cannot repossess the cars of the brave men and women who risk their lives to defend our freedom without providing them the required legal protections under the SCRA," said Principal Deputy Assistant Attorney General Vanita Gupta, head of the Justice Department's Civil Rights Division. "I commend Wells Fargo for owning up to its shortcomings and providing all the information we requested after learning of our investigation. This settlement should help ensure that servicemembers are not penalized financially for protecting our nation."

"We all have an obligation to ensure that the women and men who serve our country in the Armed Forces are afforded all of the rights they are due," said U.S. Attorney Eileen M. Decker of the Central District of California. "Wells Fargo failed in that obligation. The settlement announced today, however, vindicates the rights of our servicemembers and will help ensure better lending practices in the future by one of the nation's largest motor vehicle lenders."

The SCRA protects servicemembers against certain civil proceedings that could affect their legal rights while they are in military service. It requires a court to review and approve any repossession if the servicemember took out the loan and made a payment before entering military service. The court may delay the repossession or require the lender to refund prior payments before repossessing. The court may also appoint an attorney to represent the servicemember, require the lender to post a bond with the court and issue any other orders it deems necessary to protect the servicemember. By failing to obtain court orders before repossessing motor vehicles owned by protected servicemembers, Wells Fargo prevented servicemembers from obtaining a court's review of whether their repossessions should be delayed or adjusted to account for their military service.

The settlement covers repossessions that occurred between Jan. 1, 2008 and July 1, 2015. The agreement requires Wells Fargo to pay \$10,000 to each of the affected servicemembers, plus any lost equity in the vehicle with interest. Wells Fargo also must repair the credit of all affected servicemembers. Wells Fargo sent payments to many of the affected servicemembers in August 2016. Wells Fargo will locate additional victims and distribute payments through this settlement in the upcoming months, at no cost to the servicemembers. The agreement also requires Wells Fargo to pay a \$60,000 civil penalty to the United States and to determine, in the future, whether any vehicle it is planning to repossess is owned by an active duty servicemember. If so, Wells Fargo will not repossess the vehicle without first obtaining a court order. The agreement also contains provisions ensuring that all eligible servicemembers will receive the benefit of the SCRA's six percent interest rate cap on their auto loans.

The department's enforcement of the SCRA and other fair lending laws is conducted by the Civil Rights Division's Housing and Civil Enforcement Section. Since 2010, the division has provided over \$1.5 billion in monetary relief for individual borrowers and affected communities through its enforcement of the Fair Housing Act, the Equal Credit Opportunity Act and the SCRA. The SCRA provides protections for active duty servicemembers in areas such as evictions, rental agreements, security deposits, prepaid rent, civil judicial proceedings, installment contracts, credit card interest rates, mortgage interest rates, mortgage foreclosures, automobile leases, life insurance, health insurance and income tax payments. For more information about the department's SCRA enforcement, please visit www.servicemembers.gov. Servicemembers and their dependents who believe that their rights under SCRA have been violated should contact the nearest Armed Forces Legal Assistance Program Office. Office locations may be found at legalassistance.law.af.mil/content/locator.php.

Wells Fargo Complaint

Wells Fargo Consent Order

Topic(s):

Civil Rights
Servicemembers Initiative

Component(s):

Civil Rights Division
Civil Rights - Housing and Civil Enforcement Section
Office of the Associate Attorney General
USAO - California, Central

Press Release Number:

16-1127

Updated September 29, 2016

EXHIBIT D

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20 UNITED STATES DISTRICT COURT
 21 FOR THE CENTRAL DISTRICT OF CALIFORNIA

22 UNITED STATES OF AMERICA,
 23 Plaintiff
 24 v.

25 WELLS FARGO BANK, N.A.
 d/b/a
 26 WELLS FARGO DEALER SERVICES
 27 Defendant.

No. CV 2:16-07336

CONSENT ORDER

1 **CONSENT ORDER**

2 **I. INTRODUCTION**

- 3 1. This Consent Order resolves the allegations contained in the United States’
4 Complaint that Defendant Wells Fargo Bank, N.A., d/b/a Wells Fargo Dealer
5 Services (“Wells Fargo”) violated the Servicemembers Civil Relief Act
6 (“SCRA”), 50 U.S.C. § 3901, *et seq.*, when, according to the allegations, it
7 engaged in a pattern or practice of repossessing motor vehicles from “SCRA-
8 protected servicemembers”¹ without court orders from at least January 1,
9 2008 through July 1, 2015.
- 10 2. Defendant is a national bank whose motor vehicle lending operations are
11 located at 23 Pasteur in Irvine, California, in the Central District of
12 California.
- 13 3. This Order covers all loans or deficiency balances originated, acquired,
14 and/or serviced by Defendant, its parent Wells Fargo & Company, or any of
15 their subsidiaries, predecessors, acquired companies, or successor entities.
16 For purposes of this Order, loans are defined to include retail installment
17 contracts for motor vehicles.
- 18 4. Wells Fargo has cooperated fully with the United States’ investigation in this
19 matter and had taken steps to ensure its compliance with the SCRA, prior to
20 this investigation. Wells Fargo established a centralized SCRA Center of
21 Excellence that focuses specifically on SCRA compliance. The SCRA
22 Center of Excellence employs a proactive approach to identifying
23 servicemembers for SCRA protection. Wells Fargo initiated such efforts in
24 the second quarter of 2014 with a full-scale review of its portfolio for SCRA
25

26
27

¹ For purposes of this Consent Order, the term “SCRA-protected servicemember”
28 includes servicemembers as defined in 50 U.S.C. § 3911(1) and (2).

1 compliance. In addition, Wells Fargo previously and voluntarily commenced
2 efforts to compensate any affected borrowers.

3 5. The parties agree that the Court has jurisdiction over the subject matter of this
4 case pursuant to 28 U.S.C. § 1331, 28 U.S.C. § 1345, and 50 U.S.C. § 4041.

5 6. The parties agree that, to avoid costly and protracted litigation, the claims
6 against Defendant should be resolved without further proceedings or an
7 evidentiary hearing. Therefore, as indicated by the signatures appearing
8 below, the United States and Defendant agree to the entry of this Order. Such
9 agreement comes without the taking of proof and does not constitute evidence
10 or findings against or an admission of any party regarding any issue of law or
11 fact alleged in the Complaint. Defendant neither admits nor denies any of the
12 allegations in the United States' Complaint.

13 7. The effective date of this Order will be the date on which it is approved and
14 entered by the Court.

15 //

16 **It is hereby ORDERED, ADJUDGED and DECREED:**

17 **II. REMEDIAL PROVISIONS²**

18 8. Defendant and its affiliates or subsidiaries, and its officers, employees,
19 agents, and representatives (including contractors and vendors that conduct
20 repossessions on behalf of Defendant) shall comply fully with all relevant
21 provisions of the SCRA prohibiting the repossession of motor vehicles of
22 SCRA-protected servicemembers without a court order, while the
23 servicemember is in military service³, provided the servicemember paid a
24

25 ² Nothing in this Consent Order shall preclude Defendant from offering greater
26 protections to servicemembers than those afforded by the Consent Order or the SCRA.

27 ³ For purposes of this Consent Order, the term "military service" is defined by 50
28 U.S.C. § 3911(2).

1 deposit on the motor vehicle or installment on the loan while not in military
2 service.⁴

3 **III. COMPLIANCE WITH THE SCRA**
4 **AND SCRA POLICIES AND PROCEDURES**

5 9. Within sixty (60) calendar days of the effective date of this Order, Defendant
6 shall continue to develop SCRA Policies and Procedures for Motor Vehicle
7 Repossessions in compliance with Section 3952(a) of the SCRA, 50 U.S.C. §
8 3952(a).⁵ These policies and procedures must include provisions that ensure:

- 9 a. In addition to any other reviews Defendant may perform to assess
10 eligibility under the SCRA, (i) between two (2) and five (5) business
11 days before it refers a motor vehicle loan for repossession; (ii)
12 between two (2) and five (5) business days after it (or its agents,
13 including contractors and vendors that conduct repossessions on
14 behalf of Defendant) obtains possession of the motor vehicle; and
15 (iii) between two (2) and five (5) business days before it (or its
16 agents, including contractors and vendors that conduct repossessions
17 on behalf of Defendant) disposes of the motor vehicle, Defendant will
18 determine whether borrowers are servicemembers in military service
19 who paid a deposit on the motor vehicle or installment on the loan
20 while not in military service by: (1) reviewing any military service
21 information (including orders) it has received from borrowers and (2)

23 ⁴ 50 U.S.C. § 3917 grants additional periods of protection for reservists ordered to
24 report for military service and persons ordered to report for induction. Therefore, for
25 purposes of this Consent Order, periods of protection granted by 50 U.S.C. § 3917 shall
26 be considered “military service” at the time of repossession, but shall not be considered
“military service” at the time of payment of a deposit on the motor vehicle or installment
on the loan.

27 ⁵ Because Defendant’s motor vehicle lending contracts do not obtain a security
28 interest in the nature of a mortgage, which are subject to the requirements of Section
3953 of the SCRA, this Consent Order is limited to compliance with Section 3952(a) of
the SCRA, which covers installment contracts.

1 searching the Department of Defense Manpower Data Center
2 database (“DMDC”) for evidence of SCRA eligibility by either (a)
3 last name and social security number or (b) last name and date of
4 birth.

5 b. If Defendant is informed via military service information received
6 from a borrower, or via the periodic electronic check of the DMDC
7 described above, that the borrower is a servicemember in military
8 service who paid a deposit on the motor vehicle or installment on the
9 loan while not in military service, it may refer the loan for
10 repossession or conduct the repossession itself only after obtaining a
11 court order.

12 c. If Defendant discovers, after obtaining possession but before
13 disposing of the motor vehicle, that the borrower is a servicemember
14 in military service who paid a deposit on the motor vehicle or
15 installment on the loan while not in military service, Defendant shall
16 attempt to contact the borrower and offer to arrange to return the
17 vehicle as soon as possible, but within no later than seventy-two (72)
18 hours, and shall reverse on the borrower’s account all of the charges
19 resulting from the repossession. Defendant shall also correct any
20 negative credit reporting related to the repossession. If Defendant
21 cannot make contact with the borrower within seventy-two (72)
22 hours, Defendant shall cause the vehicle to be returned to the location
23 where possession was taken, unless: (1) return to such location
24 presents a significant risk of damage to the vehicle; (2) return to such
25 location presents a significant risk that the vehicle will be
26 impounded; (3) the borrower has previously informed Defendant that
27 the vehicle has been abandoned; or (4) the vehicle was recovered
28

1 under circumstances suggesting that the vehicle had been abandoned.
2 If the vehicle is not returned to the borrower within seventy-two (72)
3 hours, Defendant shall make 3 additional attempts to reach the
4 borrower based upon contact information in its files, and return the
5 vehicle as soon as possible, but within no later than seventy-two (72)
6 hours, of a borrower's request for return, without charging storage
7 fees. The vehicle may only be sold or otherwise disposed of only
8 after the contact attempts referenced in this subparagraph have been
9 made.

10 d. If Defendant pursues a repossession action in court and the borrower
11 fails to answer the action, Defendant will file an affidavit of military
12 service with the court as required by Section 3931(b)(1) of the
13 SCRA, 50 U.S.C. § 3931(b)(1). Before seeking entry of default,
14 Defendant will search the DMDC and review information in its
15 possession or control to determine if the borrower is SCRA-
16 protected. If Defendant learns that the borrower is SCRA-protected,
17 Defendant will: (1) file an affidavit stating that "the defendant is in
18 military service" before seeking default judgment; and (2) attach the
19 most recent military status report from the DMDC or a copy of the
20 military orders or other documentation to the affidavit.

21 e. Defendant may only rely on a servicemember's waiver of rights
22 under Section 3952(a) of the SCRA if it obtains a written agreement
23 as provided in Section 3918 of the SCRA, 50 U.S.C. § 3918. If
24 Defendant makes an unsolicited initiation of the waiver process with
25 the servicemember, it must do so at least thirty (30) calendar days in
26 advance of any anticipated repossession by sending a notice and a
27 copy of the proposed waiver to the servicemember. To the extent
28

1 Defendant exercises this right, Defendant shall use a notice that
2 prominently incorporates the language and layout of the form
3 attached as Exhibit A. If the servicemember initiates the waiver
4 process by offering to voluntarily surrender the vehicle or indicating
5 an intent to abandon the vehicle, Defendant must provide a copy of
6 the notice of the type described in Exhibit A and may obtain
7 possession of the vehicle at any point after receiving a signed waiver.

8 f. Defendant may take possession of a motor vehicle that has been
9 impounded by a non-related third-party or abandoned⁶ upon receiving
10 notice of the impoundment or abandonment even when the borrower
11 is a servicemember in military service who paid a deposit on the
12 motor vehicle or installment on the loan while not in military service.
13 Defendant must, however, provide notice to the servicemember that it
14 has taken possession and inform the servicemember of the rights and
15 protections under the SCRA, using a notice that prominently
16 incorporates the language and layout of the form attached as Exhibit
17 A. Defendant may dispose of the vehicle only after such notice and
18 any notice required by state law have been provided and at least thirty
19 (30) calendar days have passed.

20 10. Within sixty (60) calendar days of the effective date of this Order, Defendant
21 shall continue to develop SCRA Policies and Procedures for Providing SCRA
22 Relief in its motor vehicle lending line of business. This includes, but is not
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⁶ To be considered “abandoned” under this Order, the motor vehicle must have
27 been left someplace other than the servicemember’s residence or residential parking
28 area, with indications of no intent to retrieve it.

1 limited to, policies regarding reducing interest rates under Section 3937.⁷

2 The Policies and Procedures shall contain the following provisions:

- 3 a. Defendant shall accept servicemembers' notice of military status
4 pursuant to the SCRA (including provisions of the SCRA that require
5 notice in order to receive relief) made via facsimile, United States
6 Postal Service First Class Mail (postage pre-paid), overnight mail, or
7 electronically.
- 8 b. Defendant shall designate customer service representatives who have
9 been specifically trained on the protections of the SCRA and who are
10 responsible for the intake of and response to servicemembers'
11 inquiries regarding the SCRA. Defendant shall ensure that it has a
12 designated telephone number, and electronic mail address, at which
13 servicemembers may reach the designated SCRA customer service
14 representatives, who will address questions or concerns regarding
15 relief pursuant to the SCRA. Defendant shall also include a page on
16 its website detailing eligibility for, and relief provided by, the SCRA,
17 and providing the designated telephone number and electronic mail
18 address to obtain SCRA relief, or raise questions or concerns
19 regarding such relief.
- 20 c. When Defendant receives notice from a servicemember of military
21 status pursuant to the SCRA, within sixty (60) calendar days, it shall
22 review all the servicemember's loans, regardless of type of
23 obligation, even if it is outside the motor vehicle lending line of
24 business, and it shall determine the servicemember's eligibility for all
25 forms of relief pursuant to the SCRA on all loans. If the

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27 ⁷ The SCRA Policies and Procedures for Providing SCRA Relief need not include
28 early termination of leases under Section 3955 so long as Defendant is not the business
of leasing motor vehicles.

1 servicemember is determined to be eligible, the relief will be applied
2 retroactively to the first day of eligibility.

3 d. Within twenty (20) business days after determining a
4 servicemember's eligibility for relief pursuant to the SCRA,
5 Defendant shall notify the servicemember in writing⁸ of its
6 determination. If Defendant grants relief, Defendant shall notify the
7 servicemember in writing of the specific terms of the relief provided.
8 If Defendant denies relief, Defendant shall also notify the
9 servicemember in writing of the reason(s) for the denial, and it shall
10 ensure that such servicemember is given an opportunity to provide
11 additional documentation or information to establish eligibility for
12 relief pursuant to the SCRA.

13 e. With respect to forms of relief for which the SCRA requires
14 provision of military orders, in the event that a servicemember fails to
15 provide a copy of military orders entitling him or her to the relief,
16 Defendant shall search the DMDC to confirm eligibility. If the
17 DMDC records provide dates of service that confirm eligibility,
18 Defendant shall provide the relief required by the SCRA for the dates
19 indicated by the DMDC and shall notify the servicemember that the
20 servicemember may submit additional documentation to establish
21 eligibility dates if the servicemember disagrees with the dates
22 provided by the DMDC. If the DMDC records do not confirm
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24 ⁸ For all written notices to servicemembers required by the Consent Order,
25 Defendant shall use either: (1) the email address or mailing address chosen by the
26 borrower as the primary means of communication either by previous election or in the
27 most recent communication with the Defendant; or (2) if, no primary means of
28 communication has been chosen, the mailing and e-mail address listed in the
servicemember's most recent communication with Defendant, in addition to the
servicemember's current mailing address in Defendant's servicing records (if different).

1 eligibility, Defendant may deny the relief if it informs the
2 servicemember in writing that he or she is not eligible for the relief
3 unless he or she provides a copy of documents establishing military
4 service. Such documents will include any document prepared
5 exclusively by a branch of the military, the Department of Defense,
6 or a borrower's commanding officer that indicates that the borrower
7 is on active duty (e.g., active duty orders, change of station orders,
8 DD-214 forms, letters from commanding officers, etc.). Defendant
9 shall request this additional information before making a final
10 determination that the servicemember is not eligible for relief.

11 f. Defendant shall accept military orders without requiring a specific
12 end date for the period of military service. Defendant also shall
13 accept military orders without requiring the specification of the date
14 upon which the servicemember first entered active duty for this
15 period of service.

16 g. Defendant shall provide SCRA relief beginning on the earliest
17 eligible date provided in the orders or by the DMDC. However, if the
18 earliest date provided indicates that the servicemember was on active
19 duty at the time of loan origination, Defendant shall notify the
20 servicemember that he or she has been declined for the protection,
21 but shall provide the servicemember a reasonable opportunity to
22 provide documentation showing that the servicemember was not on
23 active duty at the time of loan origination.

24 h. Defendant shall be permitted to discontinue relief granted pursuant to
25 the SCRA only after Defendant searches the DMDC and the DMDC
26 reports that the servicemember is not in military service (or in any
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1 SCRA-protected period after the termination of military service).⁹
2 Defendant shall notify the servicemember in writing of the
3 discontinuation, and it shall ensure that such servicemember is given
4 an opportunity to provide additional documentation or information to
5 reestablish eligibility for relief pursuant to the SCRA. Defendant
6 may choose to provide relief for a longer period than is required by
7 this subparagraph.

8 i. The Policies and Procedures required by this Paragraph do not excuse
9 Defendant from providing, or allow Defendant to delay providing,
10 forms of relief for which the SCRA does not require a notification
11 from a servicemember. For example, the Policies and Procedures
12 required by this Paragraph do not affect the timing requirement of
13 Paragraph 9.

14 11. No later than sixty (60) calendar days after the effective date of this Order,
15 Defendant shall provide a copy of the proposed SCRA Policies and
16 Procedures required under Paragraphs 9 and 10 to counsel for the United
17 States.¹⁰ The United States shall respond to Defendant's proposed SCRA
18 Policies and Procedures within forty-five (45) calendar days of receipt. If the
19 United States objects to any part of Defendant's SCRA Policies and
20 Procedures, the parties shall confer to resolve their differences. If the parties
21 cannot resolve their differences after good faith efforts to do so, either party
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23 ⁹ In the case where an SCRA-protected servicemember provides Defendant with
24 valid military orders that include an end date of military service inconsistent with that
25 appearing in the DMDC, Defendant may only discontinue the relief after the latter of the
26 two end dates has expired or it obtains confirmation from the borrower that he or she has
ended military service.

27 ¹⁰ All materials required by this Consent Order to be sent to counsel for the United
28 States shall be sent by commercial overnight delivery addressed as follows: Chief,
Housing and Civil Enforcement Section, Civil Rights Division, U.S. Department of
Justice, 1800 G Street, N.W., 7th Floor, Washington, DC 20006, Attn: DJ 216-12C-2.

1 may bring the dispute to this Court for resolution. Defendant shall begin the
2 process of implementing the SCRA Policies and Procedures within ten (10)
3 calendar days of approval by the United States or the Court.

- 4 12. If, at any time during the term of this Order, Defendant proposes to materially
5 change its SCRA Policies and Procedures described herein, it shall first
6 provide a copy of the proposed changes to counsel for the United States. If
7 the United States does not deliver written objections to Defendant within
8 forty-five (45) calendar days of receiving the proposed changes, the changes
9 may be implemented. If the United States makes any objections to the
10 proposed changes within the forty-five (45)-day period, the specific changes
11 to which the United States objects shall not be implemented until the
12 objections are resolved pursuant to the process described in Paragraph 11.

13 **IV. TRAINING**

- 14 13. Defendant shall provide additional SCRA compliance training to any
15 employees who: (a) provide customer service to servicemembers in
16 connection with the servicing of motor vehicle loans, (b) have significant
17 involvement in servicing motor vehicle loans, including the ability to reduce
18 interest rates or terminate motor vehicle leases for servicemembers as
19 contemplated by the terms of the SCRA, or (c) have significant involvement
20 in repossessions of motor vehicles, (hereinafter together “covered
21 employees”) within forty-five (45) calendar days after Defendant’s training
22 program is approved by the United States or the Court pursuant to Paragraph
23 15. Defendant shall provide to each covered employee: (a) training on the
24 terms of the SCRA specific to the employee’s responsibilities associated with
25 that employee’s position; (b) training on the terms of Defendant’s SCRA
26 Policies and Procedures (both those required pursuant to Paragraph 9 and 10,
27 and all others adopted by Defendant) specific to the employee’s
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1 responsibilities associated with that employee's position; (c) training on the
2 terms of this Order specific to the employee's responsibilities associated with
3 that employee's position and his or her responsibilities and obligations under
4 the SCRA; and (d) the contact information for the SCRA customer service
5 representatives described in Paragraph 10(b). Defendant shall also follow
6 these training procedures for all of their employees who subsequently become
7 covered employees within thirty (30) calendar days of their hiring, promotion
8 or transfer.

9 14. During the term of this Order, Defendant shall continue to provide annual
10 SCRA training, with the same content as described in Paragraph 13, to
11 covered employees with respect to their responsibilities and obligations under
12 the SCRA, the SCRA Policies and Procedures and the terms of this Order.

13 15. Within forty-five (45) calendar days of the United States' approval of the
14 SCRA Policies and Procedures pursuant to Paragraphs 9 and 10, Defendant
15 shall provide to the United States the curriculum, instructions, and any
16 written material included in the training required by Paragraphs 13 and 14.
17 These materials may incorporate SCRA compliance training offered on or
18 before the effective date of this Order. The United States shall have forty-
19 five (45) calendar days from receipt of these documents to raise any
20 objections to Defendant's training materials, and, if it raises any, the parties
21 shall confer to resolve their differences. In the event they are unable to do so,
22 either party may bring the dispute to this Court for resolution.

23 16. The covered employees may undergo the training required by Paragraphs 13
24 and 14 via live training, computer-based training, web-based training, or via
25 interactive digital media. If the training is conducted in any format other than
26 live training, Defendant shall ensure that covered employees have the
27 opportunity to have their questions answered by a company contact that
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1 Defendant identifies as having SCRA expertise within two (2) business days
2 of the training. The training must require the covered employees to verify
3 their participation. If the training is conducted in any format other than live
4 training, the training must require that covered employees demonstrate
5 proficiency. Any expenses associated with the training program required by
6 Paragraphs 13 and 14 shall be borne by Defendant.

- 7 17. Defendant shall certify in writing to counsel for the United States that covered
8 employees successfully completed the training required by Paragraphs 13 and
9 14 and that said employees received the Consent Order and the SCRA
10 Policies and Procedures specific to the employee's responsibilities associated
11 with the loan being serviced. Additionally, Defendant shall maintain a list of
12 all covered employees who successfully completed the training required by
13 Paragraphs 13 and 14. For the duration of this Order, copies of this list shall
14 be provided to the United States upon request.

15 **V. COMPENSATION**

- 16 18. Defendant will deposit in an interest-bearing escrow account the sum of
17 \$4,130,000 to fund the compensation payments required by Paragraph 22.
18 Title to this account will be in the name of "Wells Fargo Bank, N.A. d/b/a
19 Wells Fargo Dealer Services for the benefit of affected persons pursuant to
20 Order of the Court in Civil Action No. [XXX]". Defendant will provide
21 written verification of the deposit to the United States within fifteen (15)
22 calendar days of the effective date of this Order. Any interest that accrues
23 will become part of the Settlement Fund and be used and disposed of as set
24 forth herein. If the compensation payments required by Paragraph 22 total
25 more than \$4,130,000, Defendant will deposit into the escrow account all
26 necessary additional funds to make payments before the deadlines established
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1 by Paragraph 27. Any taxes, costs, or other fees related to the escrow account
2 shall be paid by Defendant.

3 19. In the event Defendant determines that there are additional repossession
4 accounts that were not in compliance with the SCRA, Defendant will
5 undertake remedial compensation actions on those accounts while this Order
6 is in effect and in a similar manner as outlined in this Order.

7 20. The United States has determined that Defendant conducted 413 motor
8 vehicle repossessions between January 1, 2008 and July 1, 2015 that were not
9 in compliance with the SCRA; Defendant maintains that 31 of these were not
10 violations of the SCRA, however Defendant has agreed to remediate these 31
11 repossessions in the interest of compromise. The United States has
12 previously provided the list of these repossessions to Defendant.

13 21. Within thirty (30) calendar days of the effective date of this Order, Defendant
14 shall provide to the United States an electronically searchable list of all its
15 repossessions between July 2, 2015 and the effective date of this Order. The
16 United States shall run this list through the DMDC and undertake any
17 independent investigation it deems appropriate to identify any additional
18 repossessions that were not in compliance with the SCRA. The United States
19 shall provide Defendant with the list of additional repossessions that were not
20 in compliance with SCRA within thirty (30) calendar days of receiving
21 Defendant's complete repossession list. In the event Defendant objects to the
22 United States' list, Defendant shall be afforded thirty (30) calendar days to
23 produce evidence of compliance to the United States. After considering in
24 good faith all evidence produced by Defendant, the United States shall make
25 a final determination of the additional repossessions that were not in
26 compliance with the SCRA within thirty (30) calendar day of Defendant's
27 production of evidence.
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1 22. For each non-SCRA compliant repossession identified pursuant to Paragraphs
2 20 and 21, Defendant shall provide the following compensation:

- 3 a. an amount of \$10,000;
- 4 b. any lost equity in the repossessed motor vehicle, as calculated by:
5 subtracting any outstanding principal, interest, and other amounts
6 owing by the borrowers (excluding any fees associated with
7 repossession), plus any liens at the time of repossession and any
8 disbursements made to the servicemember or a third party other than
9 a lien holder from the proceeds of the repossession sale (exclusive of
10 any fees associated with the repossession) from the retail value of the
11 motor vehicle at the time of repossession as identified in the National
12 Automobile Dealers Association (“NADA”) Guide; and
- 13 c. interest accrued on this lost equity, calculated from the date of the
14 repossession sale until the date payment is issued, at the rate set forth
15 in 28 U.S.C. § 1961.

16 Defendant shall provide the United States with all records used to make the
17 payment calculations described in this Paragraph for the United States’
18 review and approval.

19 23. The amounts described in Paragraph 22(a) shall be paid entirely to the
20 servicemember-borrower on the note securing the motor vehicle. Defendant
21 may require the servicemember-borrower to sign the Declaration at Exhibit
22 B-1 and/or the Release at Exhibit B-2. Defendant may require any non-
23 servicemember co-borrowers to sign the Release at Exhibit B-2. The
24 amounts described in Paragraph 22(b) and (c) shall be distributed equally
25 among all borrowers (including non-servicemember borrowers) on the title to
26 the motor vehicle who sign the Declaration at Exhibit B-1, if required, and
27 the Release at Exhibit B-2. In cases where Defendant has already taken
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1 remedial actions with respect to a repossession identified pursuant to
2 Paragraphs 20 and 21, the United States shall consider such remedial actions
3 and adjust the compensation to be awarded.¹¹

4 24. Within sixty (60) calendar days of the effective date of this Order, Defendant
5 shall submit a plan (“Remediation Plan”) to provide for the administration of
6 borrower compensation. Pursuant to the Remediation Plan, Defendant shall
7 conduct the activities set forth in Paragraphs 24-28. The terms of the
8 Remediation Plan shall be subject to the non-objection of the United States.
9 Defendant shall bear all costs and expenses of implementing the Remediation
10 Plan. The Remediation Plan shall require Defendant to work cooperatively
11 with the United States in the conduct of its activities, including reporting
12 regularly to and providing all reasonably requested information to the United
13 States.

14 25. Defendant, as part of its Remediation Plan, shall establish, and maintain
15 throughout the contract period, cost-free means for affected servicemembers
16 to contact it, including an electronic mail address, a website, and a toll-free
17 telephone number.

18 26. For non-SCRA compliant repossessions identified pursuant to Paragraph 20,
19 Defendant shall, to the extent it has not already, notify each identified
20 servicemember by letter (using wording mutually agreeable to Defendant and
21 the United States) within sixty (60) calendar days of the effective date of this
22 Order. After the United States’ determination, as provided in Paragraph 21,
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24
25 ¹¹ In determining the amount of compensation due to any servicemember or co-
26 borrower pursuant to Paragraph 22, the United States will credit any monetary
27 compensation or other remediation efforts, including returning the motor vehicle to the
28 borrower, already provided to any servicemember or co-borrower for alleged compliance
issues pursuant to Section 3952 of the SCRA and arising from the same motor vehicle
loan.

1 Defendant shall notify each identified servicemember by letter (using
2 wording mutually agreeable to Defendant and the United States) within forty-
3 five (45) calendar days of the United States' determination. For
4 repossessions where money is due to a non-servicemember borrower pursuant
5 to Paragraph 22, Defendant shall notify each identified non-servicemember
6 borrower by letter (using wording mutually agreeable to Defendant and the
7 United States) within fifteen (15) calendar days of receiving the Declaration,
8 if required, and Release from the servicemember-borrower. Defendant shall
9 provide the United States with samples of all letters, and receive the United
10 States' approval of the sample letters, before mailing any letter required by
11 this Paragraph, and all letters mailed pursuant to this Paragraph shall be
12 accompanied by the Declaration at Exhibit B-1, if required, and the Release
13 at Exhibit B-2. The Remediation Plan shall set forth effective methods to
14 make contact with, and obtain a response from, each identified
15 servicemember and non-servicemember borrower.

16 27. Defendant shall issue and mail compensation checks no later than twenty-one
17 (21) calendar days after receipt of a signed declaration, if required, and
18 release. Defendant shall skip trace and redeliver any payment that is returned
19 to Defendant as undeliverable, or that is not deposited or cashed within six
20 (6) months.

21 28. Defendant shall for a period of two (2) years following the effective date of
22 this Order provide the United States with a monthly accounting of all
23 declarations, if required, and releases received, checks issued (including
24 copies of issued checks), and notifications without responses or that were
25 returned as undeliverable. Defendant shall report any uncashed checks in
26 accordance with state unclaimed property laws.
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- 1 29. Any money not distributed from the escrow account, including accrued
2 interest, within two (2) years of the date the initial notifications are sent to
3 persons eligible for the compensation payments required by Paragraph 22
4 will be distributed to one or more charitable organizations that assist
5 servicemembers. Recipient(s) of such funds must not be related to
6 Defendant. Before selecting the organization(s), Defendant will obtain a
7 proposal from the organization(s) on how the funds will be used consistent
8 with furthering the goals of the SCRA, submit such proposal to the United
9 States, and consult with and obtain the non-objection of the United States.
10 The United States and Defendant may request modification of the proposal
11 before approving the organization(s). The parties will thereafter seek
12 approval from the Court to distribute the remaining funds to the qualified
13 organization(s). Defendant will require each recipient to submit to Defendant
14 and the United States a detailed report on how funds are utilized within one
15 (1) year after the funds are distributed, and every year thereafter until the
16 funds are exhausted.
- 17 30. Defendant will be entitled to a set-off, or any other reduction, of the amount
18 of compensation payments required by Paragraph 22 because of any debts
19 owed by the recipient, only in the calculation of lost equity as provided by
20 Paragraph 22(b). Defendant also will make payments notwithstanding any
21 release of legal claims, arbitration agreement, or loan modification previously
22 signed by any such recipient.
- 23 31. In the event that the United States has reason to believe that Defendant is not
24 materially complying with the terms of the Remediation Plan, Defendant
25 shall present for review and determination of non-objection a course of action
26 to effectuate material compliance with the Remediation Plan. The United
27 States shall make a determination of non-objection to the course of action or
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1 direct Defendant to revise it. In the event that the United States directs
2 revisions, Defendant shall make the revisions and resubmit the course of
3 action to the United States within thirty (30) days. Upon notification that the
4 United States has made a determination of non-objection, Defendant shall
5 implement the course of action. If the parties cannot resolve differences with
6 regard to the revised course of action after good faith efforts to do so, either
7 party may bring the dispute to this Court for resolution. No individual may
8 obtain review by the Court or the parties of the identifications made, and
9 payments disbursed, pursuant to Paragraphs 20-28.

10 **VI. OTHER RELIEF**

11 32. Concurrent with providing financial compensation to the servicemember-
12 borrower, Defendant must request that all three (3) major credit bureaus
13 delete trade lines for accounts belonging to the servicemember(s) and any co-
14 borrower(s) attributable specifically to the wrongful repossessions. Further,
15 Defendant shall abandon, and must indemnify the servicemember and his or
16 her co-borrower(s) against any third-party's pursuing, any claim for
17 deficiency that was remaining on the SCRA-protected loan after a
18 repossession, where the repossession was allegedly completed in violation of
19 the SCRA by Defendant.

20 33. Every quarter for a period of two (2) years following the effective date of this
21 Order, Defendant shall provide the United States with an accounting of all
22 credit entries repaired.

23 **VII. CIVIL PENALTY**

24 34. Within thirty (30) calendar days of the effective date of this Order, Defendant
25 shall pay a total of Sixty Thousand Dollars (\$60,000) to the United States
26 Treasury as a civil penalty pursuant to 50 U.S.C. § 4041(b)(3) and 28 C.F.R.
27 85.3(b)(4), to vindicate the public interest. The payment shall be in the form
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1 of an electronic funds transfer pursuant to written instructions to be provided
2 by the United States.

3 **VIII. ADDITIONAL REPORTING AND RECORD-KEEPING REQUIREMENTS**

4 35. For the duration of this Order, Defendant shall retain all records relating to its
5 obligations hereunder, including its records with respect to all loans for which
6 a servicemember has sought SCRA relief, whether that relief was granted by
7 Defendant, all records involving repossessions, and all records relating to
8 compliance activities as set forth herein. The United States shall have the
9 right to review and copy any such records, including electronic data, upon
10 reasonable request during the term of this Order.

11 36. During the term of this Order, Defendant shall notify counsel for the United
12 States in writing every six (6) months of receipt of any SCRA or military-
13 related complaint by the motor vehicle lending line of business. Defendant
14 shall provide a copy of any written complaints with the notifications.
15 Defendant will incorporate into its SCRA Policies and Procedures a
16 requirement that all customer service personnel, upon receiving any oral
17 SCRA complaint, shall notify individuals designated and trained to receive
18 SCRA complaints pursuant to Paragraph 10(b). Whether regarding a written
19 or oral SCRA complaint, the notification to the United States shall include
20 the full details of the complaint, including the complainant's name, address,
21 and telephone number, and the full details of all actions Defendant took to
22 resolve the complaint. Defendant shall also promptly provide the United
23 States all information it may request concerning any such complaint. If the
24 United States raises any objections to Defendant's actions, the parties shall
25 meet and confer to consider appropriate steps to address the concerns raised
26 by the United States' review. If the parties are unable to come to an
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1 agreement regarding such objections or concerns, either party may bring the
2 dispute to this Court for resolution.

3 **IX. SCOPE OF CONSENT ORDER**

4 37. The provisions of this Order shall apply to Defendant, its parent Wells Fargo
5 & Company, and any of their subsidiaries, predecessors, acquired companies,
6 or successor entities. It shall also apply to the officers, employees, agents,
7 representatives, assigns, successors-in-interest, and all persons and entities in
8 active concert or participation with all of those entities, including with respect
9 to any loans they acquired from January 1, 2008 to the effective date of this
10 Order.

11 38. In the event that Defendant is acquired by or merges with another entity,
12 Defendant shall, as a condition of such acquisition or merger, obtain the
13 written agreement of the acquiring or surviving entity to be bound by any
14 obligations remaining under this Order for the remaining term of this Order.

15 39. This Order does not release claims for practices not addressed in the
16 Complaint's allegations, and it does not resolve and release claims other than
17 those under Section 3952(a) of the SCRA. This Order does not release any
18 claims that may be held or are currently under investigation by any federal
19 agency, or any claims that may be pursued for actions that may be taken by
20 any executive agency established by 12 U.S.C. § 5491 or the appropriate
21 Federal Banking Agency (FBA), as defined in 12 U.S.C. § 1813(q), against
22 Defendant, Wells Fargo & Company, any of their affiliated entities, and/or
23 any their institution-affiliated parties, as defined by 12 U.S.C. § 1818 or any
24 other statute or regulation.

25 40. Nothing in this Order will excuse Defendant's compliance with any currently
26 or subsequently effective provision of law or order of a regulator with
27 authority over Defendant that imposes additional obligations on it.
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1 Order shall be in effect for an additional period of two and one-half years
2 from its date of entry. The Court shall retain jurisdiction for the duration of
3 this Order to enforce its terms, after which time this case shall be dismissed
4 with prejudice. The United States may move the Court to extend the duration
5 of this Order in the interests of justice.

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7 SO ORDERED, this ___ day of _____, 2016.

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10 UNITED STATES DISTRICT JUDGE
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1 The undersigned hereby apply for and consent to the entry of the Order:

2 For the United States of America:

3 EILEEN M. DECKER
4 United States Attorney

LORETTA E. LYNCH
Attorney General

5 DOROTHY A. SCHOUTEN
6 Assistant United States Attorney
7 Chief, Civil Division

VANITA GUPTA
Principal Deputy
Assistant Attorney General
Civil Rights Division

8 /s/ Joanna Hull
9 JOANNA HULL
10 Assistant United States Attorney
11 Chief, Civil Rights Section

/s/ Sameena Shina Majeed
SAMEENA SHINA MAJEED
Chief, Housing and Civil Enforcement
Section

12 /s/ Elizabeth A. Singer
13 ELIZABETH A. SINGER
14 Director, U.S. Attorneys' Fair Housing
Program

15 /s/ Daniel P. Mosteller
16 NICOLE M. SIEGEL
17 DANIEL P. MOSTELLER
18 Trial Attorneys

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1 For Defendant Wells Fargo Bank, N.A., d/b/a Wells Fargo Dealer Services:

2
3 /s/ Erin J. Illman

4 ERIN J. ILLMAN (CA No. 238262)
5 BRADLEY ARANT BOULT CUMMINGS LLP
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28

1 The undersigned hereby apply for and consent to the entry of the Order:

2 For the United States of America:

3 EILEEN M. DECKER
4 United States Attorney

LORETTA E. LYNCH
Attorney General

5 DOROTHY A. SCHOUTEN
6 Assistant United States Attorney
7 Chief, Civil Division

VANITA GUPTA
Principal Deputy
Assistant Attorney General
Civil Rights Division

8 /s/ Joanna Hull
9 JOANNA HULL
10 Assistant United States Attorney
11 Chief, Civil Rights Section


Sameena Shina Majeed
12 SAMEENA SHINA MAJEED
13 Chief, Housing and Civil Enforcement
14 Section

Elizabeth A. Singer
15 ELIZABETH A. SINGER
16 Director, U.S. Attorneys' Fair Housing
17 Program

Daniel P. Mosteller
18 NICOLE M. SIEGEL
19 DANIEL P. MOSTELLER
20 Trial Attorneys

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22 acsmith@bradley.com
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1 **EXHIBIT A**

2

3 **IMPORTANT NOTICE AFFECTING MILITARY SERVICEMEMBERS**

4

5 **RIGHTS AND PROTECTIONS AFFORDED UNDER THE SERVICEMEMBERS**

6

7 **CIVIL RELIEF ACT**

8

9 Attached to this notice you will find a waiver of rights and protections that may be

10 applicable to you and your dependents pursuant to the Servicemembers Civil Relief Act,

11 50 U.S.C. § 3901, et seq. (the “SCRA”). The SCRA provides military personnel and

12 their dependents with a wide range of legal and financial protections. Among other

13 benefits and protections, the SCRA:

- 14
- 15 • Prohibits the repossession of a servicemember’s motor vehicle without a court
 - 16 order, as long as a deposit or at least one installment payment was made while
 - 17 the borrower was not in military service.
 - 18 • Upon notice by the servicemember, imposes a 6% maximum rate of interest
 - 19 that may be charged during military service on loans incurred before the
 - 20 servicemember began his or her current military service.

21 If you choose to sign the attached waiver, Wells Fargo will have the option to proceed

22 with a repossession of your motor vehicle without the protections of the SCRA. If you

23 do not sign this waiver, Wells Fargo will be required to obtain a court order to repossess

24 if you took out your loan and made a down payment on the motor vehicle, or at least one

25 payment on the loan, when you were not in military service. You may be able to seek a

26 postponement of the repossession. Additionally, if Wells Fargo takes you to court to

1 repossess your motor vehicle, the court may take steps to ensure that a judgment is not
2 entered against you if you are unable to appear.

3 **Before waiving these important statutory rights, you should consult an attorney**
4 **regarding how best to exercise your rights or whether it is in your interest to waive**
5 **these rights under the conditions offered by Wells Fargo.**

6 **For More Information:**

- 7 • **CONSULT AN ATTORNEY:** To fully understand your rights under the law,
8 and before waiving your rights, you should consult an attorney.
- 9 • **JAG / LEGAL ASSISTANCE:** Servicemembers and their dependents with
10 questions about the SCRA should contact their unit's Judge Advocate, or their
11 installation's Legal Assistance Officer. A military legal assistance office
12 locator for all branches of the Armed Forces is available at
13 <http://legalassistance.law.af.mil/content/locator.php>.
- 14 • **MILITARY ONESOURCE:** "Military OneSource" is the U.S. Department of
15 Defense's information resource. Go to <http://www.militaryonesource.com>.

EXHIBIT B-1
DECLARATION

I, [INSERT NAME], do hereby declare and state as follows:

1. I owned a vehicle obtained through a loan with Wells Fargo, Loan Number [LOAN NUMBER] that was repossessed.
2. I obtained the loan on or about [LOAN FUNDING DATE].
3. On or about [REPOSSESSION DATE], I WAS either:
 - i. on a covered period of military service; OR
 - ii. a member of a reserve component (Reserves or National Guard) and had received orders to report for a covered period of military service.
4. Please consider the following additional information in support of this

Declaration:

I confirm that the foregoing is true and correct.

Executed this _____ day of _____, 20__.

SIGNATURE: _____

PRINT NAME: _____

EXHIBIT B-2

SETTLEMENT AND GENERAL RELEASE AGREEMENT

In consideration for Wells Fargo Bank, N.A., d/b/a Wells Fargo Dealer Services' payment to me of \$[AMOUNT], I, [BORROWER'S NAME], hereby release and forever discharge all claims, arising prior to the date of this Agreement, related to alleged violations of Section 3952(a) of the Servicemembers Civil Relief Act in the repossession and sale of a [VEHICLE; VIN _____] that I may have against Wells Fargo and all related entities, parents, predecessors, successors, subsidiaries, and affiliates and all of its past and present directors, officers, agents, managers, supervisors, shareholders, and employees and its heirs, executors, administrators, successors or assigns.

The parties represent and warrant to each other, that the parties specifically understand and agree that the parties' settlement and compromise claims and disputes regarding the retail installment contract and the vehicle is a compromise of disputed claims and that the existence of this Agreement or any payment made hereunder shall not be construed as an admission of liability of the allegations, claims or contentions of any party, and that there are no covenants, promises, undertakings or understanding between the parties outside of this Agreement except as specifically set forth herein.

Executed this _____ day of _____, 20__.

SIGNATURE: _____

PRINT NAME: _____

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EXHIBIT E

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Dan Freed

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FILE PHOTO: A Wells Fargo branch is seen in the Chicago suburb of Evanston, Illinois, U.S. on February 10, 2015.

Jim Young/File Photo

NEW YORK (Reuters) - Wells Fargo & Co (WFC.N) eventually tell public about auto began examining the way its auto lending unit enrolled borrowers into insurance policies a year ago, but did not plan to disclose problems it uncovered until it was ready to issue reimbursements to affected customers, its head of consumer lending told Reuters on Friday.

In an interview, Franklin Codel said the business started noticing elevated customer complaint volumes in July 2016. It quickly suspended its auto collateral protection insurance (CPI) program and escalated issues to senior management, the board and regulators, he said.

"The problem with disclosing to the marketplace today or several months ago is customers start calling and asking when they're going to get their money," he said.

Wells, the third-largest U.S. bank, has been embroiled in a scandal since last September in which thousands of branch employees created as many as 2.1 million phony deposit and credit-card accounts in customers' names without their permission over a period of several years.

The bank has faced questions from investors over whether its disclosures about sales abuses were timely or adequate, and whether problems extended beyond its retail bank.

Since that time, lawmakers have released information suggesting small business and brokerage customers may have had phantom accounts opened in their names, and Prudential Financial Inc (PRU.N) cut ties with Wells over accusations that bankers were improperly enrolling customers in its insurance policies without their knowledge.

On Thursday evening, the New York Times revealed that 800,000 of Wells Fargo's auto borrowers were charged for insurance they did not need, prompting the bank to issue a press release detailing its remediation efforts.

Wells plans to return \$80 million to 570,000 customers who were wrongly charged.

Its auto lending business has been going through an overhaul this year to better manage risk and install new leadership. Dawn Martin Harp, who

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Money and Markets

eventually tell public about auto
headed the auto lending business during the sales abuses, retired in April
and her deputy, Bill Katafias, also departed.

SHINE ON STANFORD

"Both of those executives, in my view, were held accountable for their
actions," Codel said, including "from a compensation perspective."

Katafias did not return a call to his office and Martin Harp could not be
reached.

Wells Fargo shares fell 2.6 percent to \$53.31 on Friday afternoon.
Although the stock has recovered from a sharp decline last year, analysts
have said ongoing fallout from the sales scandal has dampened
performance.

In a statement on Friday, New York City Comptroller Scott Stringer, who
controls funds that hold Wells Fargo stock, demanded better disclosures
about the auto insurance problems and called for a new independent
chairman of the board.

The board "needs to be overhauled - now," Stringer said.

Reporting by Dan Freed in New York; Additional reporting by Ross Kerber in
Boston; Writing by Lauren Tara LaCapra; Editing by Bernard Orr

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EXHIBIT F

WELLS FARGO

Wells Fargo May Have Charged 500,000 Clients for Unwanted Insurance

Bloomberg
Jul 28, 2017



Wells Fargo & Co.'s disclosure that it may have pushed thousands of car buyers into loan defaults and repossessions by charging them for unwanted insurance is raising doubts about the bank's ability to put proper controls in place.

"The steady drip of revelations is concerning as it makes quantifying and qualifying the extent of the internal control failures difficult," Isaac Boltansky, an analyst at Compass Point Research & Trading, said Friday in an email. "Which is worrisome for both Washington and Wall Street."

An internal review of the bank's auto lending found more than 500,000 clients may have unwittingly paid for protection against vehicle loss or damage while making monthly loan payments, even though many drivers already had their own policies, Wells Fargo said in a statement late Thursday. The firm said it may pay as much as \$80 million to affected clients -- with extra money for as many as 20,000 who lost cars, "as an expression of our regret."

The revelation threatens to undermine the bank's 10-month effort to restore its image after authorities announced last year that branch workers may have opened millions of unauthorized accounts for customers. For shareholders, Thursday's disclosure also landed without any warning, even after that earlier debacle sent the stock tumbling and prompted congressional hearings and a leadership shakeup.

'Clearly Insufficient'

"What has been shown is that the bank was run for superior revenue growth, and the controls around managing that were clearly insufficient," Atlantic Equities

analyst Christopher Wheeler said in an email. "Management changes may have to be more extensive to try and shake off the new and lower-quality reputation."

Wells Fargo shares fell 2.5 percent to \$53.37 at 12:09 p.m. in New York, the worst performance in the KBW Bank Index. The stock has dropped 3.1 percent this year, compared with the 3.9 percent advance of the 24-company index.

The San Francisco-based lender said it began reviewing the insurance issue about 12 months ago after hearing from clients.

"Upon our discovery, we acted swiftly to discontinue the program and immediately develop a plan to make impacted customers whole," Franklin Codel, the bank's head of consumer lending, said in the statement. The bank's leaders "are extremely sorry for any harm this caused our customers, who expect and deserve better from us," he said.

Kevin J. Barker, a Piper Jaffray & Co. analyst, questioned why Wells Fargo waited until now to release details. He said lawsuits could cost the bank "multiples more" than the \$80 million disclosed Thursday and further harm its relationship with some customers.

'Collateral Damage'

"Why didn't the company address these issues publicly while they were already dealing with the account scandal?" Barker wrote Friday in a note to investors. "What other collateral damage may have been caused by the repossession of these cars on peoples' lives?"

The bank notified its main regulator, the Office of the Comptroller of the Currency, "very promptly" after receiving a number of customer complaints in July of 2016, Codel said Friday in a phone interview, without giving a specific date. It also notified the Federal Reserve and the Consumer Financial Protection Bureau around the same time, he said.

“They were aware early on, and we’ve had regular conversations with them as we both made business decisions and started working on the remediation,” Codel said.

Bryan Hubbard, an OCC spokesman, said the agency can’t comment “on ongoing supervisory matters” at a bank it regulates or “potential pending actions.”

An examination of the program found that an external vendor didn’t adequately ensure customers weren’t charged for the coverage if they already had their own policies, according to the bank’s statement. The bank’s program for collateral protection insurance, or CPI, was scrapped in September.

Other Victims

One group of about 490,000 customers unnecessarily paid for CPI for at least some period, the bank said. Collectively, they will receive about \$25 million in refunds.

Wells Fargo also described two smaller groups of victims where the impact on individuals may have been more severe:

About 60,000 clients lived in five states that don’t allow CPI to be imposed on borrowers without a specific notification, which the bank said they didn’t receive. That group will get \$39 million. An estimated 20,000 customers may have had cars repossessed because the additional costs from CPI, the bank said. It expects to spend \$16 million on that group, compensating them for their vehicles. The amounts “will depend on each customer’s situation and also will include payment above and beyond the actual financial harm as an expression of our regret for the situation,” Wells Fargo said.

The bank announced the measures a few hours after New York Times columnist and editor Gretchen Morgenson said she had obtained a 60-page report by consulting firm Oliver Wyman examining how CPI was imposed on customers of the bank’s Dealer Services unit. The document shows Wells Fargo stopped sharing in commissions from the insurance sales in February 2013, she wrote.

Refunds Coming

Catherine Pulley, a Wells Fargo spokeswoman, declined to provide a copy of the consultant's report. The report, commissioned to help the lender decide how to respond to its customers, was completed in February, according to a person with knowledge of the matter, who asked not to be identified discussing internal affairs.

Wells Fargo reviewed policies placed from 2012 to 2017, according to its statement. The company will start sending letters and refund checks to customers next month, and expects the process will be complete by the end of the year. The lender also promised to work with credit bureaus to amend customers' records.

The bank has been trying to move past the account scandal that erupted publicly in September when it paid \$185 million in fines. In that case, Wells Fargo initially faulted low-level staff, saying it had fired more than 5,300 employees over five years as it sought to stamp out their abuses. That backfired as workers came forward, saying they faced intense pressure to meet unrealistic quotas.

The bank struck a different tone Thursday.

"We take full responsibility for our failure to appropriately manage the CPI program," Codel said in the statement. The bank has publicly promised that it will do better, he said. "Our actions over the past year show we are acting on this commitment."

EXHIBIT G



Dawn Martin Harp to Retire as President of Wells Fargo Dealer Services

JANUARY 11, 2017
BY WILLIAM HOFFMAN
WHOFFMAN@ROYALMEDIA.COM



Dawn Martin Harp, president of Wells Fargo Dealer Services, is set to retire in April.

After 20 years with Wells Fargo Dealer Services, including six as president, Dawn Martin Harp will retire from the position on April 1, according to a company press release.

The company will look internally and externally for a replacement to head up one of the top five auto financiers in the U.S.

When Martin Harp, 57, first inhabited the position in 2011, she set out to strengthen the company's dealer relationships for both commercial and consumer lending a company statement noted.

"Under Dawn's leadership, Wells Fargo continued to build our market leadership position in the auto finance business," Franklin Codel, head of Wells Fargo Consumer Lending, said in the statement. "She moved our business forward to where we now work with more than 14,000 auto dealers, helping more than 3.7 million customers finance affordable vehicle transportation."

Since taking the position, Martin Harp has grown Wells Fargo Dealer Service's total outstandings from \$44.6 billion in 2011 to \$60 billion in 2015, according to [Big Wheels Auto Finance](#) data.

Wells Fargo Dealer Services originated the most auto loans of any company through September, according to Experian and [CU Direct](#). However, the 2015 Big Wheels Report placed the company at fifth in total outstandings and the latest third quarter earnings showed a [2% drop](#) in origination volume compared to the same period a year prior.

Her retirement comes after [an investigation announced in September 2016](#), through which the DOJ and Comptroller of the Currency gathered Wells data from 2008 to 2015, resulting in a \$24 million consent order. The settlement included \$4.1 million that will serve as \$10,000 payments to the 413 affected servicemembers.

There was also the separate faked accounts scandal that shook the company's core banking business in a \$185 million settlement and caused former CEO John Stumpf to step down. *Auto Finance News* found [little connection](#) between the accounts scandal and Wells Fargo's auto business.

Before becoming president, Martin Harp served as Wells Fargo Dealer Services chief operating officer. Prior to joining the company she was chief information officer and the director of network computing at WFS Financial. She is a member of the board for the American Financial Services Association as well as a member of its auto finance committee and women's leadership council. Martin Harp is also a member of Wells Fargo's Consumer Lending Group Diversity and Inclusion leadership committee, the statement said.

"One of Dawn's greatest legacies at Wells Fargo will be her commitment to diversity and local communities," Codel said. "She is a champion for developing diverse talent and identifying future leaders across the industry and in Wells Fargo. We will miss her and congratulate her on a great career that impacted customers, team members, and the communities we serve."

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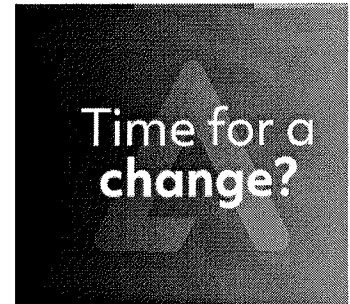
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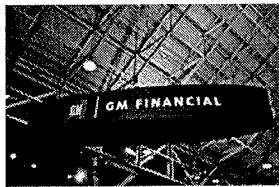
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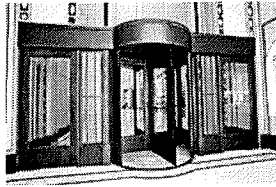
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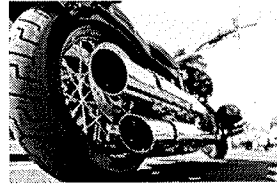
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