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

IN RE: WELLS FARGO COVID FORBEARANCE SETTLEMENT LITIGATION	Case No. 2:24-cv-01026-MHW-EPD **ECHARD PLAINTIFFS' MOTION FOR SERVICE AWARDS, ATTORNEYS' FEES, AND LITIGATION COSTS** Judge Michael H, Watson Magistrate Judge Elizabeth Preston Deavers

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I. INTRODUCTION

Pursuant to Rule 23(h) and this Court's July 29, 2024 preliminary approval order, Plaintiffs and Class Representatives Brian Echard, Heather Shimp, and Patricia Foley (Echard Representatives), together with Interim Class Counsel Smith & Lowney PLLC (Smith & Lowney) respectfully move the Court for awards for their service to the Class and for attorneys' fees. ECF No. 243, PageID 1128.

Echard Representatives' and Smith & Lowney's zealous advocacy produced an excellent result for the Class. As mediator and retired United States District Court Judge Andrew Guilford testified, Smith & Lowney "vigorously represented the interests of their clients," and "were extremely well prepared for the mediation sessions, having submitted extensive briefing that reflected legal and expert analysis [and] were professional and demonstrated a deep knowledge of the case and experience in negotiating settlement for consumer classes." Guilford Decl. at 2. Smith & Lowney used that skill in achieving the first $94 million settlement ("*Echard* Settlement") and then leveraging that settlement into a global mediation to resolve objections, which led to the preliminarily approved $185 million global settlement.

To cover both fees and costs, Smith & Lowney requests 20% of the first $94 million of the settlement fund which it alone negotiated in the mediation with Judge Guilford, and 6.25% of the $91 million added to the settlement fund through global mediation. This request asks the Court to utilize the allocation formula explained and supported by law and economics scholar Professor William Hubbard, also adopted by the Seventh Circuit in *In re Trans Union Corp. Privacy Litigation*, 629 F.3d 741 (7th Cir. 2011), which applies the various fee allocation rules and economic analysis to a case where, like here, one legal team reaches an initial settlement that is later improved through a global settlement with objectors.

Smith & Lowney reduced its fee and cost request by $10.5 million below what is allowed under the Settlement and suggested by the legal authority, so the Court can increase the distribution to the Class or the award to other counsel. By any measure, Smith & Lowney's request is below the low end of the presumptively reasonable range of percentage-of-common fund awards.

Strong public policy considerations further support Smith & Lowney's fee request. As described by Professor Sarah Rudolph Cole, "[j]udicial policy should encourage class counsel who (1) seek to resolve cases early and (2) attempt to resolve objections to a proposed settlement through global mediation with the objectors," as Smith & Lowney did here. Cole Decl. ¶ 5.

II. BACKGROUND

Plaintiff Brian Echard brought this case to Smith & Lowney because of the firm's "fantastic level of responsiveness and attentiveness to their clients" demonstrated in another class action against a major bank in which Mr. Echard served as a volunteer expert witness. Echard Decl. ¶ 4. Smith & Lowney then successfully represented the *Echard* Plaintiffs and the Class to achieve a $94 million partial settlement, which was then expanded to $185 million through global mediation.

A. Echard Mediation Efforts and Settlement

First, approximately two years ago, Smith & Lowney successfully fought for this Court's permission to mediate with Wells Fargo before Judge Guilford. *Echard* ECF No. 106. The Court encouraged the parties to pursue mediation so this matter may be "resolved, relief may be provided to the putative class, and the costs of litigation would be reduced." *Id*. at PageID 918. The Court so ruled over the objections of the California Plaintiffs[1] who sought to derail the parties' settlement efforts by inaccurately claiming they were the "first to file." *Id*. at PageID 915-918. The Court properly denied the California Plaintiffs' motion, holding, "Plaintiff Echard and Wells Fargo have shown the Court a genuine desire to resolve the matter. They deserve the opportunity . . . commandeering the litigation would be too prejudicial to Plaintiff Echard and Wells Fargo." *Id*. at PageID 918. The Court reasoned that "staying [this case] in favor of litigation of a parallel case in another forum unduly and impermissibly prejudice[s] the parties in the later-filed action," and "[i]f mediation efforts are successful, this action would be resolved, relief may be provided to the

[1] *Echard* Plaintiffs previously referred to California Plaintiffs as "Consolidated Plaintiffs," but as the cases are now all consolidated, *Echard* Plaintiffs herein refer to Luis Castro, Marisol Castro, Pamela Delpapa, Jenna Doctor, Samara Green, Patrick Healy, Barbara Prado, Renrick Robinson, and Vivian Robinson as "California Plaintiffs" and to Keller Rohrback L.L.P, Kazerounian Law Group, Kellett & Bartholow, PLLC, and their co-counsel firms as "California Counsel."

putative class, and the cost of litigation would be reduced. Thus, intervention to transfer or stay would delay or deny efficient and effective mediation in this case." *Id.* at PageID 915, 918.

Second, Smith & Lowney developed Plaintiffs' case for mediation through extensive fact-finding, formal and informal discovery, and engaging multiple experts to prove liability and quantify damages. Lowney Decl. ¶¶ 12-16; Guilford Decl. at 2; Olsen Decl. ¶¶ 8-11 (bank database expert); Smith Decl. at 3-4 (damages expert).

Third, Smith & Lowney engaged in an extensive arms-length mediation process before Judge Guilford that resulted in a $94 million settlement encompassing 186,781 loans. *See* Guilford Decl. at 2–3; Cole Decl. ¶¶ 9-11; Lowney Decl. ¶¶ 17-23; Mathews Decl. ¶¶ 10-17. Smith & Lowney correctly perceived that early mediation was critical to protecting the Class's interests because the value of the case could be weakened by then-imminent decisions on the merits of certain claims. Indeed, soon after *Echard* Plaintiffs reached a $94 million settlement, the Ninth Circuit affirmed dismissal of similar claims. *Mitchell v. Specialized Loan Servicing Ltd. Liab. Co*., No. 22-55107, 2022 U.S. App. LEXIS 35549 (9th Cir. Dec. 23, 2022). Then, on May 2, 2023, Judge Donato dismissed most of the California Plaintiffs' claims. *In re Wells Fargo Forbearance Litig*., Case No. 20-cv-06009-JD, 2023 U.S. Dist. LEXIS 76443, at *18 (N.D. Cal. May 2, 2023) (dismissing six claims with prejudice and four without). Thus, the timing of the *Echard* settlement was advantageous to the class. Cole Decl. ¶ 8.

Despite the impending legal risks in California, California Plaintiffs attempted to derail the settlement and usurp control over the case. *See, e.g., Echard* ECF No. 123.[2] One such attempt was California Counsel's request that Judge Donato "put an arrow in [their] quiver by making [them] interim class counsel," which was denied because "that's not what the role of interim counsel is." *Echard* ECF No. 144. Ultimately, California Plaintiffs, including several non-class members, did succeed in staying consideration of the *Echard* settlement. ECF No. 154. By objecting to the

[2] The "*Echard*" docket refers to the docket in Case No. 2:21-cv-05080 prior to consolidation under the present case number. All other references to the electronic docket refer to filings in Case No. 2:24-cv-01026.

settlement *before* preliminary approval rather than on the usual timeline, California Counsel postponed Wells Fargo's $94 million deposit, which would have accrued over $7 million in interest for the Class. *See Echard* ECF No. 108-1 at PageID 1007, 1025; Shefftz Decl. ¶¶ 14-15.

Fourth, immediately upon executing the *Echard* settlement, and continuing after their case was stayed, *Echard* Plaintiffs doggedly tried to bring the California Plaintiffs and Wells Fargo into global mediation. Lowney Decl. ¶¶ 25-32. Smith & Lowney eventually convinced Wells Fargo to engage in a global mediation to resolve California Counsel's objections to the *Echard* settlement. *Id*. at ¶ 27. Despite their prior agreement to attend global mediation if Wells Fargo would, California Counsel once again rejected global mediation. *Id*. at ¶¶ 26-29. *Echard* Plaintiffs were forced to move this Court to lift the stay and reactivate this case, *Echard* ECF No. 157, and in their briefing the parties pushed California Plaintiffs to mediate. *Echard* ECF No. 161. In their response, California Plaintiffs *finally* agreed to global mediation. *Echard* ECF No. 164 at PageID 2116. Ethics expert Alvin Mathews concluded that "*Echard* counsel's efforts to amicably work with the California counsel to resolve objections and ensure speedy relief to the putative class – despite repeatedly being rebuffed and maligned by [California] counsel – showed diligence on behalf of the putative class which is consistent with their ethical and fiduciary duties." Mathews Decl. ¶ 22.

B. Global Settlement Agreement

Building from the *Echard* settlement (including its over $500 per account value) global mediation produced the current $185 million settlement. Lowney Decl. ¶¶ 33-37. *See also* Cole Decl. at ¶¶ 5, 23-29 (explaining that the "*Echard* settlement established a $503.26/loan benchmark (or bellwether)" that set a $137 million "floor for relief" in global negotiations), Ex. B; Shefftz Decl. ¶ 13 (explaining that inflation adjustment raised the floor to over $527 per loan).

As more fully explained in Plaintiffs' preliminary approval papers, the Settlement Agreement's $185 million non-reversionary fund is an excellent recovery. Over $69 million will be promptly and automatically distributed to Class Members pro-rata, followed by a claim process for specific damages, with the remainder also distributed pro-rata. ECF No. 240-1.

The Settlement Agreement allows Class Representatives to seek up to $12,500 for service awards and up to twenty five percent (25%) of the Settlement Fund for attorneys' fees plus expenses, all as "shall be determined by the Court." *Id.* at PageID 1046, 1048.

The Court preliminarily approved the Settlement and appointed all Plaintiffs' counsel as interim class counsel and consolidated the case for settlement purposes, as *Echard* counsel requested. ECF No. 237; *see Echard* ECF No. 187 at PageID 2388. The Court thus rejected California Plaintiffs' months-long, nonsensical opposition to consolidation and joint interim counsel appointment. *See* ECF No. 217. Since then, *Echard* counsel have served as co-interim class counsel, working with the settlement administrator to effect notice, take possession of the settlement funds, and implement the claims process, and fielding Class members' calls about the settlement and claims process. Tonry Decl. ¶ 7; Lowney Decl. ¶ 45.

III. PETITION FOR SERVICE AWARDS

The Court should award Mr. Echard, Ms. Shimp, and Ms. Foley each $12,500 for their service as Class Representatives. "Service 'awards are efficacious ways of encouraging members of a class to become class representatives and rewarding individual efforts taken on behalf of the class.'" *Bartell v. LTF Club Operations Co.*, No. 2:14-cv-401, 2020 U.S. Dist. LEXIS 229682, at *19 (S.D. Ohio Aug. 7, 2020) (quoting *Hadix v. Johnson*, 322 F.3d 895, 897 (6th Cir. 2003)). Here, Mr. Echard identified the gravamen of the case on his own accord, with no knowledge of other lawsuits or media coverage, and obtained counsel to move the case forward. Echard Decl. ¶ 4. Then, each plaintiff actively participated in the litigation and settlement process and took seriously their duties to absent class members. *Id.* ¶ 5; Shimp Decl. ¶¶ 3-7; Foley Decl. ¶¶ 3-6; Lowney Decl. ¶¶ 16, 39-42. The $12,500 awards are appropriate. *See, e.g., Bartell*, 2020 U.S. Dist. LEXIS 229682, at *20 (awarding $20,000).

IV. PETITION FOR ATTORNEYS' FEES & LITIGATION COSTS

The Court should allocate fees according to the percentage of recovery method and the *Moulton v. U.S. Steel Corp.*, 581 F.3d 344 (6th Cir. 2009) factors, consistent with the approach of other courts in similar circumstances, where one set of plaintiffs' counsel secured the original

settlement, and that settlement was then improved following objections and/or global negotiations with additional plaintiffs' counsel. Cases addressing this fact pattern treat it as a given that the original settling counsel receives all the fees on the value of the original settlement. Here, Smith & Lowney seeks the entire fee award on the foundational $94 million settlement that it alone negotiated, but requests only a 20% fee ($18,800,000), rather than the 25% fee provided for in the Settlement.

On the additional $91 million added through global settlement, Smith & Lowney asks the Court to recognize both Smith & Lowney and California Counsel jointly contributed to the improvement. If the Court is inclined to award 25% for fees, Smith & Lowney asks that it be allocated equally, so each team is allocated 12.5% of the $91 million ($11,375,000). However, if the Court agrees with this approach, Smith & Lowney offers to rebate half of its fees on the additional $91 million to the Class, and seek no additional expense award, bringing Smith & Lowney's total request to $24,487,500, or about 13.2% of the common fund.

Incremental Benefit	***Echard* Counsel's Request**	**Settlement Agreement Allowance**
First $94 million (*Echard* Settlement amount)	Application for 20%	Maximum application for 25%
Additional $91 million (added by global mediation)	Application for 6.25%, with other half of *Echard* share returned to the Class for distribution	
Expenses	Expenses paid from fee award	Expenses on top of fee award

This request is approximately $10.5 million less than contemplated by the Settlement and the legal authority discussed below.

A. Legal Standards

"'[A] court must make sure that counsel is fairly compensated for the amount of work done as well as for the results achieved.'" *Jackson v. Nationwide Ret. Sols., Inc.*, No. 2:22-cv-3499, 2024 U.S. Dist. LEXIS 38282, at *16 (S.D. Ohio Mar. 5, 2024) (quoting *Rawlings v. Prudential-Bache Props., Inc.*, 9 F.3d 513, 516 (6th Cir. 1993)).

The first step is for the Court to select "either the percentage of fund or the Lodestar approach." *Id.* (quoting *In re Cardinal Health Inc. Sec. Litigs.*, 528 F. Supp. 2d 752, 760 (S.D.

Ohio Dec. 31, 2007)). The second step is for the Court to consider the six *Moulton* factors to assess "whether the fee request is reasonable under the circumstances." *Id.* (citing *Moulton*, 581 F.3d at 352). The factors are: (1) The value of the benefit rendered to the class; (2) Society's stake in rewarding attorneys who produce such benefits in order to maintain an incentive to others; (3) Whether the services were undertaken on a contingent fee basis; (4) The value of the services on an hourly basis; (5) The complexity of the litigation; and, (6) The professional skill and standing of counsel on both sides. *Koenig v. USA Hockey, Inc.*, No. 2:09-cv-1097, 2012 U.S. Dist. LEXIS 207799, at *27 (S.D. Ohio Jan. 10, 2012) (citing *Moulton.*, 581 F.3d at 352).

B. The Percentage-of-the-Fund Method is Best for Calculating and Apportioning Fees in This Case.

The percentage method is overwhelmingly preferred in this Court and across the Sixth Circuit for good reasons. *In re Cardizem CD Antitrust Litig.*, 218 F.R.D. 508, 532 (E.D. Mich. 2003); *Koenig*, 2012 U.S. Dist. LEXIS 207799, at *26. The percentage of the fund method "most closely approximates how lawyers are paid in the private market and incentivizes lawyers to maximize the class recovery, but in an efficient manner." *Koenig*, at *26. It also allows easier calculation and disincentivizes unnecessarily protracted litigation. *Rawlings*, 9 F.3d. at 516.

In contrast, "the lodestar method has been criticized for being too time-consuming of scarce judicial resources" because "courts must pore over time sheets, arrive at a reasonable hourly rate, and consider numerous factors" and because "it also provides incentives for overbilling and the avoidance of early settlement." *Id.* at 516-17 (citations omitted).

For these same reasons, the percentage of fund method should be used to allocate fees between an original settling party and competing plaintiffs whose objections contributed to an improved settlement. As Professor Hubbard explains, using lodestar would be "a poor proxy for determining which group added value to the settlement," and would incentivize lawyers conducting "[b]usy work," which does not add value, in order to inflate their hour totals. Hubbard Decl. ¶¶ 37-38. Instead, "[r]ules for allocating fees should incentivize counsel to create value for

the class" by allocating fees as a percentage of the recovery, and "compensating counsel based on their outputs, not on their inputs." *Id.*

Courts in the Sixth Circuit (and elsewhere) agree that "[t]he proportionalization of each attorney's services, of course, is not to be evaluated on an hourly rate basis, but consideration should be given to the nature of the case, and **the relative contribution of each attorney to the creation of the contingent fee fund**." *Hebert v. Comair (In re Air Crash)*, No. 5:06-CV-316, 2011 U.S. Dist. LEXIS 63987 at *50-51 (E.D. Ky. June 9, 2011) (quoting *Martin v. Buckman*, 1994 OK Civ App, 883 P.2d 185, 195 (Okla. Ct. App. 1994)) (emphasis in original); *Olden v. Gardner*, 294 F. App'x 210, 221 (6th Cir. 2008) (upholding denial of fees to objectors whose work did not benefit the class); *Howes v. Atkins*, 668 F. Supp. 1021, 1025 (E.D. Ky. 1987) (allocating the award based upon on contribution "to the creation of the common fund" which is "not necessarily correlated to the hours expended.") (quoting H. Newberg, *Attorney Fee Awards* at 53-54, 59-60).

And, as the court explained in *Howes*, "in most common fund cases, the lodestar simply does not work in an economical and fair manner" because "it encourages unjustifiable proliferation of hours or 'churning' by counsel." 668 F. Supp. at 1026. The concept of churning is particularly acute here because California Counsel comprises seven different law firms that often focused on efforts that create no class benefit, such as opposing consolidation or insisting on contested Rule 23(g) motions after global settlement was reached.

C. The *Moulton* Factors Support the Reasonableness of the Requested Fee Award.

The six *Moulton* factors support Smith & Lowney's fee request of $24,487,500, or about 13.2% of the common fund. Indeed, applying those factors consistent with other courts' allocations in the objector/amended settlement context would entitle Smith & Lowney to approximately $10.5 million above that, which provides the Court with discretion to allocate $10.5 million more to the Class or to other counsel.

1. Smith & Lowney's request is modest compared to the benefit it conferred.

Smith & Lowney's request for 13.2% of the common fund—and the corollary request for a total fee award up to 25% of the common fund for all counsel—is at the low end of the reasonable

range of fee awards. Indeed, "[d]istrict courts in the Sixth Circuit begin with a 'benchmark percentage' ranging between 20-50%." *BleachTech, LLC v. UPS, Inc.*, No. 14-12719, 2022 U.S. Dist. LEXIS 128736, at *21 (E.D. Mich. July 20, 2022); *see also In re Derailment*, No. 4:23-cv-0242, 2024 U.S. Dist. LEXIS 181361, at *54-56 (N.D. Ohio Sep. 27, 2024) (collecting authority for a typical range of 25-40% awards). Moreover, Smith & Lowney's request is modest given its contribution to the Class's recovery.

When considering the benefit that counsel conferred on the Class it helps to look to similar cases and the overarching principles of common fund fee awards. The situation here is fairly common: there was an original class action settlement, plaintiffs in a competing class action filed objections, and the objections were resolved through an improved global settlement.

For example, the Seventh Circuit faced a similar fact pattern in *Trans Union*, 629 F.3d 741, resulting in the most applicable appellate decision on fee allocation in this context. *Trans Union* upheld a formulaic allocation whereby all of the fees on the foundational settlement fund were awarded to the lawyers who negotiated it, and the fees on the funds added later were split equally with competing plaintiffs' counsel whose objections improved the settlement. *Id.*

Sixth Circuit precedent and Professor Hubbard's testimony further explain why *Trans Union*'s formula creates the proper economic incentives and should be applied here. *See e.g.*, *Gascho v. Glob. Fitness Holdings, LLC*, 822 F.3d 269, 294 (6th Cir. 2016) ("Sixth Circuit case law recognizes that awards of attorneys' fees to objectors may be appropriate where the objector provided a *benefit to the class by virtue of their objection*.") (emphasis added); Hubbard Decl. ¶¶ 16-36.[3]

This approach is also consistent with the "main objective" of fee allocation, which is "to evaluate the totality of the involved lawyers' efforts in terms of their proportional contribution to

[3] Other courts agree. *See, e.g., In re Easysaver Rewards Litigation*, No. 09-cv-02094-BAS-WVG, 2021 U.S. Dist. LEXIS 13119 (S.D. Cal. Jan. 22, 2021) (awarding an objector a percentage of the increased *cy pres* amount he obtained for the class rather than a percentage of the entire fund); *In re Prudential Insurance Co. of America Sales Practices Litigation*, 273 F. Supp. 2d 563 (D. N.J. 2003) (awarding 1.4% of overall fee award to objectors who added 1.4% of the settlement amount).

the creation of the fee fund to be divided." *Hebert v. Comair*, 2011 U.S. Dist. LEXIS 63987 at *51 (quotations omitted); *Reynolds v. Beneficial National Bank*, 288 F.3d 277, 286 (7th Cir. 2002) (fee awards should be proportioned to the incremental benefits counsel confer on the class, not the entire amount of a settlement).

i. Smith & Lowney, as the sole negotiator, is entitled to all fees on the first $94 million of settlement value.

Smith & Lowney alone secured the first $94 million of the common fund. No other plaintiffs' counsel were involved in the 2022 mediation process with Judge Guilford that produced over half of the common fund. Lowney Decl. ¶ 24. Smith & Lowney alone built the winning case that achieved a $94 million common fund, including by analyzing extensive discovery, recruiting and working with damages and liability experts, briefing and arguing the merits of the claims before retired Judge Guilford, negotiating and structuring a complex national settlement, and moving for the Court's preliminary approval. *Id.* ¶¶ 13-23.

California Counsel admit that they and their clients "had no role in negotiating the proposed class settlement in *Echard*." *Echard* ECF No. 124, ¶ 19. Instead, they tried to undermine the negotiations at every turn. For example, on January 4, 2022, Smith & Lowney invited California Counsel to participate in mediation with Wells Fargo. Lowney Decl. ¶ 24. Despite professing to have always "believe[d] that the interests of the putative class are best served by a unified plaintiffs group," *Echard* ECF No. 123 at PageID 1327, California Counsel ignored the invitation for four months, which was well into the Guilford mediation. *Id*. Meanwhile, they tried to lobby Judge Guilford not to mediate the dispute, without any notice to *Echard* Counsel. Tonry Decl. at ¶ 3.

Case law strongly supports attributing the entire $94 million to Smith & Lowney's work. For example, the Seventh Circuit agreed the plaintiffs who entered into the first settlement "should get full credit for having created the first . . . cash component of the final settlement, for that was the amount that had been negotiated in the first settlement agreement." *Trans Union*, 629 F.3d at 747. And, as Judge Posner explained in both *Trans Union* and *Reynolds v. Beneficial National Bank*, 288 F.3d at 286, fee awards should be proportioned to the *incremental* benefits counsel

confer on the class, not the entire amount of a settlement. While an objector can provide an incremental benefit by improving an initial settlement, attempting to take all credit for the improved settlement is "disingenuous" and "frivolous." *Kim v. Tinder, Inc.*, No. CV 18-3093-JFW(ASx), 2022 U.S. Dist. LEXIS 39273, *40 (C.D. Cal. Mar. 4, 2022); *cf. Police Ret. Sys. of St. Louis v. Granite Constr. Inc.*, No. 19-cv-04744, 2022 U.S. Dist. LEXIS 47749 (N.D. Cal. March 17, 2022) (initial settlement is the "monumental event" on which intervenors made improvements).

While California Counsel will likely claim that their out-of-district litigation contributed to Wells Fargo's desire to settle, courts reject such unprovable, unquantifiable arguments when allocating fees. For example, in *Gascho*, 822 F.3d at 294, the court denied fees to a party who claimed their other case "helped drive the defendant to settle" and finding "no authority indicating that the district court must award attorney's fees to counsel whose work in an entirely separate litigation may have provided some benefit to a class in the litigation before the court." *See also Arkin v. Pressman*, 38 F.4th 1001, 1009 (11th Cir. 2022) (failed settlement efforts and discovery that did not contribute to ultimate settlement was not compensable); *and see* Hubbard Decl. ¶ 26.

Additionally, Professors Hubbard and Cole provide economic and policy reasons why an objector's counsel should not be cut into the fees on the original settlement. Hubbard testifies that this would create a powerful incentive to bring any and all objections, regardless of their benefit to the Class, in hopes of getting some of the original settling party's compensation. Hubbard Decl. ¶ 33. And, as Professor Cole explains, reallocating the original settling party's fee award to objectors' counsel would deter settling the objections, even where it could benefit the class with a larger and faster payout than litigating objections. Cole Decl. ¶¶ 14-18. The result would harm the class and bog down class litigation.

ii. Smith & Lowney's request for 6.25% of $91 million added through global mediation is modest compared to its contribution.

Smith & Lowney requests that the Court follow *Trans Union's* approach of giving each set of counsel "50 percent of the credit for the additional . . . cash in the final settlement." 629 F.3d at 747. Here, the "additional cash" is the $91 million added through the global mediation, which

California Counsel and Wells Fargo characterize as an effort to settle California Plaintiffs' objections to the first settlement. *Echard* ECF Nos. 162-1 at PageID 2108 (California Plaintiffs viewed the "purpose of a global mediation" as addressing "the deficiencies of the *Echard* resolution"); 175 at PageID 2147 (Wells Fargo stating that global mediation "sought to resolve [California] Plaintiffs' objections to the *Echard* settlement").

As law professor John Lopatka and Chief Third Circuit Judge D. Brooks Smith explain:

> The objector would not be entitled to all of the attorneys' fees that might be awarded for securing the increment on behalf of the class, for the increment is a joint product of the efforts of class counsel and the objector; the objector would not be able to obtain an increment unless class counsel obtained the base amount, and class counsel are entitled to a share of attorneys' fees awarded for the increment.

John E. Lopatka & D. Brooks Smith, *Class Action Professional Objectors: What To Do About Them?*, 39 Fla. St. U. L. Rev. 865, 879-880 (Summer 2012). However, Smith & Lowney asks that half of its 50% share remain with the Class, recognizing that the Court could instead allocate those funds to other counsel.

The simple approach of equally allocating the fees on the improvement reached through global mediation is appropriate here. In *Trans Union*, Judge Posner recognized that the 50/50 split is a type of "rough justice," but trying to fine-tune the exact division would "produce only speculative refinements, given the inherent uncertainties of estimation in such a case, and would do so at a heavy cost in judicial and party resources unlikely to be offset by any benefit in greater precision, which would in any event be illusory." 629 F.3d at 748. Professor Hubbard agrees this is "a simple rule that generates good incentives without complex fact finding and extensive collateral litigation." Hubbard Decl. ¶ 23.

The basic facts and dynamics of this case further support Smith & Lowney's proposed allocation of the fees added through global mediation. Immediately upon lodging the original settlement, Smith & Lowney sought to bring all the parties to the global mediation table. Lowney Decl. ¶¶ 25-32. California Counsel initially refused despite recognizing the likely benefit to the Class, but eventually agreed after *Echard* Representatives filed briefing that cajoled California

Counsel into mediation. *Id*. According to Professor Cole, this is "indicative of *Echard* counsel prioritizing the interests of class members." Cole Decl. ¶ 31; *see also* Mathews Decl. ¶ 22 (seeking global mediation despite being repeatedly rebuffed by California Counsel "showed diligence on behalf of the putative class"). Indeed, Smith & Lowney repeatedly sought to engage the other parties in global settlement talks because, as Professor Cole explains, "defendants often place a value on obtaining global peace and resolving an entire controversy" and are willing to pay a premium for it. Cole Decl. ¶ 20.

Based upon her extensive experience, and without using mediation privileged information, Professor Cole testifies that global mediation would necessarily have started with a floor of $94 million, or over $500 per loan. *See* Cole Decl. ¶¶ 22-26. She further explains that the *Echard* settlement set an effective floor for the recovery of the expanded class, *id.*, which translates to almost $144 million for the global settlement's broader release of over 273,000 loans. *Id.* at ¶ 24, n.2; Shefftz Decl. ¶ 13 (inflation adjusted value of Echard settlement was $527 per loan). And, because neither Smith & Lowney nor any court would approve an amended settlement that diluted the *Echard* class's recovery, every new class member would have to receive at least the $527 per-loan loan value secured by the binding *Echard* settlement. *Echard* ECF No. 175 at ¶ 3 (Wells Fargo explaining that without Echard's consent, the settlement could not be amended); ECF No. 240-1 at PageID 1040 (Settlement Agreement provision ensuring non-dilution as compared to *Echard* settlement); Mathews Decl. ¶ 23; Cole Decl. ¶ 25.

Smith & Lowney also established the settlement framework, which has significant benefits for the class. The global settlement reflects the original *Echard* settlement in numerous ways: (1) the objective criteria defining "without adequate informed consent" are the same; (2) the percentage of the total settlement fund used for the automatic payment fund is exactly the same (37.2%); (3) the settlement explicitly ensures that all forms of damages that were eligible for supplemental payments in the *Echard* settlement will be eligible for compensation; and (4) the settlement is required to be distributed in a way that does not dilute the relief secured in the foundational settlement. Lowney Decl. ¶ 38; Cole Decl. ¶ 29 ("Comparing the two settlements . .

. the global settlement is fairly described as an amendment to the *Echard* settlement."). The Settlement also does not waste funds on an over-broad notice or require class members to "opt-in" to receive a payment as California Counsel would have had it. *See Echard* ECF Nos. 136 at PageID 1675; 137 at ¶ 13 (seeking to give all one million forbearance account borrowers the right to opt in); *Ackal v. Centennial Beauregard Cellular LLC*, 700 F.3d 212, 216 (5th Cir. 2012) (opt-in settlement widely recognized as inferior for class members).

iii. California Counsel overstate their contributions.

Throughout this litigation, California Counsel have asked the Court to assume they made outsized contributions based on their purported "first to file" status. But California Plaintiffs were not the first or even the second to file. Counsel in *Stoff v. Wells Fargo*, who are not part of this litigation, filed the first complaint over Wells Fargo's forbearance practices before any of California Counsel filed complaints. *Echard* ECF Nos. 186 at PageID 2184; 191 at PageID 2766.

While two of the seven firms comprising California Counsel filed the second complaint, they filed on behalf of Chapter 13 debtors who are explicitly excluded from this Class and whose claims form no basis for the settlement relief. ECF No. 186-2 at PageID 2225. These firms were recently awarded $4.95 million from the $15 million settlement fund generated by their work. Tonry Decl. ¶ 12. Indeed, in support of their $4.95 million fee request, counsel rely on their early filings and their motions practice, document review, depositions, and mediation *in this case*. *Id.* Ex. C ¶¶ 15–30, 32, 39–48, 59. Thus, the bankruptcy case has already compensated counsel for their early work, and then some. Bankruptcy court was the appropriate venue for counsel to seek their compensation, not here. *Gascho*, 822 F.3d at 294 (declining to award fees for work in separate litigation despite argument it may have provided some benefit to the instant class). Any additional reward in this case is double dipping.

Moreover, this is not a case where an attorney created "substantial benefit for the class" by "discovering wrongdoing through his or her own investigation." *In re Cendant Corp. Sec. Litig.*, 404 F.3d 173, 195 (3d Cir. 2005). Wells Fargo's wrongful forbearances harmed hundreds of thousands of consumers and were widely publicized. *Echard* ECF No. 76, ¶¶ 26–29; *see also*

Lowney Decl. ¶ 12. In response to NBC News investigative reporting, two U.S. Senators began investigating and sent Wells Fargo a publicized letter on July 29, 2020. *Id.* at ¶ 22. As often happens, many lawyers filed cases in response to this then-public issue. Because the corporate wrongdoing was highly publicized and the legal theories were "apparent to all lawyers involved," merely being the first to file does not equate to conferring a benefit on the class or entitle counsel to fees. *In re Cendant Corp. Sec. Litig.*, 404 F.3d at 205.

The bulk of California Counsel's other work prior to the global mediation consisted of procedural jockeying and failed motions practice in other districts, which did not add any measurable value to the common fund. *See, e.g., Echard* ECF Nos. 144; *In re Wells Fargo Forbearance Litig*., 2023 U.S. Dist. LEXIS 76443; *Forsburg v. Wells Fargo & Co.*, 596 F. Supp. 3d 572, 576 (W.D. Va. 2022) (denying motions to transfer *Forsberg* and *Harlow* to the Northern District of California). Nor did California Counsel's early mediation (before Echard's) create any value, since that mediation did not even focus on money and was unsuccessful in any event. ECF No. 223-1 ¶ 55; *Arkin*, 38 F.4th at 1009 (failed settlement efforts and discovery that did not contribute to ultimate settlement was not compensable); *Gascho*, 822 F.3d at 294 (Sixth Circuit rejects the argument that out-of-district work is compensable because it may have "helped drive the defendant to settle"). Attempting to allocate credit among such out-of-court developments would be a "fool's errand" where value could just as easily be attributed to regulatory pressures or even independent market forces. Hubbard Decl. ¶ 26.

In fact, California Counsel's actions threatened to undermine and delay the Class's recovery—especially, California Counsel's refusal to engage in global mediation until after Wells Fargo largely prevailed on its motion to dismiss in California. *In re Wells Fargo Forbearance Litig.*, 2023 U.S. Dist. LEXIS 76443, at *18.[4] This "surely impacted [Wells Fargo's] own

[4] Judge Donato dismissed the California Plaintiffs' RICO, RESPA, unjust enrichment, and implied covenant claims in their entirety, and five state law claims to the extent they relate to credit reporting. *Id*. One of the RESPA claims and the five state law claims were dismissed with prejudice. *Id*. The TILA and California Unfair Competition Law (CUCL) claims survived. *Id.*

assessment of risk in this matter [and] likely served as more of an impediment to, rather than a catalyst for," a global settlement. *Larson v. Sprint Nextel Corp.*, No. 07-5325 (JLL), 2010 U.S. Dist. LEXIS 3270, at *113 (D.N.J. Jan. 15, 2010); *see also* Cole Decl. ¶ 7 (*Echard* counsel "made a reasonable decision to mediate when they did."); *Echard* ECF No. 106 at PageID 918 (rejecting California Counsel's earlier attempt to "commandeer" the litigation and "delay or deny efficient and effective mediation in this case"). Courts have reduced or denied fee requests based on similar actions by competing counsel. *Arkin*, 38 F.4th at 1009 (finding similar missteps overshadowed first to file status and refusing to award first-filers fees from the global settlement).

Courts have also reduced fee award to intervenors who, despite adding value, burdened the court with meritless objections, much like California Counsel did here. *See, e.g.*, *Mirfasihi v. Fleet Mortgage Corp.*, No. 01-cv-722, 2007 U.S. Dist. LEXIS 65906 (N.D. Ill. Sept. 6, 2007). California Counsel repeatedly filed briefs accusing Smith & Lowney of engaging in a "reverse auction" despite ample case law and the testimony of both California Counsel's own expert *and* a retired federal judge with first-hand knowledge of the *Echard* settlement negotiations all clearly showing there was no such thing. ECF No. 223-1 ¶ 55 (California Counsel explaining their first mediation with Wells Fargo did not focus on money offers); ECF No. 223-6 ¶ 26 (Consolidated Counsel's expert explaining that "in order for defendants to engage in reverse auctions, they must ascertain the values at which plaintiffs are willing to settle"); Guilford Decl. No court has found a reverse auction on facts like those here, where after four days of mediation the parties accepted a $94 million mediator's proposal. *Echard* ECF No. 133 (discussing cases); Cole Decl. ¶ 5 (in these circumstances, a settlement "cannot very well be deemed collusive"); *see also Negrete v. Allianz*

Wells Fargo did not challenge California Plaintiffs' gross negligence, FCRA, or California Consumer Credit Reporting Act (CCCRA) claims. *Compare In re Wells Fargo Forbearance Litig.* ECF Nos. 172 and 162. The surviving claims had limitations, however: the FCRA claim is limited to those plaintiffs who formally disputed their credit report and is undermined by the Ninth Circuit's decision in *Mitchell v. Specialized Loan Servicing Ltd. Liab. Co.*, 2022 U.S. App. LEXIS 35549; the CUCL and CCCRA claims are limited to California residents, *see In re Wells Fargo Forbearance Litig.* at ECF Nos. 162, ¶¶ 479, 481, 520, 531; and TILA limits non-restitutionary recovery in class actions to $1,000,000. 15 U.S.C. § 1640(a)(2)(b).

Life Ins. Co. of North America, 523 F.3d 1091, 1100 (9th Cir. 2008) (accepting "reverse auction argument" would mean no settlement could ever occur in "parallel or multiple class actions").

The Court heard and rejected all of these baseless arguments when California Counsel tried to stop the Guilford mediation. *Echard* ECF No. 106 at PageID 916. Yet, California Counsel rehashed the same false and irrelevant accusations twice more, including in their failed attempt to block consolidation and joint appointment of class counsel. *Echard* ECF No. 123; ECF No. 223.

2. Societal interests support the request.

This *Moulton* factor considers whether the fee request serves society's interest in incentivizing and rewarding attorneys who provide benefits for class members. *Bartell*, 2020 U.S. Dist. LEXIS 229682, at *17. Fee awards in class actions exist to incentivize bringing meritorious class actions on behalf of injured individuals, and, more than other court orders, impose particularly strong incentives on attorney behavior. Hubbard Decl. ¶¶ 9-15. As Professors Hubbard and Cole explain, Smith & Lowney's fee request and its proposed allocation of fees among counsel serve this societal interest in multiple specific ways.

First, for the fee award in this case to properly incentivize bringing meritorious class actions on behalf of injured individuals, "it is essential as a matter of economic logic that Echard counsel, as the original settling party, receive 100% of the attorneys' fee on the value of the original settlement." Hubbard Decl. ¶ 28; *see also id.* ¶¶ 9(3), 29-36; Cole Decl. ¶¶ 6-8, 12-13 (opining that early mediation should be incentivized). If the Court were to award California Counsel a portion of the $94 million increment that *Echard* counsel negotiated alone, it would "create[] strong incentives for weak and wasteful objections." Hubbard Decl. ¶ 33. This is because raising any objection that increases the settlement by even a tiny amount would include the potential to get cut in on fees for the original settlement. *Id.* And, as Hubbard notes, "[a]n objection that leads to no gain, or even a small gain in the settlement value is worse than nothing, because any modicum of gain to the settlement amount is offset by the resources consumed by the additional settlement negotiations, judicial effort, and delay in distributing relief to the class." *Id.* Thus, "the goal of the allocation of fees is to incentivize objections when they would lead to big increments in the size

of the settlement, while discouraging wasteful objections, and the *In re Trans Union* formula accomplishes this, under the facts of this case and generally." *Id*. ¶ 34.

Second, as Professor Hubbard explains, the *Trans Union* formula facilitates *Echard* counsel's request to seek *less* than the maximum potential fee (20% rather than 25%) "by ensuring that whatever fees they relinquish will go to the benefit of the class, rather than to inflating the fees of the other plaintiffs' counsel." *Id*. ¶ 35.

Finally, if Smith & Lowney were to earn less on the $185 million global settlement than it would have on the original *Echard* settlement, the precedent would create a powerful disincentive to mediating to resolve objections. Cole Decl. ¶¶ 14-21; *see also* Hubbard Decl. ¶ 9 (fee awards are particularly influential on attorney conduct). No class counsel with a valuable settlement in hand would seek to settle with objectors if it placed the fees on their original settlement at risk. *See* Cole Decl. ¶ 18. California Counsel have already created enough disincentives to global mediation of objections by forcing Smith & Lowney to litigate contested Rule 23(g) motions simply to rebut their unsupported attacks and the "disingenuous" and "frivolous" claim that California Counsel alone created the $185 million settlement. *Kim v. Tinder, Inc.*, No. 2022 U.S. Dist. LEXIS 39273, *40; ECF No. 223.

3. The contingent nature of the representation supports the request.

Smith & Lowney has represented the Class on a purely contingency basis and advanced all of the costs of its litigation. Lowney Decl. ¶ 11. This supports the reasonableness of its fee request. *See Bartell*, 2020 U.S. Dist. LEXIS 229682, at *17.

4. A lodestar cross-check supports the request.

An optional cross-check using Smith & Lowney's lodestar amount, $5,301,654.50, supports the requested fee award. Tonry Decl. ¶ 8, Ex. A.[5] After deducting costs, the requested fee award would result in a multiplier of approximately 4.58, which is within the reasonable range.

[5] Smith & Lowney's use of national rates is appropriate for this nationwide class action. *See Louisville Black Police Officers Org. v. City of Louisville*, 700 F.2d 268, 278 (6th Cir. 1983) (district courts may "look to a national market . . . or any other market they believe appropriate to fairly compensate particular attorneys in individual cases").

See, e.g., Lowther v. AK Steel Corp., No. 1:11-cv-877, 2012 U.S. Dist. LEXIS 181476, *17-19 (S.D. Ohio Dec. 21, 2012) (noting multipliers from 4.3 to 8.5 to be reasonable).[6]

5. The complexity of the litigation supports the request.

This case is a complex nationwide class action asserting several statutory and common law claims and seeking damages for harms to credit and refinancing opportunities. Lowney Decl. ¶¶ 13-15, 18-20 (describing extensive expert work performed to build the case and quantify damages). The case also presents novel issues about Wells Fargo's conduct and culpability in the early days of the COVID-19 pandemic and the application of the CARES Act that soon followed.

6. The skill and standing of Smith & Lowney support the request.

Smith & Lowney has extensive experience and expertise in prosecuting complex class actions, particularly consumer class actions against national banks. Lowney Decl. ¶¶ 3-10, Ex. 1; *and see, e.g.*, *Childress v. JPMorgan Chase & Co.*, No. 5:16-CV-298-BO, 2019 U.S. Dist. LEXIS 110396, at *21-22 (E.D.N.C. July 2, 2019) (appointing Smith & Lowney class counsel and noting experience in consumer and other class actions). Indeed, despite their vitriol in this case, California Counsel's lead law firm, Keller Rohrback, has repeatedly partnered with Smith & Lowney and advocated for joint appointment as class counsel on several cases over the last twenty-five years. Lowney Decl. ¶ 6; Tonry Decl. ¶ 10 (noting a joint petition during the pendency of this case).

Smith & Lowney regularly achieves exemplary results for the classes it represents. Lowney Decl. ¶ 8 (citing *e.g. Childress v. JPMorgan Chase & Co.*, No. 5:16-CV-298-BO, ECF No. 360 ("Class Counsel achieved extraordinary results for the class of approximately 190,000 military servicemembers, obtaining a Cash Settlement Amount of over $62 million.")).

[6] *See also In re Cardinal Health*, 528 F. Supp. 2d at 768 (noting that multiplier of 7.89 would not be unwarranted or unprecedented); *Beckman v. KeyBank, N.A.*, 293 F.R.D. 467, 481 (S.D.N.Y. 2013) ("Courts regularly award lodestar multipliers of up to eight times the lodestar, and in some cases, even higher multipliers."). The broad range of reasonable multipliers is suitable because "courts do not employ an exhaustive or precise lodestar cross-check, lest they sacrifice the advantages of the percentage-of-the-fund method." *In re Derailment*, No. 4:23-cv-0242, 2024 U.S. Dist. LEXIS 181361, at *50 (N.D. Ohio Sep. 27, 2024); *Smith v. Local Cantina, LLC*, No. 2:20-cv-03064, 2022 U.S. Dist. LEXIS 73598, at *16-17 (S.D. Ohio Apr. 19, 2022) (even if the court significantly reduced the lodestar, the multiplier would still be well within the reasonable range).

Smith & Lowney brought this same professionalism and zealous advocacy to this case, as reflected in Judge Guilford's testimony that Smith & Lowney "vigorously represented the interests of their clients," "were extremely well prepared," "submitted extensive briefing that reflected legal and expert analysis," "were professional and demonstrated a deep knowledge of the case and experience in negotiating settlement for consumer classes." Guilford Decl. at 2. Smith & Lowney also tried to foster cooperation among plaintiffs' counsel, from its overtures when Mr. Echard first filed his case, to its invitation to California Plaintiffs to join the mediation with Judge Guilford, to its efforts to coordinate work after the global settlement. *Echard* ECF No. 134; Lowney Decl. ¶ 25-32, 43-45; Tonry Decl. ¶ 4-6.

In contrast, the Honorable Judge Donato, presiding over California Counsel's case, dismissed most of the California Plaintiffs' claims, finding that California Counsel's approach was "no way to litigate the claims of a nationwide class." *In re Wells Fargo Forbearance Litig.*, 2023 U.S. Dist. LEXIS 76443, at *12. Judge Donato also rejected California Counsel's motion for interim class counsel appointment, noting they seemed to fundamentally misunderstand "what the role of interim counsel is." *Echard* ECF No. 144 ("If the idea is only you need some ammo for Ohio, that's not a reason."). California Counsel also rejected every overture toward cooperation, contorted every offer to work together into a false accusation, wasted time and money, and delayed the resolution of this case. Their objections helped increase the settlement fund by $91 million, so they deserve to be paid, but their conduct should not otherwise be rewarded.

V. CONCLUSION

For the foregoing reasons, Brian Echard, Heather Shimp, and Patricia Foley respectfully request $12,500 each for their service as Class Representatives, and Interim Class Counsel Smith & Lowney PLLC requests an award of 20% of the first $94 million and 6.25% on the additional $91 million (in total, 13.2% of the $185 million common fund) for both attorneys' fees and litigation expenses.

RESPECTFULLY SUBMITTED,

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CERTIFICATE OF SERVICE

This is to certify that a true and exact copy of the foregoing document and supporting declarations and exhibits were filed electronically on the 28th day of October 2024, via the Court's electronic filing system and notice of this filing will be sent to all parties by operation of the Court's electronic filing system.

/s/ Alyssa Koepfgen
Alyssa Koepfgen (*pro hac vice*)
Attorney for Plaintiffs

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

In re: WELLS FARGO FORBEARANCE SETTLEMENT LITIGATION	Case No.: 2:24-cv-01026-MHW-EPD Judge Michael H. Watson Magistrate Judge Elizabeth Preston Deavers DECLARATION OF KNOLL LOWNEY SUPPORTING ECHARD PLAINTIFFS' MOTION FOR SERVICE AWARDS, ATTORNEYS' FEES, AND LITIGATION COSTS

I, Knoll Lowney, declare the following on the basis of personal knowledge to which I am competent to testify:

1. I am an attorney duly licensed to practice in the State of Washington and North Carolina, the Fourth and Ninth Circuit Courts of Appeals, and the United States Supreme Court. The Court approved my *pro hac vice* application for this matter and appointed me as interim counsel for the Class. I am a founding partner at Smith & Lowney, PLLC.

2. I have been involved in this matter since its inception in January of 2021, and I submit this Declaration in support of *Echard* Plaintiffs' Motion for Service Awards, Attorneys' Fees, and Litigation Costs. The information set forth in this Declaration is based upon my personal knowledge, and if called on to do so, I could and would testify competently thereto.

Smith & Lowney's Class Action Experience

3. In litigating this case, I have utilized my extensive experience in complex litigation and class action litigation in particular. I have been a practicing lawyer in Seattle and a member of the Washington State Bar since 1993 and a partner of Smith & Lowney since 1996.

4. I have been leading Smith & Lowney's consumer class action practice for 25 years. Since 1997, Smith & Lowney and I have been representing consumers in class action litigation against major national banks, resulting in substantial compensation for millions of customers across the nation.

5. In 1997, we commenced our first national class action against a bank, *Rosted v. First USA Bank*, No C97-1482-L (W.D. Wash. 1997), a complex case involving credit card repricing practices of one of the largest credit card issuers at that time. While other law firms across the nation had also brought competing class actions, it was our case that succeeded in obtaining class certification and achieving a global settlement for a class of over ten million consumers.

6. Notably, in that first class action in 1997, we invited Keller Rohrback into the case as our co-counsel, beginning a successful partnership that lasted over 25 years. In just the past few years, we have co-counseled with Keller Rohrback multiple times with both firms supporting the other's appointment to class counsel in several cases.

7. Smith & Lowney has continued to focus on nationwide class action litigation against major banking institutions. In 2015, our firm originated and was appointed class counsel in *Childress v. Bank of America Corp.*, No. 5:15-CV-231-BO (E.D.N.C. June 1, 2015), in which we represented over 100,000 class members and achieved an approximately $42 million settlement for servicemembers and veterans across the nation. A robust, direct notice plan was implemented in the case and not a single class member objected to the settlement.

8. In 2019, Smith & Lowney originated and was appointed class counsel in *Childress v. JP Morgan Chase Bank*, No. 5:16-CV-298 (E.D.N.C. 2016). This was the first case in the nation to be certified as a class action under the Servicemembers Civil Relief Act for the purpose of litigation. The district court found Smith & Lowney adequate for purposes of class certification based on experience in litigation consumer and other class actions. *See Childress v. JP Morgan*

Chase & Co., No. 5:16-CV-298-BO, 2019 U.S. Dist. LEXIS 110396, *21-22 (E.D.N.C. July 2, 2019). The Fourth Circuit upheld the district court's class certification decision on appeal. The case ultimately settled for $63.6 million, with substantial funds distributed to over 200,000 servicemembers and veterans across the nation. Again, a robust, direct notice plan was implemented in the case and not a single class member objected to the settlement. Noting our "skill and persistence" in resolving that matter, the district court opined that "Class Counsel achieved extraordinary results for the class of approximately 190,000 military servicemembers, obtaining a Cash Settlement Amount of over $62 million." *Childress v. JPMorgan Chase & Co.*, No. 5:16-CV-298-BO, ECF No. 360 at 2 (E.D.N.C. Oct. 1, 2020).

9. Smith & Lowney's class action experience is broad and not limited to banking issues. Additional examples of our class action experience are provided in the resume attached hereto as **Exhibit 1.**

10. In addition to litigating and settling major class actions, Smith & Lowney has extensive experience working with settlement administrators, administering settlements, and ensuring that class members receive their payments. Our firm does not believe that our work is done until every dollar from a settlement is appropriately distributed.

11. In this case, and in all the other cases I have described, Smith & Lowney represents plaintiffs on a purely contingency fee basis. Smith & Lowney advanced all the costs of bringing this case, including hundreds of thousands of dollars in out-of-pocket costs. To date, we have received no reimbursement or other compensation.

Smith & Lowney's Work on *Echard v. Wells Fargo*

12. Smith and Lowney has worked on this case for nearly four years. As described in previous briefing, we developed this case in early 2021 after Brian Echard reached out to us after Wells Fargo placed his mortgage into forbearance without adequate informed consent. Mr. Echard

has experience in the banking industry and served as a volunteer witness in our *Childress v. JPMorgan Chase* class action, educating the court about the banking experience of active duty servicemembers and veterans. So, when Mr. Echard asked us to file a class action on his behalf, we immediately agreed to try to do so. After hearing from Mr. Echard, I began looking into the case and quickly discovered with a simple Google search that Wells Fargo's wrongful forbearance practices were widely reported about in the national news media. Once we confirmed the merits of the case, we filed a complaint on Mr. Echard's behalf.

13. Since that time, Smith & Lowney has devoted our efforts to working this case and bringing it to a successful conclusion. Our work generally included: analyzing and developing legal theories and claims; drafting the complaint and three amended complaints; motions practice; discovery, including analyzing nearly 145,000 pages of Wells Fargo records and extensive data sets, and attending depositions in the related case in the Northern District of California; working with clients to develop the facts; working with experts and the data to fully understand the strength and value of the case; developing damages theories and a settlement framework; negotiating a $94 million class settlement through a mediation process before retired U.S. District Court Judge Andrew Guilford; and persuading Wells Fargo and the plaintiffs and their counsel in related, consolidated cases (hereafter referred to as the "California Plaintiffs" and "California Counsel") to attend global mediation, which eventually led to the $185 million settlement before the Court today.

14. Throughout this case, we sought and obtained relevant information and records from Wells Fargo through formal and informal discovery. Wells Fargo responded to two sets of formal discovery requests, producing over 145,000 pages of documents and class-wide databases containing 179 data fields of individualized information for over a million customers. Smith &

Lowney held multiple meetings with Wells Fargo to obtain additional information. We engaged our experts to help us analyze this data, as discussed below.

15. Smith & Lowney retained several experts in this case. These experts assisted our understanding of the facts, the potential damages, and any ethical questions we may have had. We retained Arthur Olsen, an expert in data analysis, to better understand Wells Fargo's data, including ten databases containing information regarding over a million customers. As Mr. Olsen describes in his declaration, he helped us translate and assess this data. Smith & Lowney also retained a highly regarded economist, Stan Smith, to help formulate and refine damages theories and calculations to inform an appropriate demand for settlement, as further described in Dr. Smith's declaration. And finally, we engaged an ethics lawyer from Ohio, George Jonson at Montgomery Jonson LLP, to advise us on local ethical rules and duties.

16. During the course of this litigation, Smith & Lowney worked closely with our clients and other Wells Fargo customers to develop the facts of the case. Our clients provided detailed and often cumbersome records of their mortgages and mortgage statements, credit histories, and communications with Wells Fargo, including texts, emails, and journal entries. Our clients also reviewed pleadings, consulted with Smith & Lowney throughout the litigation, monitored the course of this case, advised on mediation and settlement, and evaluated and approved the mediator's proposal and the final settlement.

17. Beginning in February 2022, we began a formal mediation process with retired United States District Court Judge Andrew Guilford that lasted approximately seven months (from the start of mediation preparation through lodging the *Echard* settlement). As Judge Guilford certified to the Court, this was a long day in mediation during which the parties worked hard and in good faith and made progress. *See* Guilford Decl. (originally filed at *Echard* ECF No. 105). At the close of the first day of mediation, the parties agreed to continue negotiating with the assistance

of Judge Guilford. In all, the parties completed four full days of mediation with Judge Guilford between April and July 2022, including one in-person session in California. Ultimately, the parties reached an impasse, which was only broken when both parties accepted Judge Guilford's "mediator's proposal" for what he deemed to be a fair and reasonable settlement based on his understanding of the strengths and weaknesses of each side that had been thoroughly explored during mediation. All four mediation sessions were conducted at arm's-length and involved negotiations over numerous difficult, time-consuming issues. We reached apparent impasse several times before the parties finally reached agreement.

18. While the details of the mediation are privileged, I can speak generally to the extensive work we did to analyze potential damages. As described in Mr. Olsen's and Mr. Smith's declarations (originally filed at *Echard* ECF No. 112 and 113), we worked with our experts to analyze extensive data and to develop damages theories and quantify the potential damages to the class. This included all types of damages, including statutory damages, increased borrowing costs, and other expenses and inconvenience related to Wells Fargo's forbearance practices.

19. Attached hereto as **Exhibit 2** is a true and correct copy of an exhibit used in this mediation process which summarizes and graphically illustrates our damages analysis. The attached version has been edited to remove the confidential and/or privileged information that we presented during mediation. *See Graham v. Peltz (In re Wendy's Co. S'holder Derivative Action)*, 44 F.4th 527, 538 (6th Cir. 2022).

20. In addition, we fully analyzed the strength and value of potential claims based upon Wells Fargo's alleged bad faith conduct and wrongful profit, and the various theories by which we could recoup any such profits. This included a full analysis of the allegation that Wells Fargo earned billions of dollars in wrongful profit through the Early Pool Buy Out ("EPBO")

program. We spent significant time developing these factual and legal arguments for the purposes of mediation and fully considered them in settlement negotiations.

21. Even after reaching an agreement in principle, we continued to gather evidence to ensure that any settlement was fully informed. This included continuing to review documents as they were produced. Then, in July and August 2022, my colleagues and I sat in on the Rule 30(b)(6) depositions of Wells Fargo, conducted by California Plaintiffs' counsel in the related putative class actions pending in the District of Northern California. The Rule 30(b)(6) notice topics for these depositions were: (1) "Wells Fargo's decisions or actions regarding placing borrowers into mortgage forbearance plans without an affirmative request for such relief, including any role that profitability projections or Servicing and Capital Markets desk had on those decisions, and Wells Fargo's modification of its policies and practices with respect to placing borrowers' mortgage loans into forbearance;" (2) "Wells Fargo's practices and procedures regarding the refinancing of loans that had been placed into forbearance, opening new lines of consumer credit for borrowers whose mortgage loan had been placed into forbearance, or treatment of a forbearance as a negative or derogatory mark on creditworthiness;" and (3) "Wells Fargo's attempts, efforts, or plans to confirm whether borrowers whose loans had been placed into forbearance status had requested such status, and the results of any such survey or borrower outreach, including Wells Fargo's attempts to confirm whether borrowers placed into forbearance as a result of their utilization of an IVR system, an online request, a secure e-mail, or a telephonic conversation with a Wells Fargo representative intended to request to be placed into a forbearance." We prepared for those depositions, because there was a possibility that we would be able to question the witness, but that did not prove necessary. Our primary goal was along the lines of confirmatory discovery, to hear Wells Fargo testify to the facts under oath and to ensure that no evidence changed our calculation about the fairness and adequacy of the Settlement. Over the course of the depositions,

we confirmed that our knowledge base and theories of the case are as broad, if not broader, than that of the plaintiffs in those competing lawsuits. Everything we heard was consistent with our knowledge base and theories, which informed our positions in mediation.

22. After reaching an agreement in principle, we negotiated extensively with Wells Fargo over the settlement terms, as is necessary for a nationwide settlement of nearly $100 million impacting almost 200,000 customers across the nation. We worked with a potential settlement administrator to develop a notice plan and claims process, and we interviewed potential special masters who might be able to oversee the claims process. We prepared a motion for preliminary approval and all associated briefing and exhibits, and we filed the proposed $94 million settlement on September 9, 2022. *Echard* ECF No. 108-1.

23. Data provided by Wells Fargo confirmed that were 186,781 loans in the Echard class, rather than the original estimate of 212,000-213,000, establishing a $503/loan gross settlement amount.

24. As I discussed in previous declarations, California Counsel provided no support to us in reaching the original $94 million settlement and we had no access to any analysis or theories they may have developed at that time. *Echard* ECF No. 134. On January 4, 2022, I reached out to California Counsel and encouraged them to work with us as we headed toward mediation with Wells Fargo, but they did not respond to our invitation until May 5, 2022, by which time we had developed our claims and built our damages case from the ground up and completed two full days of mediation.

Our Successful Efforts to Facilitate Global Mediation

25. On the day the *Echard* settlement was filed (September 9, 2022), we reached out to California Counsel, hoping to get California Counsel on board with the excellent settlement that had been achieved. We asked them to attend a mediation where we could confidentially discuss

the settlement and hopefully find a way to collaborate moving forward. Attached hereto as **Exhibit 3** is a true and correct copy of that correspondence. California Counsel responded that they were "willing to engage in a mediation regarding the proposed settlement in *Echard,*" but only if we agreed to postpone entry of the *Echard* settlement. Attached hereto as **Exhibit 4** is a true and correct copy of that correspondence. On September 21, 2022, we informed California Counsel that Wells Fargo would not agree to postpone, and postponing was not in the Class's interest, but we still encouraged them to attend mediation. ***Id***.

26. Several weeks later, California Counsel sent an email confirming, "Mr. Lowney has reached out to plaintiff's counsel in the consolidated N.C. Cal. Litigation regarding a potential mediation. Any potential mediation would need to include Wells Fargo." We implored Wells Fargo to attend mediation, but it refused. We continued to encourage California Counsel to attend mediation despite Wells Fargo's refusal. Attached hereto as **Exhibit 5** is a true and correct copy of that correspondence.

27. Then, between January 2023 and May 2023, we continued to work to bring about a global mediation, reaching out to both Wells Fargo and California Counsel. Over these months, I had numerous conversations with Wells Fargo's counsel arguing that the quickest way to achieve a durable settlement was for Wells Fargo to come to global mediation and increase the settlement. In one email, dated January 1, 2023, I explained that California Counsel had threatened to delay our settlement for years and that "I do think it would make sense to get your client to the table, since it can resolve the [bankruptcy] case and maybe there's part of the CA case that is worth settling. Global peace = global peace, and the fastest path towards resolution." Attached hereto as **Exhibit 6** is a true and correct copy of that correspondence. That argument – plus Wells Fargo eventually gaining an upper hand in the California litigation by largely prevailing on a motion to dismiss – seemed to convince Wells Fargo to come back to the table.

28. Once Wells Fargo called me to inform me that they would come to global mediation, we again asked California Counsel to global mediation. Our May 16, 2023 email explained to California Counsel, "As I mentioned to you last week, we have a narrow window [of time] in which to try to reach a global resolution of this mater, now that Wells Fargo has agreed to return to mediation." Attached hereto as **Exhibit 7** is a true and correct copy of that correspondence.

29. Even though we had now met their condition on global mediation, California Counsel rejected our offer and stated "at this time we also would like to move forward in our CA consolidated case pursuing our claims. Should anything change, we will reach out to you." Attached hereto as **Exhibit 8** is a true and correct copy of that correspondence.

30. We had anticipated California Counsel's potential refusal. We previously prepared a motion to compel mediation to file with this Court, and both *Echard* Counsel and Wells Fargo's Counsel researched this Court's ability to force California Counsel to the table.

31. We decided to first try to further convince California Counsel to the table through filing our Motion for Reconsideration, to Lift the Stay, or for Interlocutory Appeal. *Echard* ECF No. 157. We informed the parties that we were filing to preserve our clients' rights but "we can move to stay the motion if the [California] team agrees to participate in mediation." Attached hereto as **Exhibit 9** is a true and correct copy of that correspondence.

32. Wells Fargo's response to this motion argued that this Court had authority to compel California Plaintiffs to attend a global mediation and that "Mediation could provide a productive and efficient path to final settlement approval." *Echard* ECF No. 161. In response, California Plaintiffs finally agreed to global mediation. *Echard* ECF No. 164. This was July 7, 2023, ***ten months*** after we first invited California Plaintiffs to mediation.

The 2023 Mediation Process

33. Once California Counsel and Wells Fargo finally agreed to participate in a global mediation, the Parties engaged the Honorable Layn Phillips (Ret.). We have successfully settled other nationwide banking class actions with Judge Phillips. *See Childress v. Bank of America Corp.*, No. 5:15-CV-231-BO (E.D.N.C.).

34. All three parties (Echard Plaintiffs, Wells Fargo, California Plaintiffs) jointly retained Judge Phillips and signed the mediation agreement. Attached hereto as **Exhibit 10** is a true and correct copy of the parties retention letter from Phillips ADR. All three parties were obligated to pay for the mediation and did so. Attached hereto as **Exhibit 11** is a true and correct copy of the bill from Phillips ADR sent to all plaintiffs' counsel.

35. The content of the mediation is subject to a broad mediation privilege and contractual confidentiality agreement, which all three parties signed. A true and correct copy of that agreement is attached hereto as **Exhibit 12**. Echard Plaintiffs waive neither.

36. However, we can say, at a high level, that the Parties attended mediation sessions with Judge Phillips on October 3, 2023 and October 24, 2023 in New York.

37. As previously disclosed, after the mediation session on October 24, 2023, Judge Phillips issued a mediator's proposal to settle the litigation for $185,000,000. All Parties ultimately assented to this proposal. *See* ECF No. 221 at PageID 63, 66. On December 3, 2024, a third mediation session was held to address non-monetary terms. Several months of additional negotiations took place afterwards, with the Settlement Agreement ultimately being executed on April 17, 2024.

The Settlement Agreement

38. The Settlement Agreement preliminarily approval by the Court (ECF No. 243) is fundamentally based upon the *Echard* Settlement negotiated by my firm. For example, (1) the

objective criteria defining "without adequate informed consent" is retained; (2) the percentage of the total settlement fund used for the automatic payment fund is exactly the same as in *Echard* (37.2%); (3) the settlement explicitly ensures that all forms of damages that were eligible for supplemental payments in the *Echard* settlement will be eligible for compensation; and (4) the settlement is required to be distributed in a way that does not dilute the relief secured in the foundational settlement.

***Echard* Plaintiffs**

39. Brian Echard, Heather Shimp, and Patricia Foley are adequate class representatives who have, and I believe will continue to, represent the best interests of the Class. All three are Class Members within the definition identified in the Settlement Agreement, and so all three have common interests with unnamed class members. None of these three plaintiffs have any known conflicts of interest with other Class Members or with *Echard* counsel. Furthermore, all three have done work to represent the Class throughout the course of the litigation.

40. Again, Brian Echard brought this case to my attention in January 2021. Mr. Echard worked closely with my firm by providing detailed records of his mortgage and mortgage statements, proof of payments, documentation of his refinance attempts being denied, credit history, and communications with Wells Fargo. He also prepared a declaration to defend against Wells Fargo's attempt to dismiss the case, informed and reviewed pleadings, consulting with us throughout the litigation, and monitored and provided input and decision-making on mediation and settlement.

41. Heather Shimp has also worked with my firm to provide assistance whenever needed. For example, she undertook extensive review of her records and did work to obtain records from third parties regarding her mortgages with Wells Fargo as well as the aftermath of being wrongfully placed into forbearance. She compiled and provided all the documents related to her

mortgages, including the mortgage itself, statements, and many letters from Wells Fargo. She had to reach out to the lender with whom she applied for a new mortgage to request a copy of the letter they sent her to inform her that they could not approve her loan because her Wells Fargo account was in forbearance. She looked through her emails and text messages, as well as the texts and emails of her husband, to find additional relevant records. She also reviewed her journal entries from the relevant time period. She evaluated proposals made by my firm in the context of mediation, and she made herself available for telephone calls during the various mediation sessions in case her approval was necessary on short notice. She also generally monitored the course of the litigation through emails and phone calls with my firm.

42. Patricia Foley likewise worked with my firm to provide assistance whenever needed. For example, she undertook extensive review of her own records. She compiled and provided all the documents related to her mortgage, including the mortgage itself, statements, and letters from Wells Fargo. She answered questions from my firm via phone calls and email about her experience with Wells Fargo and the consequences of the wrongful forbearance. She also took notes on her calls with Wells Fargo, which she reviewed and provided to my firm. She also generally monitored the course of this litigation via updates from my firm through phone calls and emails.

Further efforts to be inclusive and cooperative

43. Once a global settlement was finally reached in January 2024, we continued our efforts to be inclusive and cooperative with California Counsel, in an effort to get the settlement in front of the Court and approved as efficiently as possible.

44. Ultimately, this Court's preliminary approval of the settlement, consolidation of the case, and appointment of both legal teams as interim counsel led to a suitably working relationship. As we previously argued, once competing plaintiffs' counsel have achieved a global settlement,

they don't have to like each other to get the job done for the Class. We and California Counsel have done that as co-interim class counsel.

45. Since being appointed as interim class counsel, our firm has worked with the Settlement Administrator to provide notice, take possession of the settlement proceeds, and otherwise carry out the terms of the proposed settlement. Wells Fargo has also referred questions from Class Members to us, and we have fielded numerous calls about the settlement and settlement process.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed this 28th day of October 2024, in Seattle Washington.

s/Knoll Lowney
Knoll Lowney

Exhibit 1

2317 EAST JOHN STREET | SEATTLE, WASHINGTON 98112
(206) 860-2883
SMITHANDLOWNEY.COM

Protecting the environment and consumers. Holding corporations and governments accountable.

The team of lawyers and staff at Smith & Lowney is committed to the public interest. Whether representing consumers, confronting polluters, or exposing corporate misconduct, we seek to be principled advocates for justice.

Our practice includes environmental law enforcement and land use, consumer protection and class actions, corporate accountability, citizen initiatives and community activism, and much more.

In addition to our litigation services, we help organizations develop long-term legal, political, and grassroots strategies to translate idealism and activism into victory.

CLASS ACTION & CONSUMER PROTECTION LITIGATION

Smith & Lowney has represented millions of consumers in challenging corporate misconduct. We bring class actions in situations where individual litigation is impossible, such as where corporate defendants have stolen small sums from large groups of their customers or have committed widespread consumer fraud.

For over 25 years, we have been taking on national financial institutions and other large corporate defendants to vindicate the rights of consumers, homeowners, veterans, and communities.

REPRESENTATIVE CASES INCLUDE:

***Childress v. Bank of America Corp.*, No. 15-231 (E.D.N.C.).** Smith & Lowney originated this case and was appointed class counsel for the more than 100,000 class members. Our firm achieved an approximately $42 million settlement for servicemembers and veterans across the nation. We developed and implemented a robust, direct notice plan and not a single class member objected to the settlement.

***Childress v. JP Morgan Chase Bank*, No. 16-298 (E.D.N.C.).** Smith & Lowney also originated this case and was appointed class counsel. This was the first Servicemembers Civil Relief Act (SCRA) case in the nation to be certified as a class action for the purpose of litigation, a decision that was upheld by the Fourth Circuit Court of Appeals. The case ultimately settled for $63.6 million, with substantial funds distributed to over 200,000 servicemembers and veterans across the nation. Again, we implemented a robust, direct notice plan in the case and not a single class member objected to the settlement.

***Bulls v. USAA*, No. 21-488 (E.D.N.C.).** Smith & Lowney originated this case to enforce the Military Lending Act as well as the SCRA. After securing an early victory wherein the court took the extraordinary step of waiving the bank examiner's privilege to compel the production of key documents, we moved for certification of a nationwide class of military borrowers. The case is currently in settlement negotiations.

***Espin v. Citibank*, No. 22-383 (E.D.N.C.).** In a first-of-its kind victory, Smith & Lowney defeated Citibank's motion to compel individual arbitration based on the SCRA's protections for servicemembers' and veterans' right to bring class actions in federal court. Smith & Lowney is currently working to defend and expand this precedent before the Fourth Circuit Court of Appeals.

***Resendez v. Precision Castparts*, No. 16-16164 (Oregon Circuit Court, Multnomah County).** Smith & Lowney originated and was appointed class counsel in this environmental property damage case involving industrial air pollution in residential neighborhoods. This case resulted in a $12.5 million cash settlement and several million dollars' worth of pollution control upgrades. At the time of settlement, this was the largest environmental class action in Oregon history.

***Rosted v. First USA Bank*, No. 97-1482 (W.D. Wash.).** We brought a successful nationwide class action against one of the largest credit card issuers at that time. This complex case involved credit card repricing practices, including false "fixed rate" claims when in fact most rates would automatically escalate. While other law firms across the

nation brought competing class actions, it was our case that succeeded in obtaining class certification and a global settlement that provided monetary and injunctive relief to a class of over ten million consumers.

***In re Inphonic, Inc. Consumer Litigation,* MDL No. 1792 (2006).** Smith & Lowney served as class counsel on behalf of a nationwide class of consumers, which resulted in a nationwide settlement.

BPA Baby Bottles Litigation, MDL No. 1967 (2008). Smith & Lowney brought nationwide class actions against some of the nation's largest baby bottle manufacturers for their use of Bisphenol-A (BPA), achieving substantial nationwide settlements for consumers.

Building Industry Association of Washington Litigation. We originated and were appointed class counsel in this series of cases, which were resolved through a multi-million-dollar settlement we negotiated on behalf of a class of mostly small businesses who had suffered from breach of fiduciary duties.

Kosher Fraud Litigation. Smith & Lowney is proud to have successfully litigated the first nationwide consumer class action alleging kosher fraud. We commenced a nationwide class action against one of the nation's largest food companies alleging that certain kosher-certified products failed to adhere to kosher manufacturing standards. The nationwide settlement required the defendant to provide $2.5 million in cash and food products to food banks, Jewish charities, and consumer organizations.

Artificially Colored Farmed Salmon Litigation. Smith & Lowney sued the three largest grocery store chains for failing to label artificial coloring in farmed salmon as the law requires. After the suit caused a firestorm of media attention, Safeway, Kroger, and Albertsons began labeling color additives in farmed salmon at over 6,000 stores.

***Campbell v. Airtouch Cellular,* No. GIC751725 (California Superior Court, San Diego County).** Occasionally we represent consumers who oppose inadequate class action settlements. In this case, we successfully opposed a nationwide settlement with Verizon Wireless. After the original settlement was rejected by the court, our firm helped to significantly strengthen the settlement, more than doubling its value.

***Olds v. Quest,* No. 02-2-32998 (Washington Superior Court, King County).** Smith & Lowney took on alleged unlawful pricing of telecommunication services on behalf of regional customers, achieving a substantial class settlement.

FALSE CLAIMS AND FRAUD AGAINST THE GOVERNMENT

Smith & Lowney represents whistleblowers in exposing fraud against the government, recovering millions for taxpayers and "relators' shares" for our clients. We bring cases against large government contractors and have extensive experience at the Hanford Nuclear Reservation, a nuclear cleanup site receiving billions of dollars in federal funding annually, located in Eastern Washington. These ***qui tam*** actions may remain under seal for years.

REPRESENTATIVE UNSEALED CASES INCLUDE:

United States v. Mission Support Alliance LLC, et al,* No. 21-5156 (E.D. Wash.)** Smith & Lowney represents whistleblower Bradley Keever in this multi-million-dollar ***qui tam case. Mr. Keever's complaint alleges that Hanford contractors, HMIS and Mission Support Alliance ("MSA"), defrauded the government by failing to effectively manage fire systems maintenance personnel and work activities. This failure resulted in HMIS and MSA workers being instructed to charge the government for a full day's work regardless of excessive idle time and nonwork-related activities for fire system maintenance crews that went uncorrected by HMIS or MSA. The complaint, filed under seal on December 15, 2021, was made public in early 2024 after the government completed its investigation and decided to intervene.

***United States ex rel. Relators v. Bechtel Corporation, et al.*, No. 17-5074 (E.D. Wash.)** Smith & Lowney represented four whistleblowers in the lawsuit, originally filed under seal in 2017, alleging a variety of fraud schemes by contractors Bechtel Corporation and AECOM Energy & Construction, Inc. In 2020, the suit settled for $57.75 million. The settlement included an impactful corporate monitoring agreement with the Department of Energy. For their efforts, the four whistleblowers in this case were awarded a near-maximum 23.8% reward. In addition to their fraud allegations, each of the whistleblowers sued their respective contractor employers for whistleblower retaliation. Those four claims were also resolved, but the terms of those settlement agreements remain confidential.

ENVIRONMENTAL LAW ENFORCEMENT & IMPACT LITIGATION

Smith & Lowney is the leading private law firm in the country bringing environmental citizen suits. Our cases have improved pollution controls at scores of industrial facilities and directed tens of millions of dollars toward environmental restoration. We also work with our clients to develop impact litigation strategies to translate specific lawsuits into far reaching environmental protection.

REPRESENTATIVE CASES INCLUDE:

Industrial Stormwater General Permit Appeals. Smith & Lowney has successfully represented its clients in multiple challenges to Washington's Clean Water Act permit for industrial dischargers, which covers over 1200 facilities. In 2024, we secured a win for clean water when the state court of appeals ruled that the permit regulates all polluted discharges from transportation facilities. Earlier victories resulted in tougher standards for stormwater pollution and funding for the state's inspection program.

Port Clean Water Enforcement. Smith & Lowney has represented multiple clients against ports across Washington, including the Ports of Seattle, Tacoma, Olympia, Longview, and Everett, for violations of their discharge permits. Since 2018, our cases directed over $3.5 million to environmental restoration projects, and caused significant site improvements at these massive port facilities.

***Center for Biological Diversity v. U.S. EPA.*, No. 22-138 (D. Ariz).** In this Endangered Species Act case, the court granted our motion for summary judgment, holding that EPA must consult with fish and wildlife expert agencies before revising its nationwide recommendations for water quality criteria. The court also vacated EPA's less protective standard.

***Waste Action Project v. Draper Valley/Perdue,* Nos. 20-836, 12-1870 (W.D Wash).** Our two cases against this poultry slaughterhouse set precedents for citizens' ability to enforce the Clean Water Act's pretreatment program and for industry-leading pollution control technology. Together, the cases also delivered $2.3 million to environmental restoration projects.

***Puget Soundkeeper Alliance and Waste Action Project v. Boeing,* No. 18-1209 (W.D Wash).** In this case, our clients held Boeing accountable for PCB-contaminated runoff into the Duwamish River in Seattle. In 2020, we obtained a federal consent decree that provided (1) substantial PCB remediation and continued monitoring for recontamination, (2) benchmarks to trigger additional remediation, (3) installation of engineered stormwater treatment systems to protect the Duwamish, and (4) $750,000 towards the removal of the Lones Levee to reconnect the Green River to its historic floodplain and restore critical salmon habitat.

***Puget Soundkeeper Alliance v. U.S. Navy,* No. 17-05458 (W.D Wash).** We brought this case on behalf of Puget Soundkeeper Alliance and Washington Environmental Council in collaboration with the Suquamish Tribe in response to the Navy's scraping marine growth and toxic paint into Sinclair Inlet without protective measures or a permit. The State of Washington later joined this case, and the parties achieved a settlement requiring the Navy to take remedial actions and not scrape other decommissioned ships directly into the water.

***Hanford Challenge v. Department of Energy,* No. 15-5086 (E.D Wash).** Smith & Lowney represented Hanford Challenge and the United Association of Plumbers and Steamfitters Local Union 598 in bringing this lawsuit under the Resource Conservation and Recovery Act (RCRA) because the Department of Energy and its private contractor

were failing to protect Hanford workers from chemical vapors. After the lawsuit was consolidated with a similar suit filed by the State of Washington, the plaintiffs secured a settlement that improved conditions for workers.

***RE Sources for Sustainable Communities v. Pacific International Terminals,* No. 11-2076 (W.D Wash).** This case involved the illegal clearing of forested wetland at the site of the proposed Gateway Pacific coal export terminal in Whatcom County. The litigation uncovered damaging evidence of PIT's destruction of sacred sites on the Lummi reservation, which helped solidify opposition to this project leading to its demise. The settlement required the defendant to (1) pay $1.6 million, including $825,000 for local environmental benefit projects, (2) enhance and set aside almost 3 acres of undisturbed wetland on the property from future development, and (3) restore the damaged wetlands.

B.P. Cherry Point "WET Testing." This Clean Water Act permit appeal resulted in across-the-board changes that make "whole effluent toxicity" limits in discharge permits enforceable.

***Sierra Club and Center for Environmental Law and Policy v. U.S. EPA,* No. 11-1759 (W.D Wash).** This case challenged the lack of a comprehensive PCB-reduction plan for highly polluted segments of the Spokane River. In 2015, we won a crucial victory when a federal judge ordered EPA and the state to prepare a definite plan and schedule for the study.

***Puget Soundkeeper Alliance v. BNSF,* No. 09-1087 (W.D Wash).** After establishing the illegal and unpermitted discharge of polluted stormwater into Elliot Bay in Seattle, we secured a settlement that included a $1.5 million payment to Puget Sound environmental projects, which at the time was the largest penalty obtained for stormwater pollution.

Ocean Resources Management Act (ORMA). In an early lawsuit to protect the Grays Harbor Estuary, we came across an environmental law that had been ignored by the Washington Department of Ecology and everyone else. Ecology's position was that the language of ORMA was too strong to be given respect. Eventually the State Supreme Court ruled that ORMA means what it says, providing environmentalists with a strong new (old) tool for protecting coastal waters and shorelines.

Citizens Against Seatac Expansion v. Department of Ecology. This successful appeal of Sea-Tac airport's Clean Water Act permit sought to protect Puget Sound and area creeks from untreated aircraft and runway deicing products. Following a multi-week administrative trial, the appeals board ordered the state to rewrite the permit to better protect water quality.

Washington Trout Harvest and Hatchery Litigation. Smith & Lowney represented Washington Trout in a series of successful lawsuits to reform salmon hatchery and harvest practices in the Pacific Northwest, including against the state over its Puget Sound hatchery program's compliance with the Endangered Species Act and against the federal government for its approval of Puget Sound Chinook harvest plans.

COMPLEX LAND USE

Smith & Lowney represents communities across the state who are fighting to protect their local environment and quality of life. We treat these land use cases as the emergencies they are. We help communities form non-profit corporations and develop legal, political, grassroots, and media strategies to oppose harmful land uses.

THE FOLLOWING ARE REPRESENTATIVE CASES:

Crude-by-Rail and Oil Project Litigation. We have represented Friends of Grays Harbor, Sierra Club, Advocates for a Cleaner Tacoma, and others opposing new fossil fuel terminals in Washington. So far, we have played a role in successfully opposing projects in Grays Harbor, Vancouver, and Bellingham.

Thornton Creek Legal Defense Fund v. City of Seattle. After years of litigation, we defeated a proposal to build a multi-million-dollar addition to Northgate Mall directly over Thornton Creek. Successive litigation resulted in a decision by Northgate's owners to sell the creek corridor to the City of Seattle. We assisted clients to develop and implement a long-term legal and political strategy, including a citywide initiative campaign for creek restoration. Ultimately, the city agreed to fund a project to "daylight" Thornton Creek––a 100% victory.

Friends of Grays Harbor v. Westport. We represented FOGH and Washington Environmental Council in a series of appeals and lawsuits to prevent the building of an 18-hole golf course, luxury resort, and 200 condominiums in a 56-acre wetland complex in Westport, Washington. Once the development was stopped, the site was turned into a state park.

Friends of Grays Harbor v. Department of Corrections. This successful litigation concerned the siting of Stafford Creek Corrections Center in Grays Harbor, Washington. The settlement saved 17 acres of intertidal wetlands and delivered millions of dollars of improvements to the Aberdeen sewage treatment plant to reduce pollution entering the Grays Harbor Estuary.

Enloe Dam Re-Electrification. We represented concerned citizens and Columbiana in two appeals regarding a proposal to re-electrify Enloe Dam in Okanogan County. We argued that the Public Utility District had not provided the public with proper notice, leading to a withdrawal of the approval and republication of the notice. Ultimately, the Public Utility District reversed course and decided not to pursue re-electrification of the dam, bolstering the prospect of removing the dam altogether.

GOVERNMENT & CORPORATE ACCOUNTABILITY

Smith & Lowney uses federal and state laws to hold governments accountable. We work to assure that government processes remain transparent, free from conflicts of interest, and that public documents remain open to public review.

REPRESENTATIVE CASES INCLUDE:

Columbia Riverkeeper v. Port of Vancouver. In this lawsuit, we established that the Port Commissioners violated the Open Public Meetings Act (OPMA) by discussing port lease terms behind closed doors. This lawsuit was part of the campaign to stop a proposed Crude by Rail terminal on the Columbia River.

Permanently Offended v. Office of the Code Reviser. Smith & Lowney successfully sued the Washington State Code Reviser for refusing to disclose legal advice it provided to a frequent proponent of ballot initiatives. The suit established that such records are subject to public disclosure.

Center for Environmental Law & Policy v. Washington State Department of Ecology. This Public Disclosure Act suit addressed the state's repeated failures to provide public documents, hampering our client's ability to carry out its mission of protecting Washington's water resources. Ecology ultimately admitted to fourteen violations of the act, and agreed to pay attorneys' fees and civil penalties.

Displaced Tenants v. Triad. What started as a pro bono lawsuit on behalf of low-income tenants became a front-page scandal when the developer tried to bribe a city council candidate to make the lawsuit go away. The candidate, Jon Grant, went public, leading the City of Seattle to cut ties with the developer. After 24 hours of mediation, we achieved a settlement for the displaced tenants' group that required Triad to pay $5.5 million into a housing fund administered by the Social Justice Fund.

Junction City Redevelopment Group v. Sierra Pacific Industries. We represented 18 mostly low-income families whose properties were negatively impacted by a lumber mill in Aberdeen, Washington. After several lawsuits and permit challenges, the case settled through mediation in 2004, resulting in a multi-million dollar buy-out of clients' properties.

OUR TEAM

KNOLL LOWNEY
(206) 860-2976
knoll@smithandlowney.com

Admissions: Washington, U.S. Supreme Court, Ninth Circuit, Fourth Circuit

Education: J.D., *cum laude*, New York University School of Law (1993). B.A., Evergreen State College (1990).

Practice Areas: Class Actions, Consumer Protection, Elections & Voter Protection, Environmental Litigation, Initiatives & Referenda, Open Government, State & Municipal Revenue

Knoll's practice focuses on consumer class actions, initiative law, public policy, and complex land use cases and environmental litigation.

Knoll has represented millions of consumers in nationwide class actions targeting corporate abuse, providing tens of millions of dollars of compensation to consumers and charities.

Knoll has extensive experience working with non-profit organizations and individuals to advance progressive causes, often through the use of the initiative process. He advises his clients on a wide range of issues, including litigation and grassroots strategy, public policy development, and public communications. He has authored dozens of statewide and local initiatives and challenged several harmful initiatives before the Washington State Supreme Court.

Knoll also participates in the firm's extensive portfolio of citizen suits under the federal Clean Water Act. Knoll helped to negotiate a $1.5 million penalty from Burlington Northern Santa Fe, which is believed to be the then-largest penalty in a citizen suit involving stormwater pollution.

Knoll formed Smith & Lowney, PLLC, with Richard Smith, in 1996.

CLAIRE TONRY
(206) 860-1394
claire@smithandlowney.com

Admissions: Oregon, Washington, Ninth Circuit, Fourth Circuit

Education: J.D. and certificate in Environmental and Natural Resources Law, Lewis & Clark Law School (2009). B.A., with honors, in Environmental Studies and Economics, University of Oregon (2006).

Practice Areas: Class Actions, Consumer Protection, Elections & Voter Protection, Environmental Litigation, Initiatives & Referenda, Open Government, State & Municipal Revenue

Claire Tonry's practice uses a wide range of legal tools to protect consumers, voters, and the environment. Whether she is enforcing the Truth in Lending Act or the Clean Water Act, she is thoroughly committed to getting the best possible outcome for her clients. "My clients' causes are my personal causes as well. I bring a level of passion and work ethic that reflects the importance of my clients' missions," she says.

Claire has litigated cases from their inception through trial or hearing in federal and state court, and before administrative tribunals. Claire has also argued before several state and federal appellate courts.

Claire has been recognized as a Rising Star by Super Lawyers.

ALYSSA KOEPFGEN
(206) 388-0728
alyssa@smithandlowney.com

Admissions: Washington, Ninth Circuit

Education: J.D. and certificate in both Environmental and Ocean and Coastal Law, University of Oregon (2013). B.S., *summa cum laude*, Marine Science with Environmental Science minor, Coastal Carolina University (2010).

Practice Areas: Class Actions, Consumer Protection, Environmental Litigation, Open Government

Alyssa's practice focuses on consumers who want to hold corporations accountable and non-profits and citizens who are concerned about pollution and environmental degradation. Alyssa has litigated several consumer protection class actions against many of the largest banks in the country.

Outside of her consumer class action practice, Alyssa's litigation docket includes many complex Clean Water Act enforcement cases against a wide variety of defendants including numerous public ports and multinational corporations. Alyssa's environmental cases frequently involve multiple, non-aligned defendants and parallel proceedings in state and federal court. In addition to litigating against industrial polluters, Alyssa's experience also includes cases against municipalities, resulting in settlements that require city and county-wide reforms to stormwater management.

MARC ZEMEL
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Admissions: Washington

Education: J.D., *cum laude*, concentration in Environmental Law, Northwestern University Pritzker School of Law (2011). B.A. summa cum laude, University of Wisconsin – Madison (2006).

Practice Areas: Class Actions, Consumer Protection, Environmental Litigation, General Civil Litigation

Marc represents non-profit organizations, concerned citizens, and harmed individuals to achieve their goals and hold bad actors accountable.

Marc has litigated dozens of Clean Water Act citizen suits and negotiated settlements that have directed millions of dollars to benefit local watersheds, while mitigating pollution across Washington State. In addition to a variety of other environmental statutes, Marc has substantial experience litigating nation-wide consumer class actions, and has argued before the Washington Court of Appeals. Marc has a proven track record of success and is committed to thinking creatively and strategically to realize his clients' objectives.

Exhibit 2

ECHARD v. WELLS FARGO - Damages Illustration

Confidential Mediation Exhibit

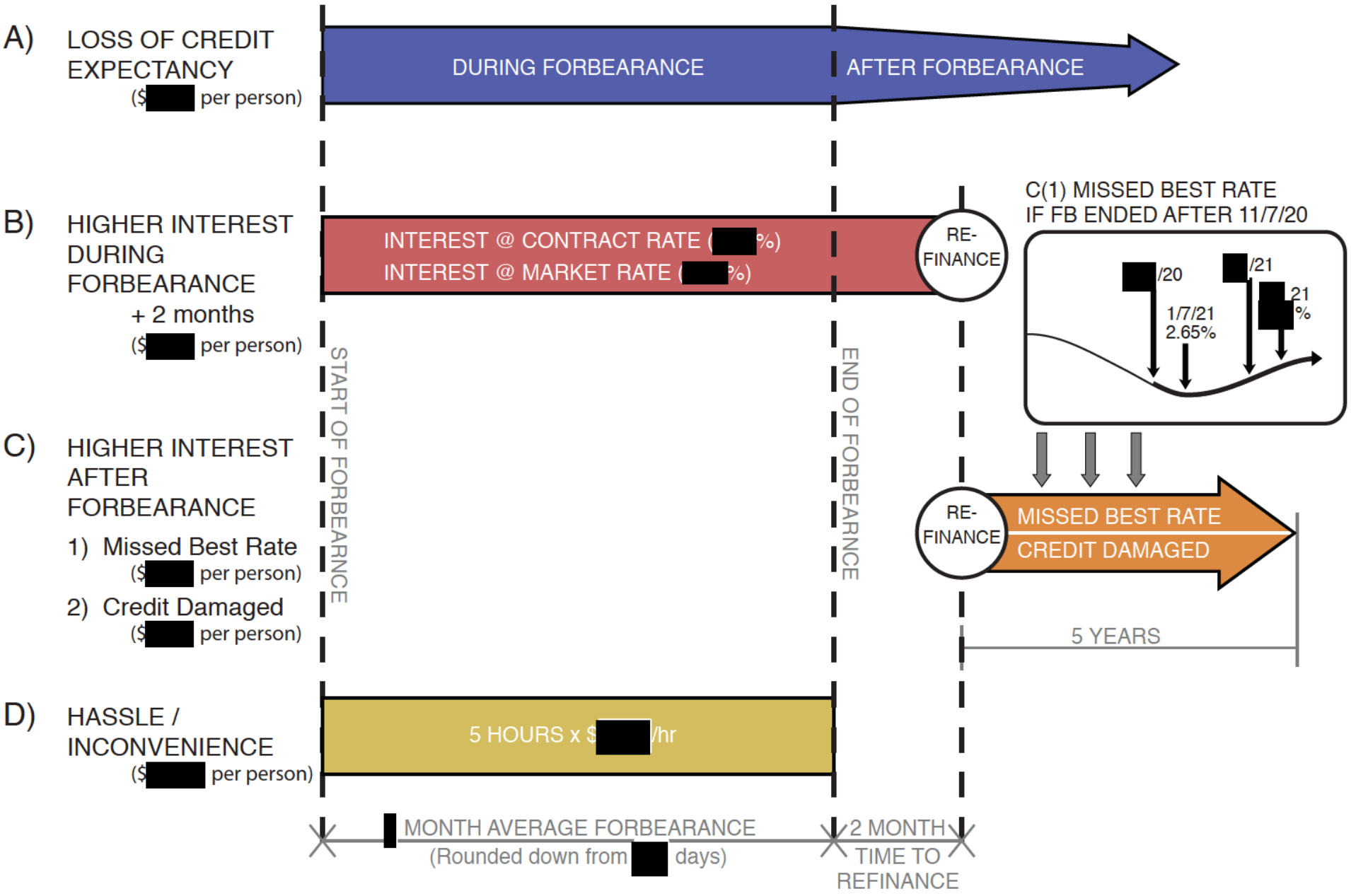

Exhibit 3

Settlement communication subject to FRE 408

Knoll D. Lowney <knoll@smithandlowney.com>
Fri 9/9/2022 4:40 PM

To:Thad Bartholow <thad@kblawtx.com>;Gretchen Freeman Cappio <gcappio@KellerRohrback.com>;Abbas Kazerounian <ak@kazlg.com>;Karen Kellett <kkellett@kblawtx.com>;Derek Loeser <dloeser@KellerRohrback.com>
Cc:Marc Zemel <marc@smithandlowney.com>;Alyssa Koepfgen <alyssa@smithandlowney.com>;Claire Tonry <claire@smithandlowney.com>

Counsel,

As you presumably know by now, we have reached a settlement with Wells Fargo and moved for preliminary approval. This letter proposes a path towards integrating you and your eligible clients into the settlement.

We hope that after you study the settlement, you will agree that it is a good result for the proposed settlement class. We think it's an excellent result, especially because it puts real money into the hands of the Class quickly. The settlement is a compromise like any settlement, but a fair and easily defensible one. If we are forced to litigate objections and appeals, we are confident that our $94 million settlement will withstand judicial scrutiny. Yet, as Class Counsel under the proposed settlement, we have a strong interest in getting the settlement funds into the hands of our clients and the Class now, without years of litigation.

For that reason, we built into the settlement a procedure for bringing your eligible clients into the settlement, in which case we would seek court approval of a service award for them (the settlement allows application for $12,500 per individual or married couple) and appropriate compensation for their counsel. And, of course, those clients would also get all the compensation due to them under the settlement.

If your clients would like to explore this offer, we invite their counsel to participate in mediation, in the next few weeks or as soon as it can be scheduled, where we will try to convince you of the merits of our settlement and negotiate terms of a limited co-counsel agreement. You will see in our moving papers that we have some time to try to work this out before our Fee and Service Award application is due.

Given your posture in the case, you may be considering whether to come out of the gate opposing the settlement, despite its strengths. I urge you to participate in a mediation session first. If you or your clients were to quickly oppose the settlement, in public and/or before Judge Watson, you would close the door to later signing onto the settlement, which we believe is the most viable and speedy path to getting money into the hands of the Class and getting your clients and their counsel compensated. You would be left with little option but objecting to and potentially appealing a very good settlement, and likely losing in the end. Moreover, Judge Watson's order denying your clients' intervention suggests that hasty opposition is unlikely to bear fruit for your clients.

Rule 23 and our proposed order give us time to try mediation, without prejudicing your class member clients' rights to later object to and/or potentially appeal the settlement if mediation is unsuccessful.

We also want to let you know that in our view, it would be inappropriate for our settlement to compensate any legal work in the Delpapa consolidated cases after today's lodging of our settlement, much less any work conducted to undermine our settlement. Such work does not increase the value of the settlement and cannot be paid out of the common fund.

Please let us know how you would like to proceed. We're really hoping we can find a way to enjoy this victory together and get the Class paid without years of litigation. We realize this is not the path you chose, but we ask that you keep an open mind to its potential benefits for the Class and all involved. We look forward to talking about those benefits soon.

Knoll Lowney
Lawyer
Smith & Lowney PLLC
2317 E. John St.
Seattle, WA 98112
Direct: (206) 860-2976
Main: (206) 860-2883
www.smithandlowney.com

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Exhibit 4

Re: FRE 408 CONFIDENTIAL SETTLEMENT COMMUNICATION - Re: Wells Fargo Forbearance Cases

Knoll D. Lowney <knoll@smithandlowney.com>
Wed 9/21/2022 2:59 PM

To:Thad <thad@kblawtx.com>
Cc:Zachary Gussin <ZGussin@kellerrohrback.com>;Abbas Kazerounian <ak@kazlg.com>;Gretchen Freeman Cappio <gcappio@KellerRohrback.com>;Karen Kellett <kkellett@kblawtx.com>;Alyssa Koepfgen <alyssa@smithandlowney.com>;Marc Zemel <marc@smithandlowney.com>;Claire Tonry <claire@smithandlowney.com>

Thad and all,

Thank you for your response. We conferred with Wells Fargo regarding your request, and it will not agree to any delay of the motion for preliminary approval. We also believe that expediting the settlement is in the best interest of the class.

However, there is sufficient time for you and your clients to study the settlement and engage in mediation before the objection deadline. We have inquired with JAMS and JDR in Seattle, and both have good mediators available in the first week of October, which we think is good timing.

Please let us know if you are ready to discuss available dates and mutually acceptable mediators.

Knoll Lowney
Lawyer
Smith & Lowney PLLC
2317 E. John St.
Seattle, WA 98112
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Main: (206) 860-2883
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From: Knoll D. Lowney
Sent: Monday, September 19, 2022 2:30 PM
To: Thad <thad@kblawtx.com>
Cc: Zachary Gussin <ZGussin@kellerrohrback.com>; Abbas Kazerounian <ak@kazlg.com>; Gretchen Freeman Cappio <gcappio@kellerrohrback.com>; Karen Kellett <kkellett@kblawtx.com>
Subject: Re: FRE 408 CONFIDENTIAL SETTLEMENT COMMUNICATION - Re: Wells Fargo Forbearance Cases

Thanks for your message. Will get back to you soon.

Knoll Lowney
Smith and Lowney PLLC
knoll@smithandlowney.com
Personal email: seattleknoll@gmail.com
W: (206) 860-2976 C:(206) 650-1044
**the content of this message may be confidential and/or subject to attorney client privilege.

On Sep 15, 2022, at 5:53 PM, Thad <thad@kblawtx.com> wrote:

Knoll,
Again, thank you for reaching out last week. I write on behalf of the plaintiffs in the consolidated *Delpapa* case, which includes my team (counsel for the *Forsburg* plaintiffs, now consolidated with the *Delpapa* matter) and the teams representing the plaintiffs in the other matters also consolidated in the *Delpapa* case (including counsel for the *Delpapa* plaintiffs).

We are willing to engage in a mediation regarding the proposed settlement in *Echard*, provided that you agree to seek abatement of any decision on the motion for preliminary approval for a period of not less than 30 days. This will provide us with the time needed to review the proposed settlement and to schedule a session with a mediator. Please let us know if this will work for your team.

Thanks,

Theodore O. Bartholow, III ("Thad")
Attorney at law

KELLETT & BARTHOLOW PLLC
11300 N. CENTRAL EXPY. SUITE 301
DALLAS, TEXAS 75243
MAIN 214.696.9000
DIRECT 214.702.5536
FAX 214.696.9001
THAD@KBLAWTX.COM

Exhibit 5

Re: Wells Fargo Forbearance Cases

Knoll D. Lowney <knoll@smithandlowney.com>
Fri 10/21/2022 3:19 PM

To:Gretchen Freeman Cappio <gcappio@kellerrohrback.com>
Cc:Abbas Kazerounian <ak@kazlg.com>;Thad Bartholow <thad@kblawtx.com>;Karen Kellett <kkellett@kblawtx.com>; Derek Loeser <dloeser@kellerrohrback.com>;Matthew Preusch <mpreusch@kellerrohrback.com>;Zachary Gussin <ZGussin@kellerrohrback.com>;Marc Zemel <marc@smithandlowney.com>;Alyssa Koepfgen <alyssa@smithandlowney.com>;Claire Tonry <claire@smithandlowney.com>

Thanks for your response. Have a nice weekend.

Knoll Lowney
Smith and Lowney PLLC
knoll@smithandlowney.com
Personal email: seattleknoll@gmail.com
W: (206) 860-2976 C:(206) 650-1044
**the content of this message may be confidential and/or subject to attorney client privilege.

> On Oct 21, 2022, at 2:57 PM, Gretchen Freeman Cappio <gcappio@kellerrohrback.com> wrote:
>
> Dear Knoll,
>
> Consistent with our duties to the putative class, any mediation would need to include Wells Fargo so that the settlement as a whole could be expanded. To answer your question, no, unfortunately Wells Fargo never responded. Without Wells Fargo there, we can't achieve that result.
>
> Best regards,
> Gretchen
>
> Gretchen Freeman Cappio
> Keller Rohrback L.L.P.
> 1201 Third Avenue, Suite 3200
> Seattle, WA 98101
> 206.623.1900
> 206.428.0616 (direct)
>
> ---
>
> **From:** Knoll D. Lowney <knoll@smithandlowney.com>
> **Sent:** Thursday, October 13, 2022 10:49 AM
> **To:** Gretchen Freeman Cappio <gcappio@KellerRohrback.com>
> **Cc:** Abbas Kazerounian <ak@kazlg.com>; Thad Bartholow <thad@kblawtx.com>; Karen Kellett <kkellett@kblawtx.com>; Derek Loeser <dloeser@KellerRohrback.com>; Matthew Preusch <mpreusch@KellerRohrback.com>; Zachary Gussin <ZGussin@KellerRohrback.com>; Marc Zemel <marc@smithandlowney.com>; Alyssa Koepfgen <alyssa@smithandlowney.com>; Claire Tonry <claire@smithandlowney.com>
> **Subject:** Re: Wells Fargo Forbearance Cases
>
> Gretchen,

Did you ever hear back from Wells Fargo about your mediation demand? Regardless of the bank's response, we still suggest that you consider joining us in mediation to learn more about the settlement and discuss collaboration in our settlement process.

Let us know if you are interested, or feel free to give me a call to chat.

Knoll Lowney
Lawyer
Smith & Lowney PLLC
2317 E. John St.
Seattle, WA 98112
Direct: (206) 860-2976
Main: (206) 860-2883
www.smithandlowney.com

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From: Gretchen Freeman Cappio <gcappio@KellerRohrback.com>
Sent: Tuesday, October 4, 2022 5:22 PM
To: Knoll D. Lowney <knoll@smithandlowney.com>; nathan@hunterfirm.org <nathan@hunterfirm.org>; sweigand@ficlaw.com <sweigand@ficlaw.com>; Ireland, D. Jeffrey <djireland@ficlaw.com>; bill.mayberry@troutman.com <bill.mayberry@troutman.com>; Williams, Amy P. <Amy.Williams@troutman.com>
Cc: Abbas Kazerounian <ak@kazlg.com>; Thad Bartholow <thad@kblawtx.com>; Karen Kellett <kkellett@kblawtx.com>; Derek Loeser <dloeser@KellerRohrback.com>; Matthew Preusch <mpreusch@KellerRohrback.com>; Zachary Gussin <ZGussin@KellerRohrback.com>
Subject: Wells Fargo Forbearance Cases

Counsel:

As indicated in our filing yesterday, Mr. Lowney has reached out to plaintiffs' counsel in the consolidated N.D. Cal. Litigation regarding a potential mediation. Any potential mediation would need to include Wells Fargo. Please advise on your willingness to mediate by COB Friday, 10/7/22.

Best regards,

Gretchen Freeman Cappio
Keller Rohrback L.L.P.
1201 Third Avenue, Suite 3200
Seattle, WA 98101
206.623.1900
206.428.0616 (direct)

Exhibit 6

Hearing recap

Knoll D. Lowney <knoll@smithandlowney.com>

Thu 1/12/2023 8:19 AM

To:Mayberry, Bill <Bill.Mayberry@troutman.com>;Williams, Amy P. <Amy.Williams@troutman.com>;Atkins, Andrew D. <Andrew.Atkins@troutman.com>
Cc:Marc Zemel <marc@smithandlowney.com>;Alyssa Koepfgen <alyssa@smithandlowney.com>;Claire Tonry <claire@smithandlowney.com>

[redacted]

[redacted]

I do think it would make sense to get your client to the table, since it can resolve the BR case and maybe there's part of the CA case that's worth settling. Global peace = global peace, and the fastest path towards resolution. What do you think?

Knoll Lowney
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Exhibit 7

Echard v. Wells Fargo -- ER 408

Knoll D. Lowney <knoll@smithandlowney.com>

Tue 5/16/2023 3:18 PM

To:Gretchen Freeman Cappio <gcappio@KellerRohrback.com>;Abbas Kazerounian <ak@kazlg.com>
Cc:Marc Zemel <marc@smithandlowney.com>;Claire Tonry <claire@smithandlowney.com>;Alyssa Koepfgen <alyssa@smithandlowney.com>

Gretchen and Abbas,

As I mentioned to you last week, we have a narrow window in which to try to reach a global resolution of this matter, now that Wells Fargo has agreed to return to mediation. Do you know when you will speak with your team and get back to us about this? I realize that you may not want to use Judge Guilford, but he did say he could help in June.

To avoid surprises, we also want to let you know that as soon as Judge Donato's order was issued, we prepared a motion for reconsideration asking Judge Watson to revisit his stay order. To preserve our clients' position, we cannot delay the filing of this motion, but our intent is to move to stay the motion if the parties are heading towards mediation. If it weren't for the rules, we would hold off on this filing.

Knoll Lowney
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Exhibit 8

Re: Echard v. Wells Fargo -- ER 408

Abbas Kazerounian, Esq. <ak@kazlg.com>
Wed 5/17/2023 4:03 PM

To:Knoll D. Lowney <knoll@smithandlowney.com>
Cc:Gretchen Freeman Cappio <gcappio@kellerrohrback.com>;Marc Zemel <marc@smithandlowney.com>;Claire Tonry <claire@smithandlowney.com>;Alyssa Koepfgen <alyssa@smithandlowney.com>

FRE 408 - Privileged & Confidential Communication

Knoll - thanks for your email. We understand that you have to move forward in your case as you see fit. We have discussed internally, and at this time we also would like to move forward in our CA consolidated case pursuing our claims. Should anything change, we will reach back round to you.
Many thanks
Abbas

On Tue, May 16, 2023 at 3:18 PM Knoll D. Lowney <knoll@smithandlowney.com> wrote:

> Gretchen and Abbas,
>
> As I mentioned to you last week, we have a narrow window in which to try to reach a global resolution of this matter, now that Wells Fargo has agreed to return to mediation. Do you know when you will speak with your team and get back to us about this? I realize that you may not want to use Judge Guilford, but he did say he could help in June.
>
> To avoid surprises, we also want to let you know that as soon as Judge Donato's order was issued, we prepared a motion for reconsideration asking Judge Watson to revisit his stay order. To preserve our clients' position, we cannot delay the filing of this motion, but our intent is to move to stay the motion if the parties are heading towards mediation. If it weren't for the rules, we would hold off on this filing.
>
> Knoll Lowney
> Lawyer
> Smith & Lowney PLLC
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--

Abbas Kazerounian, Esq. **(Licensed in CA, NY, TX, IL, CO, DC, MI & WA)**

245 Fischer Avenue, Unit D1
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ak@kazlg.com
www.kazlg.com

Orange County (CA) - San Diego (CA) - San Luis Obispo (CA)
Seattle (WA) - St. George (UT) - New York (NY) - Phoenix (AZ)
Las Vegas (NV) - Dallas (TX) - Minneapolis (MN)

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Exhibit 9

Motion for Reconsideration

Knoll D. Lowney <knoll@smithandlowney.com>

Tue 5/16/2023 2:34 PM

To:Mayberry, Bill <Bill.Mayberry@troutman.com>;Williams, Amy P. <Amy.Williams@troutman.com>
Cc:Marc Zemel <marc@smithandlowney.com>;Alyssa Koepfgen <alyssa@smithandlowney.com>;Claire Tonry <claire@smithandlowney.com>

Bill and Amy,

If you have any comments on our motion for reconsideration, please send asap. To preserve our rights, we have to file the motion shortly, but we can move to stay the motion if the Delpapa team agrees to participate in mediation. So far, they have not responded to our overtures.

Knoll Lowney
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Seattle, WA 98112
Direct: (206) 860-2976
Main: (206) 860-2883
www.smithandlowney.com

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Exhibit 10

Phillips ADR

2101 East Coast Highway,Suite 250
Corona Del Mar, California 92625

TELEPHONE (949) 760-5288
WEBSITE: www.phillipsadr.com

July 27, 2023

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marc@smithandlowney.com Savannah Rose
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Semnar & Hartman LLP

D. Jeffrey Ireland
djireland@ficlaw.com
Faruki PLLC

Re: Wells Fargo Forbearance/Echard v. Wells Fargo Mediation

Dear Counsel:

This letter sets forth the terms upon which we will provide mediation services on behalf of the undersigned parties. It is your request that Phillips ADR Enterprises, P.C. ("PADRE") provide mediation services rendered under this agreement.

1. The mediation services have been scheduled for 9:00 a.m. ET on Tuesday, October 3, 2023 and Tuesday, October 24, 2023, at a location to be determined in New York, New York. Please let me know the specific location in New York where the parties have agreed to conduct the mediation. The mediation services have been scheduled for 9:00 a.m. PT on «Med_Date_1» and «Med_Date_2», at the offices of Phillips ADR, 2101 East Coast Highway, Suite 250, Corona del Mar, California 92625. Attire is business casual. We encourage the parties to meet and confer and advise us as soon as possible on the topics of mediation attendees (counsel, client representatives, carriers), whether there is a desire by any side for merits related opening statements or PowerPoint presentations, and any technical assistance the parties may need related to presentations or call-in participants.

2. Judge Phillips will review all documents, case citations and other materials you indicate as relevant. Judge Phillips' preferred schedule is that all briefs be filed with our office (briefs@phillipsadr.com) and exchanged among the parties via e-mail by **12:00 p.m. PT, on Friday, September 8, 2023** (simultaneous briefing), and shall be limited to 25 pages (double spaced, standard formatting, excluding exhibits). Reply briefs should be filed with Judge Phillips and exchanged by e-mail **by 12:00 p.m. (PT), on Tuesday, September 19, 2023**, and should be limited to 10 pages (double spaced, standard formatting, excluding exhibits). All ***exhibits*** *should be sent* ***via electronic delivery*** *and compiled in* ***a three-ring binder with a descriptive table of contents*** and sent by overnight mail for delivery on the following business day. Page limitations may be slightly modified by mutual agreement of counsel without the need for Judge Phillips' approval. To the extent there are any insurance issues and the insurance carriers and/or the parties wish to educate Judge Phillips and his staff on those issues, they should submit insurance issue related briefs by no later than the reply date, stated above, with the same page and formatting limitations.

3. We require a non-refundable flat fee of $150,000, pursuant to our cancelation policy outlined below, in order to undertake the above-described mediation. The flat fee includes all preparation time, and expenses, as well as time spent conducting the scheduled mediation. This flat fee amount does not include in-person follow-up sessions or follow-up work conducted after the date listed in paragraph 1. (See attached ADR Fee Schedule for explanation of fees.)* Therefore, depending on how you have decided to split the costs of this mediation, **please remit payment in the amount of $150,000 on or before Friday, September 1, 2023.** Please advise us by email (MLettington@phillipsadr.com) as to how the parties have agreed to share the costs.

---

* Generally, our fee structure presumes the mediation day, substantial preparation by Judge Phillips, with additional assistance from his staff, including various pre-mediation communications.

4. The payment of the retainer shall be divided in a manner agreed upon by the parties, and the check(s) made payable to **Phillips ADR, Enterprises P.C.** (Fed. Tax I.D. No. 47-1443680), **not** Judge Layn R. Phillips. Any follow-up work conducted after the mediation date listed in paragraph 1 will be billed at Judge Phillips' rate of $1,900 per hour, including but not limited to conference calls, review of submitted materials and related research, the issuance of any mediator recommendations, as well as any time devoted to the enforcement of any settlement arising out of the mediation. Any individuals affiliated with PADRE who are involved in follow-up work will bill their hourly rates for assisting Judge Phillips with these tasks.

5. PLEASE READ CAREFULLY. If the mediation is cancelled or rescheduled more than 30 days prior to the scheduled session, there is no cancellation charge, the full fee will be refunded. If the mediation is cancelled or rescheduled less than 30 calendar days prior to the scheduled session, however, the full fee will be charged to the parties, unless Judge Phillips is able to schedule a new mediation for the date that was cancelled or changed.

6. As a mediator, Judge Phillips agrees to keep all information received in connection with any mediation proceedings in confidence. At the conclusion of the mediation, Judge Phillips and any individuals affiliated with PADRE who are called upon to perform work relating to this matter shall destroy all materials provided to them during the course of the mediation, and shall destroy all other documents in their possession concerning the mediation with the exception of their personal notes.

7. Notwithstanding any other provision in this agreement, the parties agree that Judge Phillips, PADRE, and any other firm, attorney, or consultant who PADRE engages to perform work relating to this matter ("engaged third party"), will not be placed into any attorney/client or fiduciary relationship by virtue of this mediation, and that they are not represented by PADRE or any engaged third party. The parties further agree not to sue or make any claims arising out of this matter, or seek disqualification, against the mediator or PADRE or any engaged third party for any reason relating to this matter.

Please indicate your agreement to the foregoing by dating and signing this letter where indicated, and returning the signed original to me. **Please note that the mediation cannot commence until all parties have executed this agreement and the retainer has been paid in full.**

We appreciate your bringing this interesting matter to us, and we look forward to working with you on it.

Sincerely,

Meghan Lettington
ADR Case Manager
mlettington@phillipsadr.com
Direct Dial (949) 760-5280

cc: Amanda Saunders (asaunders@phillipsadr.com)
Finance & Business Manager
Direct Dial (949) 718-4547

SIGNATURE PAGE

WE HAVE READ THE ATTACHED RETENTION LETTER AND WE UNDERSTAND AND AGREE TO ITS TERMS

Dated:_____

_____
Name:_____
Representing:
Luis and Marisol Castro
Pamela Delpapa
Jenna Doctor
Gerald Forsburg
Samara Green
Patrick Healy
Brett Jacob
Charles Johnson
Barbara Prado
Renrick and Vivian Robinson

Dated:_____

_____
Name:_____
Representing:
Brian Echard
Heather Shimp
Patricia Foley

Dated:_____

_____
Name:_____
Representing: Wells Fargo Bank, N.A., Wells Fargo & Company

Phillips ADR

2101 East Coast Highway, Suite 250
Corona Del Mar, California 92625

TELEPHONE (949) 760-5288
WEBSITE: www.phillipsadr.com

ADR FEE SCHEDULE

Mediator/Arbitrator	Fees	
Former United States District Judge Layn R. Phillips	Virtual Flat Fee Per Day	$55,000
	Orange County, CA Flat Fee Per Day	$55,000
	San Francisco, CA Flat Fee Per Day	$60,000
	Travel Required Flat Fee Per Day	$75,000
	Hourly Follow-Up Rate	$ 1,900

Advance payment is required before any in-person mediation or arbitration sessions can begin.

Cancel/Reschedule: Once mediation/arbitration session(s) are scheduled, if it is cancelled or rescheduled 30 days or more prior to the scheduled date, there is no cancellation charge, and the full fee will be refunded. If the session(s) are cancelled or rescheduled less than 30 days prior to the date, however, the full fee will be charged to the parties, unless Judge Phillips is able to reschedule a new ADR matter for the date(s) that was cancelled or changed.

The Flat Fee includes all travel time and expenses, if applicable, but does not include any follow up work after the initial scheduled mediation date(s). All telephonic and email follow-up work will be billed at the current hourly rate. All in-person follow-up mediation sessions will be billed at the applicable subsequent day rate. Weekend mediation sessions are different and will be determined on a case-by-case basis.

Exhibit 11

Phillips ADR
2101 E. Coast Highway, Suite 250
Corona del Mar, CA 92625
(949) 718-4547

Invoice submitted via email to:

July 27, 2023
Invoice #23614

Smith & Lowney PLLC
Knoll Lowney
knoll@smithandlowney.com

Keller Rohrback LLP
Derek W. Loeser
dloeser@kellerrohrback.com

Kazerouni Law Group APC
Abbas Kazerounian
ak@kazlg.com

Kellett & Bartholow PLLC
Theodore O. Bartholow II
thad@kblawtx.com

Limon Law Office PC
Abelardo Limon, Jr.
alimon@limonlaw.com

Giles & Lambert PC
Malissa L. Giles
mgiles@gileslambert.com

Semnar & Hartman LLP
Babak Semnar
bob@sandiegoconsumerattorneys.com

Re: Wells Fargo Forbearance/Echard v. Wells Fargo Mediation
Client # 14168

	Amount
Mediation Services	**$150,000.00**
Your responsibility of the split charges	**$75,000.00**
BALANCE DUE	**$75,000.00**

Please remit payment using one of the following:

PLEASE SEND CHECK TO

Phillips ADR Enterprises, P.C.,
2101 East Coast Highway, Suite 250
Corona del Mar, CA 92625

FEDERAL TAX ID 47-1443680

WIRE INSTRUCTIONS

First Republic Bank
2800 East Coast Highway
Corona del Mar, CA 92625
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PAYMENT DUE UPON RECEIPT OF INVOICE

PLEASE RETURN THIS PAGE WITH YOUR PAYMENT.

Exhibit 12

Phillips ADR Enterprises (PADRE)

MEDIATION CONFIDENTIALITY AGREEMENT

The parties have agreed to mediate the *In re: Wells Fargo Forbearance Litigation* and *Echard v. Wells Fargo Bank, N.A.* matters, and hereby enter into the following agreement with regard to confidentiality:

The parties hereby agree that all statements of the parties, counsel, and mediator, as well as the materials generated solely for purposes of the mediation shall constitute conduct or statements made in compromise negotiations and, shall therefore, not be admissible pursuant to Rule 408 of the Federal Rules of Evidence, and shall not be disseminated or published in any way. In short, no statement made during the course of the mediation or any materials generated for the purpose of the mediation may be offered into evidence, disseminated, published in any way, or otherwise publicly disclosed. No one other than those listed on the sign-in sheet and who have executed this confidentiality agreement may attend or appear in person, by video, or phone without the permission of the parties. In the event of a virtual mediation, all participants confirm that they will be in a private location and will disclose if anyone outside of the mediation process enters their private location. No participant shall record any part of the mediation session by any electronic means, including any sessions or communications prior to and following the mediation session. All participants agree that they will only use a secure Wi-Fi or Ethernet connection for all conduct related to the mediation session.

Date: 10/03/23

Name: ABBAS KAZEROUNIAN
Representing: CONSOLIDATED CA PLAINTIFFS

Date: 10/03/23

Name: Derek Loeser
Representing: Consolidated Plaintiffs

Date:

Name:
Representing:

Date: 10/3/23

Name: Gretchen Cappio
Representing: Consolidated Plaintiffs

Date: 10/3/23

Name: Karen Killett
Representing: Consolidated Plaintiffs
Third Bartholow (by KLK) → remote

Phillips ADR Enterprises (PADRE)

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Date:_____

William C. Mayberry

Name: William C. Mayberry — "Bill"
Representing: Wells Fargo

Date: 10/31/23

Amy P. Williams

Name: Amy P. Williams
Representing: Wells Fargo

Date: 10/3/23

Name: Andrew Affiers
Representing: Wells Fargo

Date: 10/3/23

Name: Brenden Cullen
Representing: Wells Fargo

Date:_____

Name:
Representing:

Phillips ADR
Enterprises (PADRE)

October 3, 2023 before Judge Layn R. Phillips
In re: Wells Fargo Forbearance Litigation* and *Echard v. Wells Fargo Bank, N.A.
Mediation Sign-In Sheet

Name	Representing/Role	E-mail	Work Phone / Cell Phone
WILLIAM MAYBERRY	WELLS FARGO	~~BILL.TROUTMAN~~ BILL.MAYBERRY@TROUTMAN.COM	[redacted]
Amy P. Williams	WellsFargo	amy.williams@troutman.com	
Andrew Atkins	Wells Fargo	andrew.atkins@troutman.com	

Phillips ADR Enterprises (PADRE)

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Date: 10/3/23

Name: Christopher M Viapiano
Representing: Wells Fargo Co. (S+C)

Date: Oct 3, 2023

[redacted]
Representing: Wellsfargo

Date: _____

[redacted]
Representing: Wellsfargo

Date: _____

Name:
Representing:

Date: _____

Name:
Representing:

Phillips ADR Enterprises (PADRE)

October 3, 2023 before Judge Layn R. Phillips

In re: Wells Fargo Forbearance Litigation* and *Echard v. Wells Fargo Bank, N.A.

Mediation Sign-In Sheet

Name	Representing/Role	E-mail	Work Phone / Cell Phone
Christopher M Viapiano	Wells Fargo Co.	viapianoc@sullcrom.com	[redacted]
Vanessa M. Blanchfield	WellsFargo	Vanessablanchfield@wellsfargo.com	
Holly R. Stevens	Wells Fargo	holly stevens@wellsfargo.com	

Phillips ADR Enterprises (PADRE)

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Date: 10/3/23

Alyssa Koepfgen
Name: Alyssa Koepfgen
Representing: Echard Plaintiffs

Date: 10/3/23

Name: Marc Zemel
Representing: Echard Plaintiffs

Date: 10/3/23

Name: CLAIRE TONRY
Representing: Echard Plaintiffs

Date: _____

Name:
Representing:

Date: _____

Name:
Representing:

Phillips ADR Enterprises (PADRE)

October 3, 2023 before Judge Layn R. Phillips

In re: Wells Fargo Forbearance Litigation* and *Echard v. Wells Fargo Bank, N.A.

Mediation Sign-In Sheet

Name	Representing/Role	E-mail	Work Phone / Cell Phone
CLAIRE TONRY MARC ZEMEL ALYSSA KOEPFGEN	ECHARD PLAINTIFFS COUNSEL	claire@smithmcdaniel.com	[redacted]

CERTIFICATE OF SERVICE

This is to certify that a true and exact copy of the foregoing document and supporting exhibits were filed electronically on the 28th day of October 2024, via the Court's electronic filing system and notice of this filing will be sent to all Parties by operation of the Court's electronic filing system.

/s/ Alyssa Koepfgen
Alyssa Koepfgen (pro hac vice)
Attorney for Plaintiffs

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

IN RE: WELLS FARGO COVID FORBEARANCE SETTLEMENT LITIGATION	Case No. 2:24-cv-01026-MHW-EPD DECLARATION OF CLAIRE TONRY Judge Michael H. Watson Magistrate Judge Elizabeth Preston Deavers

I, Claire Tonry, declare the following on the basis of personal knowledge to which I am competent to testify:

1. I am an attorney duly licensed to practice before all the courts of the States of Washington and Oregon, the Fourth and Ninth Circuit Courts of Appeals, and the United States Supreme Court. The Court approved my *pro hac vice* application for this matter and appointed me as interim counsel for the Class.

2. I am a partner at Smith & Lowney, PLLC and have been personally involved in this matter since 2021. I submit this Declaration in support of Plaintiffs' and Class Representatives Brian Echard, Heather Shimp, and Patricia Foley's (Echard Representatives') Motion for Service Awards and Attorneys' Fees and Costs. The information set forth in this Declaration is based upon my personal knowledge, and if called on to do so, I could and would testify competently thereto.

3. During a call in July 2023, Derek Loeser informed me that he or other Keller Rohrback attorneys had contacted retired Judge Andrew Guilford several times to request that Judge Guilford refrain from acting as a mediator for the *Echard* matter, but that Judge Guilford

did not return his message. Judge Guilford later confirmed that Mr. Loeser had contacted him, but he did not respond.

4. After we reached a global settlement, my colleagues at Smith & Lowney and I redoubled our efforts to work cooperatively and efficiently with California Counsel to prepare the papers for preliminary approval of our joint settlement. These efforts have been resoundingly rejected.

5. For example, California Counsel refused to cooperate in the selection of the class administrator, and subsequent work with the administrator. I copied California Counsel on initial outreach emails to potential class administrators and tried to engage all counsel in the bidding process. California Counsel responded by providing conflicting and incorrect data and cancelling a joint call set to work through administrator questions. Similarly, California Counsel refused to communicate with us when we raised a discrepancy about the timing of transmitting the claim form to class members, so this straight-forward issue was not resolved until I raised it again with the administrator weeks later.

6. We similarly tried to work cooperatively with California Counsel on the motion for preliminary approval and allocation plan, both of which California Counsel insisted on taking the first draft. We provided California Counsel with the Word version of the motion, distribution plan, proposed order, notice, claim form, and declaration we filed in 2022 to expedite drafting. We also sent a comprehensive proposal for coordinating the efforts of Plaintiffs' counsel such as designating liaisons, weekly meetings, and a work plan. California Counsel rejected our efforts to cooperate in a vitriolic email, insisting on drafting key documents without our input. We repeated our request for coordination, and repeatedly (more than five times) asked California Counsel for a timeline for sharing drafts of key documents that required our input, but California Counsel ignored our overtures nearly up to the deadline for finalizing the documents.

7. Following the motion for preliminary approval, Smith & Lowney continues to work toward final approval. For example, we have held several calls with the settlement administrator to work through an array of issues to ensure the Class notice process is smooth and cost-effective. We have also fielded numerous calls from Class members and answered their questions about the settlement and claims process. And, of course, we ensured Wells Fargo timely transmitted the settlement amount into the dedicated account.

8. My firm reviewed the timesheets of attorneys and staff in my firm, contract attorneys we directly supervised and worked with, and our local counsel to calculate our lodestar for this case. All of these timesheets were maintained contemporaneously with the work as it was performed. After exercising billing discretion to eliminate time entries that appeared duplicative, excessive, or not adequately supported, the total hours expended exceeds 6,139. Attached hereto as **Exhibit A** is a table setting out each timekeeper, their rate, the billable hours they expended on this case, and the resulting lodestar.

9. The hourly rates I used for this calculation are my firm's current standard hourly rates for our nationwide consumer class action practice, as established in the summer of 2023. The rates are consistent with the rates of similarly experienced class action attorneys. I established the base rate schedule in early 2022 following my review of then-current case law, fee litigation, expert declarations, and published surveys of hourly rates in comparable cases to ours. My partners then vetted and approved the hourly rate schedule. I am the lead attorney for our firm when it comes to surveying recent authorities and trends and periodically recommending updates to our standard hourly rate schedules for our federal environmental and consumer protection practice areas. The current hourly rate schedule was calculated by taking this early 2022 rate schedule and adjusting it to account for inflation between April 2022 and September 2023. In other words, the rates used to calculate Smith & Lowney's lodestar in this case do not account for inflation since September

2023, nor for the increased level of experience of any attorneys, nor do they account for other increases in prevailing billing rates among similarly experienced counsel since April 2022.

10. As explained in Knoll Lowney's declaration, Keller Rohrback has repeatedly partnered with Smith & Lowney on class actions over the last twenty years. One example is *Resendez v. Precision Castparts*, a case my firm filed against an industrial air polluter on behalf of residents of the surrounding neighborhood in Portland, Oregon. Keller Rohrback filed the fee petition on behalf of both of our firms (and our two respective co-counsel firms) in April 2022, in the midst of acrimony between the firms in this case. A true and correct copy of excerpts of the joint fee petition in *Resendez v. Precision Castparts* is attached hereto as **Exhibit B**. The rates I used to calculate Smith & Lowney's lodestar in this case are the same rates that Keller Rohrback's filing agrees are reasonable, with the sole exception that the rates were adjusted to account for inflation between April 2022 and September 2023, as discussed above.

11. In addition to our expenditure of time, Smith & Lowney and our local counsel incurred the following types of out-of-pocket expenses, all of which we advanced on behalf of the Class and have not been reimbursed for:

Category	**Expenses**
Court Costs/Filing Fees	$1,816.00
Court Reporter/Transcription Costs	$207.30
E-Discovery Platform	$44,715.77
Expert/Consultant Fees	$41,773.50
Mediation Services	$97,595.02
Outside Printing/Copies	$220.00
PACER/State Court Filing Retrieval Fees	$496.60

Postage	$198.96
Travel (Transportation, Lodging, Meals)	$24,924.40
Total Expenses	$211,947.55

Smith & Lowney incurred several other types of expenses, such as in-house printing costs and LexisNexis legal research costs specific to this case that are not reflected in the above total.

12. Attached hereto as **Exhibit C** is a true and accurate copy of the motion and Theodore Bartholow's declaration filed in support of a request for a $4.95 million attorney fee award from the $15 million class action settlement reached in *Harlow v. Wells Fargo Bank, N.A.*, Case. No. 7:24-cv-00424 (W.D. Va.), which I obtained from the settlement website for that case, wellsfargobankruptcyforbearanceclass.com. Attached hereto as **Exhibit D** is a true and accurate copy of the court's order granting the fee request in that case, which my firm obtained from PACER.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed this 28th day of October 2024, in Portland, Oregon.

s/Claire Tonry
Claire Tonry

CERTIFICATE OF SERVICE

This is to certify that a true and exact copy of the foregoing document and supporting exhibits were filed electronically on the 28th day of October 2024, via the Court's electronic filing system and notice of this filing will be sent to all Parties by operation of the Court's electronic filing system.

/s/ Alyssa Koepfgen
Alyssa Koepfgen (pro hac vice)
Attorney for Plaintiffs

Exhibit A

Echard Counsel Total Lodestar and Costs **$ 5,513,602.05**

Smith & Lowney Lodestar and Costs				**$ 5,125,386.19**
Attorney	**Hours**	**Rate**		**Lodestar**
Knoll Lowney	1464.7	$	1,125.00	$ 1,647,787.50
Claire Tonry	866.6	$	850.00	$ 736,610.00
Marc Zemel	1533.5	$	810.00	$ 1,242,135.00
Alyssa Koepfgen	1032	$	765.00	$ 789,480.00
Richard Smith	58.6	$	1,125.00	$ 65,925.00
Katelyn Kinn	113.6	$	850.00	$ 96,560.00
Meredith Crafton	232.9	$	785.00	$ 182,826.50
Savannah Rose	260.4	$	520.00	$ 135,408.00
Evelyn Mailander	36.4	$	300.00	$ 10,920.00
Kai McDavid (paralegal)	29.5	$	245.00	$ 7,227.50
Total Hours	5628.2	Total Lodestar		$ 4,914,879.50
Costs				$210,506.69

Hunter & Hunter Lodestar and Costs				**$ 71,199.86**
Attorney	**Hours**	**Rate**		**Lodestar**
Nathan Hunter	101.1	$	690.00	$ 69,759.00
Total Hours	101.1	Total Lodestar		$ 69,759.00
Costs				$1,441

Contract Attorneys Lodestar and Costs				**$ 317,016.00**
Attorney	**Hours**	**Rate**		**Lodestar**
Julie Entrekin	173.5	$	850.00	$ 147,475.00
Ravi Mehta	53.8	$	745.00	$ 40,081.00
Sherry Cameron	58	$	745.00	$ 43,210.00
Sunny Chitalia	72	$	690.00	$ 49,680.00
Stephen Dilworth	53	$	690.00	$ 36,570.00
Total Hours	410.3	Total Lodestar		$ 317,016.00
Costs				$0

Total Hours	6139.6
Total Lodestar	$ 5,301,654.50
Total Costs	$ 211,947.55

Exhibit B

IN THE CIRCUIT COURT OF THE STATE OF OREGON
FOR THE COUNTY OF MULTNOMAH

BRIAN RESENDEZ, RODICA ALINA RESENDEZ, individually and on behalf of all others similarly situated, Plaintiffs, v. PRECISION CASTPARTS CORP., an Oregon corporation, and PCC STRUCTURALS, INC., Defendants.	Case No. 16CV16164 PLAINTIFFS' MOTION FOR FINAL APPROVAL OF CLASS ACTION SETTLEMENT AND ENTRY OF JUDGMENT
DEBRA TAEVS; individually and on behalf of all others similarly situated, Plaintiff, v. PRECISION CASTPARTS CORP., an Oregon corporation, and PCC STRUCTURALS, INC., Defendants;	Case No. 16CV21495

KELLER ROHRBACK L.L.P.
1201 Third Avenue, Suite 3200
Seattle, WA 98101-3052
TELEPHONE: (206) 623-1900
FACSIMILE: (206) 623-3384

TOC

I. UTCR 5.010 CERTIFICATION 1

II. FAIRNESS HEARING 1

III. INTRODUCTION 1

IV. BACKGROUND AND SETTLEMENT TERMS 2

A. The Parties completed the Court-ordered Class Notice Program. 2

B. The Class Notice Program resulted in a high claims rate and very low exclusion and objection percentages. 4

C. The Settlement provides Class Members significant cash payments and other relief. 5

V. LEGAL STANDARD 7

VI. ARGUMENT 7

A. The Settlement provides substantial value and comprehensive relief to the class, particularly considering the trial risks. 8

B. The Settlement has generated a positive reaction from the class. 10

1. *There has been a high claims rate among the Class.* 11

2. There is a low opt-out percentage among the class. 11

3. *Almost no Class Members objected to this high-profile Settlement.* 12

4. *The Court should not reject the Settlement based on the objector's arguments.* 12

C. The Settlement was the product of arms-length negotiations, well informed by extensive discovery. 14

D. The Court should approve Class Counsel's reasonable fees and costs. 15

1. *Plaintiffs' fee request is reasonable as a percentage-of-fund.* 16

2. *Class Counsel's fee and expenses are reasonable under ORCP 32 M's factors.* 17

E. The Court should approve Case Contribution Awards for Settlement Class Representatives. 22

1. *Settlement Class Representatives dedicated significant time and effort to protecting the interests of the Class.* 24

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2. *The class benefited significantly from Settlement Class Representatives' efforts.* 24

F. The Court should approve the Parties' chosen recipient of residual funds. 24

G. The Court should approve the technical aspects of the Settlement's administration. 25

VII. CONCLUSION 26

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Corp., 563 F3d 948, 967 (9th Cir 2009) ("Extensive discovery had been conducted * * * . From this the district court could find that counsel had a good grasp on the merits of their case before settlement talks began.").

Following those years of discovery and adversarial litigation, the Parties engaged in months of intensive mediation efforts with the assistance of a skilled mediator. *See* Settlement Agreement § 2.6. "During that time, the Parties conducted numerous video and telephonic conferences with the mediator, and exchanged various information related to their claims and defenses." *Id.* Those efforts resulted in the Parties accepting a mediator's proposal. *Id.* The robust, arms-length negotiations helped the Parties achieve a fair and reasonable Settlement.

D. *The Court should approve Class Counsel's reasonable fees and costs.*

Class Counsel and Plaintiffs labored for years on this challenging, complicated case. That work has resulted in a Settlement that provides genuine, lasting relief for Class Members and the public. Class Counsel's zeal, diligence, and creativity in achieving these results merits granting Class Counsel's request for attorneys' fees and reimbursement of expenses. Notably, no one has objected to the portion of the notice explaining Class Counsel would request up to one third of the Settlement Cash Payment to cover their fees. *See* Preusch Decl. Ex. 1 (LFN Question 20).

"Under ORCP 32 M the court has broad authority to award fees in a class action lawsuit." *Scharfstein v BP West Coast Prods., LLC*, No. 1112-17046, 2015 WL 1255571, at *4 (Or Cir Mar 11, 2015). Here, Class Counsel, after six years of unpaid, expert-intensive litigation with no guarantee of recovery, request $4.125 million in fees and $680,257.27 in costs. Preusch Decl. ¶ 10 (detailing costs). The $4.125 million fee request—a reasonable percentage of the $12.5 million fund—is *less* than Class Counsel's total fees based on reasonable rates and hours worked, which total over $5.7 million. Preusch Decl. ¶ 7; Lowney Decl. ¶ 3; Anuta Decl. ¶ 3.

The Court should grant Class Counsel's fees and expenses reimbursement request for two reasons. First, the request is reasonable under the percentage-of-fund approach Oregon courts use to gauge fee requests in the class action context, especially when compared to Class Counsel's

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"lodestar" of more than $5.7 million. *See Strawn v. Farmers Ins. Co. of Oregon*, 353 Or 210, 219-20, 297 P3d 439 (2013). Second, this request is reasonable when evaluated under ORCP 32 M's factors.

1. *Plaintiffs' fee request is reasonable as a percentage-of-fund.*

Plaintiffs' fee request of $4.125 million—which in addition to covering six years of litigation must also cover Class Counsel's future work administering this Settlement—is a reasonable percentage of the fund Class Counsel recovered for the class.

A normal percentage in a "complex class action[] * * * tend[s] to be between 20 to 30 percent of the recovered fund," and "circumstances" may even justify an "upward * * * adjustment." *Strawn*, 353 Or at 229-30. Here, the $4.125 million requested in fees—approximately 33% of the $12.5 million fund—is close to the typical range and justified by the facts of this case.[9]

In addition to the percentage-of-fund approach, courts sometimes use the lodestar method to cross-check the reasonableness of a fee request. *See id.*, 353 Or at 220-21. Under the lodestar method, an attorney is awarded a "fee based on a reasonable hourly rate, multiplied by a reasonable number of hours devoted to work on the case." *Id.* at 217 (also discussing possible adjustments). Here, when evaluated against Class Counsel's lodestar of over $5.7 million, the $4.125 million request is similarly reasonable. As of March 31, 2022, Class Counsel had dedicated over 10,789 hours to this litigation. Preusch Decl. ¶ 7; Lowney Decl. ¶ 3; Anuta Decl. ¶ 3. At Class Counsel's usual and customary hourly rates, Class Counsel could claim over $5.73 million in fees, *id.*, over a third *more* than the reasonable fee Class Counsel is requesting.

And this lodestar calculation does not even include an estimate of future work, which the Court should consider. *Cf. Reyes v. Bakery & Confectionary Union & Indus. Int'l Pension Fund*, No. 14-CV-05596-JST, 2017 WL 6623031, at *14 (ND Cal Dec 28, 2017) (including estimated hours for "future work" related to, inter alia, "managing class members' claims"). For example,

[9] Measured against the full value of the Settlement, $22.5 million, Class Counsel's requested fee is 18.3%.

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from the QSF under the terms of the Settlement Agreement. Following disbursement of those funds, Class Counsel will report back to the Court confirming the QSF may be closed. *Id.* § 10.

VII. CONCLUSION

For the foregoing reasons, the Court should approve the Settlement as fair, reasonable, and adequate, including approving the substantial relief afforded to the class; the fees and costs for Class Counsel; and the Case Contribution Awards for Settlement Class Representatives. The Court should also approve the more technical aspects of administering the Settlement, including describing those bound, appointing A.B. Data as the Settlement Administrator, approving the plan of allocation, approving the ORCP 32 O residual recipients, approving the processing of late-filed claims, and approving the disbursement of funds from the QSF to administer the Settlement. Lastly, the Court should enter final judgment.

DATED this 29th day of April, 2022.

KELLER ROHRBACK L.L.P.

By *s/ Matthew J. Preusch*

Matthew J. Preusch (Bar No. 134610)
mpreusch@kellerrohrback.com
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Karl G. Anuta (Bar No. 861423)
kga@integra.net
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1300 SE Stark Street, Suite 201
Portland, Oregon 97214
Telephone: (503) 841-6515

Attorneys for Plaintiffs and the Class

CERTIFICATE OF SERVICE

I hereby certify that I served a true copy of the foregoing Plaintiffs' Motion for Final Approval of Class Action Settlement and Entry of Judgement by electronic transmission of a notice of filing by the electronic filing system provided by the Oregon Judicial Department for the electronic filing and the electronic service of a document via the Internet to the electronic mail (email) address of a party who has consented to electronic service under UTCR 21.100(1) and email upon the following:

David H. Angeli
Kristin L. Tranetzki
Colin Hunter
Angeli Law Group, LLC
121 SW Morrison Street, Suite 400
Portland, OR 97294
david@angelilaw.com
kristen@angelilaw.com
colin@angelilaw.com

Attorneys for Defendants

I hereby declare that the above is true to the best of my knowledge and belief. I understand that this document is made for use as evidence in court and is subject to penalty of perjury.

DATED: April 29, 2022.

Signed: *s/ Matthew J. Preusch*
Matthew J. Preusch
Attorney for Plaintiffs

KELLER ROHRBACK L.L.P.
1201 Third Avenue, Suite 3200
Seattle, WA 98101-3052
TELEPHONE: (206) 623-1900
FACSIMILE: (206) 623-3384

Exhibit C

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
ROANOKE DIVISION

In re:	§	
	§	
TROY SHANNON HARLOW	§	**Case No. 17-71487**
	§	**Chapter 13**
	§	
Debtor	§	
	§	
TROY SHANNON HARLOW	§	
	§	
MARK STEPHEN ESTES	§	
	§	
KIMBERLY PORTER FERWELL,	§	
	§	
BEATRIZ VILLEGAS-RODRIGUEZ	§	
and	§	**ADVERSARY NO. 20-07028**
RODOLFO RODRIGUEZ,	§	
on behalf of themselves and all	§	**DISTRICT COURT NO. 7:24-cv-00424**
others similarly-situated,	§	
	§	
Plaintiffs,	§	
	§	
v.	§	
	§	
	§	
WELLS FARGO BANK, N.A.	§	
	§	
Defendant.	§	

PLAINTIFFS' MOTION FOR ATTORNEYS' FEES AND NON-TAXABLE COSTS AND CLASS REPRESENTATIVE SERVICE AWARDS

Plaintiffs Troy Shannon Harlow, Mark Stephen Estes, Kimberly Porter Fewell, Beatriz Villegas-Rodriguez and Rodolfo Rodriguez ("Plaintiffs"), individually and on behalf of all other similarly situated individuals, with the consent of Defendant Wells Fargo Bank, N.A. ("Defendant"), move for an order awarding attorneys' fees, expenses, and class representative service awards. Pursuant to Fed. R. Civ. P. 23(h) and 54(d)(2), and for the reasons set forth in

class counsel's accompanying memorandum of law, the Court should award the requested attorneys' fees, expenses, and class representative service awards.[1]

WHEREFORE, Plaintiffs Troy Shannon Harlow, Mark Stephen Estes, Kimberly Porter Fewell, Beatriz Villegas-Rodriguez and Rodolfo Rodriguez, individually and on behalf of all other similarly situated individuals, with the consent of Defendant Wells Fargo Bank, N.A. ("Defendant"), request an order from the Court:

1. Awarding class counsel a reasonable fee of 33% of the Settlement Fund, totaling $4,950,000.00;

2. Reimbursing class counsel from the common fund for reasonable litigation expenses, in the amount of $62,296.36; and

3. Awarding each class representative a service award of $12,500.00, with the combined total of the service award being $62,500.00.

Dated: July 31, 2024.

Respectfully submitted,

/s/ Theodore O. Bartholow, III ("Thad")
Theodore O. Bartholow III ("Thad")*
Texas State Bar No. 24062602
Karen L. Kellett*
Texas State Bar No. 11199520
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/s/ Malissa L. Giles
Malissa L. Giles
Tracy Giles

/s/ Abelardo Limon, Jr.
Abelardo Limon, Jr.*
Texas State Bar No. 1235770

[1] Plaintiffs are filing this motion by July 31, 2024, as set forth in the bankruptcy court's order of preliminary approval. Class members' objections and opt outs are not due until September 9, 2024, and Plaintiffs' motion for final approval is not due until September 11, 2024. Plaintiffs will more fully explain the case and settlement, will address any objections, and will file any additional materials in support of their final-approval and fee motions prior to the final approval currently set for October 11, 2024.

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Attorneys for the Plaintiffs

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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing was served on the parties listed below via ECF notification or first-class mail on July 31, 2024.

/s/ Karen L. Kellett
Karen L. Kellett

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Exhibit 1

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
ROANOKE DIVISION

In re:	§	
	§	
TROY SHANNON HARLOW	§	**Case No. 17-71487**
	§	**Chapter 13**
	§	
Debtor	§	
	§	
TROY SHANNON HARLOW	§	
	§	
MARK STEPHEN ESTES	§	
	§	
KIMBERLY PORTER FERWELL,	§	
	§	
BEATRIZ VILLEGAS-RODRIGUEZ	§	
and	§	**ADVERSARY NO. 20-07028**
RODOLFO RODRIGUEZ,	§	
on behalf of themselves and all	§	**DISTRICT COURT NO. 7:24-cv-00424**
others similarly-situated,	§	
	§	
Plaintiffs,	§	
	§	
v.	§	
	§	
	§	
WELLS FARGO BANK, N.A.	§	
	§	
Defendant.	§	

DECLARATION OF THEODORE O. BARTHOLOW, III IN SUPPORT OF PLAINTIFFS' MOTION FOR ATTORNEYS' FEES AND NON-TAXABLE COSTS AND CLASS REPRESENTATIVE SERVICE AWARDS

Theodore O. Bartholow, III hereby declares:

1. My name is Theodore O. Bartholow, III. I am over the age of eighteen years, am of sound mind, and am competent to make this statement. I have personal knowledge of the facts set forth below, which I state are true and correct. I make this declaration of my personal

knowledge in support of Plaintiffs' Motion for Attorneys' Fees and Non-Taxable Costs and Class Representative Service Awards. ECF 6.[1]

2. The Settlement Agreement provides that Class Counsel may submit an application (the "Fee and Expense Application") to the Court for payment of: (a) an award of attorneys' fees; plus (b) reimbursement of reasonable and actual expenses incurred in connection with prosecuting this Action. *See* Agr. p. 28 VII(A).

The Settlement Agreement

3. In the proposed settlement that Class Counsel ultimately negotiated in this case, Wells Fargo will pay $15,000,000.00 into a non-reversionary settlement fund for payment for the approximately 7,841 mortgage loan accounts of the Settlement Class Members, payment of settlement administration costs, service awards to the Class Representatives in an amount of up to $12,500 each, Class Counsel's reasonable and actual expenses, and Class Counsels' attorneys' fees in an amount up to 33% of the Settlement Fund, plus reasonable and actual expenses. As stated in more detail in Plaintiffs' Motion for Preliminary Approval, automatic cash payments of $2,500 per loan will go to Subclass 1 members, and automatic cash payments of $500 per loan will go to members of Subclass 2. After these initial automatic cash payments and after payment of the costs of administration, litigation expenses, and attorneys' fees, the remaining balance of the settlement fund will be deposited into a Claims Fund, from which Class Members can assert claims for damages proximately caused by Wells Fargo placing their loan into forbearance, for which they were not otherwise fully compensated by the initial automatic payments. These claims will be administered by UNC Chapell Hill Law Professor Kara Bruce, as claims ombudsman,

[1] In support of my declaration, attached as Exhibit A is my curriculum vitae; attached as Exhibit B are expense summaries of Kellett & Bartholow; attached as Exhibit C is the Settlement Agreement ("Agr."), without exhibits, and attached as Exhibit D is the order preliminarily approving the settlement, without exhibits.

together with the Claims Administrator. Any funds remaining after this process shall be paid out in a second automatic distribution, in equal amounts, to every Class Member who cashed their initial automatic settlement payment check.

Class Counsel's Fees and Expenses

4. Counsel's engagement agreements with the Class Representatives included a contingency agreement for attorneys' fees of up to 40% of the recovery in a common fund, in addition to expenses to be paid from the common fund. However, in the settlement negotiations for this case, we reduced our contingent fee to 33% of the Settlement Fund. Expenses allowed by the Court are paid from the Settlement Fund as well. Wells Fargo does not oppose Class Counsel seeking fees and expenses on this basis.

5. Multiplying Class Counsel's hours by the firms' historical hourly rates used in this case for each of their professionals yields a total lodestar of $1,890,600.00 (attorneys' reasonable time multiplied by reasonable hourly rates) for class counsel's time spent through the dates shown below.

6. Class Counsel are also entitled to reimbursement of their reasonable expenses. Class counsel requests that the Court award $62,296.36 in the reasonable expenses incurred in this matter. A summary of Kellett & Bartholow's actual and reasonable expenses incurred in this litigation is attached as Exhibit B. This includes reasonable expenses such as mediation fees and expenses, travel expenses for depositions, hearings, and mediation, and expert fees, among other fees and expenses incurred. Summaries of Giles & Lambert's and Mr. Limon's expenses are attached to the declarations of M. Giles and A. Limon.

7. I have thoroughly reviewed and edited Class Counsel's collective voluminous time and expense records documenting their time and expenses in this litigation. Class Counsel will

provide those records to the Court for *in camera* review upon request.

8. The following summarizes Kellett & Bartholow's attorneys' and paraprofessional's time and rates for work in this case, excluding hours no-billed in the exercise of billing judgment:

Timekeepers at Kellett & Bartholow[2]	Hours	Rates	Total
Karen Kellett	1006.0	$500 per hour	$503,000.00
Thad Bartholow	1856.50	$400 per hour	$742,600.00
Caitlyn Wells	444.20	$300 per hour	$133,260.00
Claude Smith	197.1	$350 per hour	$68,985.00
Megan Parry	38.2	$250 per hour	$9,550.00
Randi Daun (paraprofessional)	123.6	$100 per hour	$12,300.00
O. Max Gardner	136.5	$500 per hour	$68,250.00
Total	3801.8		$1,537,975.00

[2] For Kellett & Bartholow's time through July 30, 2024.

9. The following summarizes Giles & Lambert's times and rates for their work in this case, excluding hours no-billed in the exercise of billing judgment:

Timekeepers at Giles & Lambert[3]	Hours	Rates	Total
Malissa Giles	568.3	$400 per hour	$227,320.00
Tracy Giles	90.8	$400 per hour	$36,320.00
Total	659.1		$263,640.00

10. The following summarizes Mr. Limon's hours and rates for work in this case, excluding hours no-billed in the exercise of billing judgment:

Timekeepers at The Limon Law Firm[4]	Hours	Rates	Total
Abe Limon	273.8	$325/hour	$88,985.00
Totals	273.8		$88,985.00

11. Kellett & Bartholow's hourly rates are reasonable. All Class Counsel has billed at the original rates from the beginning of the case and have not raised their rates for this case during the over four years it has been pending. Kellett & Bartholow's historical and current rates have been approved in several cases in Dallas, Texas, and in multiple jurisdictions and across the country. Notably, WDVA Bankruptcy Judge Black recently approved employment of Mr. Bartholow and Ms. Kellett using rates of $650 per hour and $750 per hour, respectively. In re Brown, Case. No. 23-70426 (Bankr. WDVA), Dkt. Nos. 29, 35.

12. Class Counsel together has worked 4,734.7 billable hours on this litigation,

[3] For Giles & Lambert's time through July 12, 2024.

[4] For The Limon Law Firm's time through June 24, 2024.

resulting in a total lodestar of $1,890,600.00. This works out to a blended rate of $399.31 per hour for Class Counsel's attorneys' and paraprofessionals.

13. Consistent with the Settlement Agreement and Class Counsel's representation agreement with the named class plaintiffs, Class Counsel seek an award of fees in this case in the amount of $4,950,000.00, which is 33% of the Settlement Fund. This results in a lodestar multiplier of 2.62.[5]

14. Based on my experience in litigating bankruptcy class actions, the excellent result Class Counsel achieved for the class in this case, and the extreme risk this case presented as discussed in the fee motion and by Ms. Kellett and Mr. Rao in their declarations, I believe Class Counsel's fee request is fair, reasonable, and appropriate.

Procedural History of this Litigation

15. I first learned that Wells Fargo was placing borrowers' mortgage loan accounts into forbearance without their consent from Ms. Giles, who noted in an email list-serve post that Wells Fargo was filing Rule 3002.1 notices of forbearance in several of her clients' Chapter 13 bankruptcy cases, which notices falsely stated that her clients had requested forbearances. Among those clients were Troy Harlow and Mark Estes, who agreed to serve and were subsequently named as proposed class representatives in this case.

16. The Giles, Mr. Limon and my firm conducted investigations of dozens of bankruptcy court dockets across the nation and were able to identify additional instances of Wells Fargo filing forbearance notices in bankruptcy courts in Chapter 13 bankruptcy cases of debtors, where it appeared that the debtors did not request the mortgage forbearances from Wells Fargo.

17. Mr. Limon's Chapter 13 clients, Beatriz Villegas-Rodriguez and Rodolfo

[5] If using Class Counsel's current hourly rates, the lodestar would be $2,731,155.00, yielding a multiplier of 1.81.

Rodriguez, also alleged Wells Fargo placed them into an unauthorized forbearance and filed a false forbearance notice with the bankruptcy court. Mr. Limon and I consulted with them at length, and they also agreed to serve as class representatives in this case.

18. Similarly, Mr. Gardner, who was 'of counsel' to our firm at the time, was able to identify Chapter 13 debtors in the Western District of North Carolina with loans that Wells Fargo placed into forbearance without borrower consent, including Kimberly Fewell, a client of the Crow Law Firm residing in the Charlotte, North Carolina area. Mr. Gardner, the Crows, and I consulted with Ms. Fewell at length by telephone and Zoom conference regarding her situation, and she, too, agreed to serve as a class representative in this case.

19. In addition to those persons who ultimately agreed to serve as class representatives, Class Counsel vetted other potential candidates to serve as class representatives in this case.

20. Plaintiffs' counsel filed the original *Harlow* class action complaint on June 26, 2020. Harlow, et al. v. Wells Fargo & Co., et al., AP No. 20-0728 (USBK WDVA)(*Harlow)*, Dkt. No. 1.

21. Upon filing the *Harlow* complaint, I contacted Pulitzer Prize winning reporter, Gretchen Morgenson (NBC News), who had written a story in the New York Times about the 2018 *Cotton* bankruptcy class action filed by Kellett & Bartholow in the Western District of North Carolina. She was interested and sent a video team to Virginia to interview Mr. Harlow and Ms. Fewell and included portions of the interviews in her initial story published on NBC News's website on July 16, 2020.

22. The initial national reporting regarding Wells Fargo's unauthorized forbearances generated enormous interest from borrowers around the country, many of whom were not in bankruptcy, who also asserted that Wells Fargo placed their mortgage loans into unauthorized

forbearances.

23. My firm and co-counsel fielded dozens of telephone calls, emails, and other inquiries from borrowers nationwide regarding unwanted Wells Fargo forbearances. My team and I devoted significant time and resources researching and developing legal theories, confirming factual contentions, and preparing our strategy for prosecuting this case.

24. After we filed this case and due, at least in part, to the national publicity it generated, two United States Senators sent a letter to Wells Fargo requesting that Wells Fargo investigate, explain, and correct its forbearance practices. In Wells Fargo's August and September 2020 responses to the Senators' letter, Wells Fargo specifically admitted placing Chapter 13 debtor borrowers' accounts into forbearance without being requested to do so and acknowledged that its practices could result in certain harms and potential harms for its customers. *Harlow*, Dkt. 57-2. The senators' demands and Wells Fargo's responses generated further coverage from NBC News. Nevertheless, despite its responses to the Senators, Wells Fargo continued to deny all liability in this lawsuit and strenuously defended the case for over four years.

25. In late July of 2020, still in the early stages of this litigation, I negotiated at length with counsel for Wells Fargo regarding Plaintiffs' proposal that Wells Fargo consent to entry of an agreed nationwide preliminary injunction, focusing on obtaining Wells Fargo's consent to cease, on a nationwide basis, (1) providing borrowers in Chapter 13 bankruptcy with forbearance relief without their informed consent (2) extending forbearances for loans of borrowers in Chapter 13 bankruptcy who did not request forbearance relief in the first place, and (3) filing statements with the bankruptcy courts that inaccurately state that the borrower requested forbearance. We also sought Wells Fargo's agreement to temporarily refrain from seeking relief from stay as to

loans of Chapter 13 debtors Wells Fargo placed into forbearance without the borrower's informed consent.

26. On August 6, 2020, Plaintiffs filed a motion for preliminary injunction, and after Plaintiffs set that motion for hearing and further negotiations, Wells Fargo consented to the entry of an order by the bankruptcy court restricting filings Wells Fargo could make in bankruptcy courts regarding mortgage forbearances in Chapter 13 bankruptcies, and constraining Wells Fargo from filing motions for relief from stay with respect to borrowers whose loans Wells Fargo had placed into forbearance through January 1, 2021. *See Harlow*, Dkt. Nos. 26, 40.

27. Also in August of 2020, counsel for Wells Fargo and I engaged in extensive good faith negotiations regarding the scope and nature of the discovery and account-level data Plaintiffs and Wells Fargo would require to be able to properly prepare the case for trial and possibly settle it. We entered a stipulated protective order with Wells Fargo on September 8, 2020, which allowed us to begin exchanging confidential information with Wells Fargo in discovery. *Harlow*, Dkt. No. 35.

28. In mid-October of 2020, Plaintiffs' counsel began to research and interview potential experts who could provide testimony regarding industry practices regarding forbearances and the potential economic benefits to mortgage servicers resulting from placement of borrower loans into forbearance. Throughout the case, our firm engaged in significant research and analysis of industry trade publications, government rules and guidelines regarding COVID-19 forbearances, and Wells Fargo's SEC filings. Eventually, counsel for the plaintiffs in the *Harlow*, *Forsburg* and the California class actions engaged consultation experts in preparation for mediation that ultimately took place in the summer of 2021.

29. The *Harlow* Plaintiffs filed their second amended complaint on November 16, 2020, which added RICO allegations based on our research regarding Wells Fargo's relationships with third parties InfoEx, Albertelli Law, and Black Knight in connection with Wells Fargo's Chapter 13 forbearance notice filings. *Harlow*, Dkt. No. 49. Wells Fargo moved to dismiss debtors' Plaintiffs' second amended complaint on December 4, 2020. *Id.* at Dkt. Nos. 59, 60. *See also* Harlow, et al. v. Wells Fargo & Co., Case No. 7:22-cv-00267-MFU (WDVA), Dkt. No. 3.

30. On December 1, 2020, Wells Fargo moved to withdraw the reference and consolidate *Harlow* with *Forsburg*[6], and that motion was docketed by the District Court the same day. *Harlow*, Dkt. Nos. 53, 55. Harlow, et al. v. Wells Fargo & Co., Case No. No. 7:20-cv-00030-MFU (WDVA), Dkt. No. 1.

31. In November of 2020, we identified a series of instances in which it appeared that Wells Fargo had continued its practice of filing inaccurate forbearance notices. On December 1, 2020, Plaintiffs filed a motion for contempt of the agreed order resolving our motion for preliminary injunction. *Harlow,* Dkt. No. 57. Our team spent time and effort obtaining declarations of affected debtors for the evidentiary hearing for our motion, which ultimately was set for February 19, 2021. *See id.* at Dkt. No. 64.

32. In early December of 2020, I attended (by Zoom) the initial *Delpapa* case management conference being held in San Francisco. The District Court directed the *Delpapa* plaintiffs and Wells Fargo to mediate. At that point, the plaintiffs in *Harlow*, *Forsburg*, *Delpapa* and the related California cases joined forces, began searching for a mediator, and ultimately agreed with Wells Fargo to engage respected JAMS mediator Bob Meyer, for a mediation that ultimately occurred over the course of three days during the summer of 2021.

[6] Forsburg, et al., v. Wells Fargo, Case No. 5:20-cv-00046-MFU (WDVA)(*Forsburg*).

33. On December 10, 2020, in *Forsburg*, the District Court in Roanoke conducted – on short notice – an hours-long hearing in which the parties discussed the issues underlying the plaintiffs' claims in the *Harlow* and *Forsburg* cases in detail and argued the merits of withdrawal of the reference and potential consolidation of *Harlow* and *Forsburg* in the District Court, versus allowing the two cases to proceed separately.

34. Following that hearing, the *Harlow* Plaintiffs timely filed their brief in opposition to the motion to withdraw the reference on December 14, 2020, and Wells Fargo filed its reply on December 24, 2020. Harlow, et al. v. Wells Fargo & Co., Case No. No. 7:20-cv-00030-MFU (WDVA), Dkt. Nos. 4, 5, 10.

35. On January 6, 2021, the District Court entered an order withdrawing the reference for the *Harlow* case and consolidated *Harlow* with *Forsburg* (as consolidated, "*Forsburg/Harlow*"). *Id.* at 11, 12.

36. In December of 2020 and January of 2021, both sides also filed *voluminous* briefs in connection with Wells Fargo's motion to dismiss the *Harlow* Plaintiffs' second amended complaint. *See Harlow*, Dkt. Nos. 59, 60; Harlow, et al. v. Wells Fargo & Co., et al., Case No. 7:22-cv-00267-MFU (WDVA), Dkt. Nos. 3-5.

37. The arguments and legal issues in Wells Fargo's motion to dismiss were extensive and complex, and responding to them was a significant undertaking that required my team and me to devote substantial time and energy to the necessary research and analysis required to prepare Plaintiffs' opposition briefs.

38. On January 7, 2021, Plaintiffs served formal discovery on Wells Fargo in connection with this adversary.

39. On January 8, 2021, Plaintiffs in the consolidated *Forsburg/Harlow* cases moved to transfer their cases from the Western District of Virginia to the Northern District of California, where they could be consolidated with the other cases then-consolidated with *Delpapa*. *Forsburg*, Dkt. No. 80.

40. From mid-January through mid-March of 2021, our team and counsel for the plaintiffs in the consolidated California cases (*Delpapa*) engaged in intense negotiations with counsel for Wells Fargo regarding a joint mediation process. To facilitate settlement discussions and mediation, Plaintiffs agreed to withdraw the contempt motion in *Harlow* without prejudice and ultimately to a brief litigation stay. *Id.* at Dkt Nos. 82, 90, 91.

41. The litigation stay was conditioned on the parties reaching agreement on exchange of informal settlement discovery in advance of mediation.

42. The parties had extensive and at times contentious discussions about the nature and scope of Wells Fargo's production for mediation, and as those discussions continued, the temporary mediation stay was extended ultimately through September 10, 2021, so that the parties could prepare for and attend mediation. *See id.* at Dkt Nos. 93, 95.

43. During this process, Plaintiffs requested and obtained substantial informal discovery related to Wells Fargo's forbearance practices for borrowers in Chapter 13 bankruptcy, including voluminous amounts of account level data for borrowers in Chapter 13 bankruptcy with loans in forbearance. We also obtained tens of thousands of pages of relevant documents, as well as detailed mortgage servicing account records for the *Harlow* named plaintiffs.

44. We reviewed the voluminous bankruptcy specific information that Wells Fargo produced to us, in addition to separately assisting in the review of the massive volume of non-bankruptcy information Wells Fargo also provided that went to Wells Fargo's overall COVID-19

forbearance policies and procedures.

45. Based on our review of the data and documents Wells Fargo provided for mediation purposes, my *Harlow* team and I prepared mediation settlement positions and mediation statements for the *Harlow* chapter 13 bankruptcy class members.

46. In the summer of 2021, along with counsel for the other California non-bankruptcy class cases, we participated in three days of Zoom mediation with Mr. Meyer and counsel for Wells Fargo. During these mediations, our team continued to negotiate the bankruptcy claims in *Harlow* separately and independently of the claims in the other non-bankruptcy cases. Unfortunately, despite our substantial efforts, we were unable to reach a settlement in mediation and the litigation continued. Plaintiffs in *Forsburg/Harlow* resumed their efforts to transfer the consolidated cases to the Northern District of California, which Wells Fargo opposed. *Forsburg*, Dkt. Nos. 97, 98, 102, and, later, after deconsolidating, *Forsburg*, Dkt. Nos. 112, 113, 114, 115.

47. On November 12, 2021, Plaintiffs in the consolidated *Forsburg/Harlow* case and the consolidated *Delpapa* cases each served extensive formal requests for production to Wells Fargo. The *Harlow* team's discovery requests sought documents and information pertaining specifically to the *Harlow* plaintiffs' bankruptcy-related claims and Wells Fargo's forbearance practices pertaining to borrowers in Chapter 13 bankruptcy. Wells Fargo provided written responses and objections to these requests on January 13, 2022, and the parties thereafter, over a period of several weeks, engaged in a series of meet-and-confer conferences to discuss the extent and scope of information Wells Fargo was to produce in formal discovery. Based on those discussions, Wells Fargo subsequently commenced making a series of voluminous rolling document productions.

48. On December 16, 2021, the District Court in Roanoke held lengthy oral arguments on Wells Fargo's motions to dismiss the *Harlow* and *Forsburg* complaints, as well as the Plaintiffs' motion to transfer *Forsburg/Harlow* to the Northern District of California. I prepared for and argued both of these motions for Plaintiffs.

49. At the conclusion of the hearing, at Judge Urbanski's request, parties filed additional briefs regarding a series of new bankruptcy court opinions interpreting the sanctions provisions in Bankruptcy Rule 3002.1. Harlow, et al. v. Wells Fargo & Co., et al., Case No. 7:22-cv-00267-MFU (WDVA), Dkt. Nos. 6-7.

50. On March 31, 2022, Judge Urbanski entered an order that denied Plaintiffs' motion to transfer without prejudice and effectively de-consolidated *Harlow* and *Forsburg*, by ordering the *Forsburg* plaintiffs to file an amended complaint in *Forsburg* that added allegations regarding the District Court of California's exercise of personal jurisdiction against Wells Fargo in San Francisco, California, for that case only. *Forsburg,* Dkt. Nos. 116, 117.

51. On June 21, 2022, Judge Urbanski ruled on Wells Fargo's motion to dismiss the *Harlow* Plaintiffs' second amended complaint, dismissing Plaintiffs' non-bankruptcy claims and referring the remaining core bankruptcy claims in *Harlow* back to the bankruptcy court for determination. Harlow, et al. v. Wells Fargo & Co., et al., Case No. 7:22-cv-00267-MFU (WDVA), Dkt. Nos. 12-13.

52. The Giles and I attended a pretrial conference in Bankruptcy Court in Roanoke on August 23, 2022, at which time the Court scheduled argument on Wells Fargo's motion to dismiss Plaintiffs' remaining bankruptcy claims and ordered the parties to file supplemental briefing in advance of that hearing, which they did. *Harlow*, Dkt. Nos. 73-76.

53. On November 14, 2022, the Bankruptcy Court held lengthy oral arguments in Roanoke on Wells Fargo's motion to dismiss Plaintiffs' remaining bankruptcy claims, which, with substantial assistance from the Gileses, I prepared for and argued on behalf of the Plaintiffs.

54. On November 3, 2022, Wells Fargo served each of the named Plaintiffs with a separate set of interrogatories and a separate set of requests for production, which Plaintiffs responded to and later supplemented. Plaintiffs identified, compiled, and produced hundreds of pages of documents in response to Wells Fargo's document production requests.

55. On December 12, 2022, the Bankruptcy Court issued its opinion on Wells Fargo's motion to dismiss Plaintiffs' second amended complaint in *Harlow*, dismissing some of Plaintiffs' bankruptcy claims and denying the motion with respect to several of Plaintiffs' claims. I view this opinion as an extremely critical development in this case. In it, Judge Black confirmed the bankruptcy court's authority to preside over a nationwide class action and to issue appropriate sanctions, award punitive damages against Wells Fargo, and to provide consumer debtors relief for Wells Fargo's abuse of the bankruptcy process and violation of various provisions of the Bankruptcy Code and Rules, including in the circumstances alleged in our complaint.

56. Wells Fargo filed its answer to Plaintiffs' second amended complaint, and the parties subsequently submitted their detailed Rule 26(f) report and case management plan, which the Court entered on March 17, 2023. *See id.* at 92, 94, 96. On March 6, 2023, the Court held a pretrial conference, which was attended by counsel for the parties by video and then entered the pre-trial order and case management plan. *Id.* at 96.

57. Following that scheduling conference, my staff and I prepared and served a second set of 46 separate specific document production requests to Wells Fargo in *Harlow*. My team and I also exchanged meet-and-confer correspondence and held numerous meet-and-confer telephone

conferences with counsel for Wells Fargo regarding Wells Fargo's objections and other issues related to the scope of the production Plaintiffs sought in discovery.

58. Over the course of the *Harlow* litigation, Wells Fargo produced over 57,000 pages of bankruptcy-specific discovery and extensive account level data for the class representatives and the putative class members. My team and I have analyzed this data to identify and confirm the class composition, develop and support our theories of liability and damages for trial, and to prepare for depositions and mediated settlement negotiations.

59. Ultimately, the non-bankruptcy forbearance cases, including *Forsburg*, *Healy* and *Urista* were all transferred to the Northern District of California, consolidated with *Green* and *Delpapa*, and renamed *In re Wells Fargo Consolidated Forbearance Litigation*. In those cases, Wells Fargo produced hundreds of thousands of additional pages of relevant documents and substantial amounts of other ESI, and the plaintiffs there took eight depositions in 2022 and 2023, four from Wells Fargo corporate representatives, and four from fact witnesses. I personally took four of these depositions: two 30(b)(6) depositions and two fact witness depositions. Most of this discovery was also relevant to *Harlow*, supported our theories of liability, and assisted our development of this case.

60. In *Harlow*, with the assistance of Ms. Giles, on June 28-29 of 2023 in Raleigh, North Carolina, I took the depositions of four former Wells Fargo employees who, while employed by Wells Fargo, prepared, executed, and filed forbearance notices in the named Plaintiffs' Chapter 13 bankruptcy cases. The parties obtained valuable information from these depositions, and thereafter, the parties actively re-engaged in negotiations regarding a second mediation to address the claims in the *Harlow* case. Ultimately, the parties agreed to engage JAMS mediator David Geronemus and scheduled a one-day mediation in New York City, on November 30, 2023.

61. Prior to the mediation, Plaintiffs prepared and submitted a detailed confidential settlement demand to Wells Fargo, as well as a mediation statement with extensive materials to educate the mediator regarding the complex consumer bankruptcy-specific issues involved in this litigation. Well Fargo also produced updated loan-level information regarding the potential size and composition of the putative class of Chapter 13 debtors who would be included in a settlement.

62. The mediation was attended in person by the five lead attorneys for the Plaintiffs, lead counsel for Wells Fargo, high level Wells Fargo executives, and our lead class plaintiff, Troy Harlow. The negotiations were difficult, and the parties were nearly unable to agree on a settlement amount – with agreement on the amount of the settlement coming only at the very end of the day.

63. My team and I subsequently labored for four months in lengthy, often challenging negotiations with Wells Fargo's counsel over first a term sheet and then the settlement agreement, which the parties finally signed on March 26, 2024.

64. After the settlement agreement was signed, we prepared and filed a joint motion to withdraw the reference, and a motion for preliminary approval of the settlement in the bankruptcy adversary proceeding, as well as extensive declarations and exhibits.[7]

65. The bankruptcy court held a hearing on our motion for preliminary approval of the proposed class settlement on May 22, 2024, entering an order approving the settlement on a preliminary basis that day, which approved the undersigned as Class Counsel, approved the form of the notices to be sent to class members, and directed that the notices to the class members be sent, setting final approval and related deadlines, among other orders. Exhibit D.

66. In addition, since the notices of the settlement were mailed and emailed by the

[7] *See Harlow*, Docket Nos. 116, 123.

Settlement Administrator, my team and I have spoken to many class members, their bankruptcy attorneys and Chapter 13 Trustees, to answer their questions and ensure checks will be made payable and delivered to the appropriate parties (including when class members' circumstances change due to death, divorce, change of address, etc.) Also, with respect to any notices and checks returned as undeliverable, our firm will assist the Settlement Administrator in updating addresses, and continue to perform our duties as Class Counsel.

67. We anticipate more extensive work in preparing for the hearing on final approval of the settlement and certification of the settlement class, which will further lower the multiplier for any lodestar cross-check.

The Class Representatives

68. Plaintiffs also seek service awards of $12,500 for each of the named class representatives, whose participation and perseverance throughout this litigation has been critical to the success embodied in this settlement. The Class Representatives took active roles in the litigation now settled. Each of the Class Representatives provided information to counsel in preparing this lawsuit against Wells Fargo. They gathered documents and otherwise answered Wells Fargo discovery. They stayed well informed of their case and agreed to be class representatives in a global settlement of the issues in this class action lawsuit. Mr. Harlow met with and spoke to counsel throughout the investigation and early discovery ordered by the Bankruptcy Court in their bankruptcy case, met with and spoke with his counsel in preparing the complaint, and has stayed informed and has participated in the litigation. Mr. Harlow personally attended the mediation in New York City on November 30, 2023. Importantly, Mr. Harlow and Ms. Fewell agreed to be interviewed by NBC News, and allowed NBC News to write an article on their case, despite possible reputational harm.

Mr. Bartholow's background and experience

69. I am co-counsel for Plaintiffs in the above-referenced proceeding. Karen L. Kellett, Malissa Giles, Tracy Giles, and Abelardo Limon are my co-counsel in this matter.

70. I am an attorney duly licensed to practice in the states of Texas and New York, as well as in the United States District Courts for the Northern, Eastern, and Southern Districts of Texas and for the Southern District of New York, as well as the Fifth U.S. Circuit Court of Appeals. A true and correct copy of my *curriculum vitae* is attached. As described therein, I have substantial experience litigating individual and class action consumer claims, especially consumer claims against mortgage servicers, often in cases involving borrowers in or formerly in bankruptcy.

Background / Relevant Experience

71. I graduated from The University of Texas at Austin in 1998, with a B.A. in Philosophy.

72. I received my Doctor of Jurisprudence degree from the Benjamin N. Cardozo School of Law in 2002.

73. Since 2005, my legal practice has been focused exclusively on consumer and business bankruptcy, consumer litigation (with an emphasis on consumer litigation in bankruptcy-related matters), including in litigated cases across Texas and in New York, North Carolina, Colorado, California, Ohio, Alabama, and Louisiana. I have experience in litigation of consumer class actions involving lenders and lending issues, including class actions in bankruptcy court for conduct arising in bankruptcy proceedings.

74. Immediately following graduation from law school, I began my career at London Fischer LLP in New York City, where my work focused on insurance defense litigation, including property damage, premises liability, personal injury, and extensive work on complex insurance

and re-insurance matters related to the destruction of the World Trade Center on September 11, 2001.

75. I joined my parents, Molly Bartholow, former Chapter 13 Trustee, and Toby Bartholow, at their consumer bankruptcy firm in Dallas, Texas, Bartholow & Bartholow P.C. in 2003. My work at Bartholow & Bartholow initially focused on Chapter 7 and Chapter 13 consumer bankruptcy matters, including assisting in litigation of contested motions and objections to claims filed by secured and unsecured creditors against my consumer bankruptcy debtor clients.

76. In 2005, I became a partner with Bartholow & Bartholow P.C. I expanded my practice to include litigation of contested matters, including objections to claims and defending against mortgage servicers' motions for relief from stay, as well as adversary proceedings in bankruptcy court against creditors on behalf of my consumer debtor clients, as well as representing a regional bank as creditor's counsel in a handful of Chapter 13 cases. This litigation practice grew to encompass the substantial majority of my work with Bartholow & Bartholow P.C. through the end of 2009.

77. In December 2009, I formed Armstrong Kellett Bartholow P.C., a consumer bankruptcy and litigation firm, along with my partners, Gary Armstrong and Karen Kellett.

78. Armstrong Kellett Bartholow P.C. consolidated Bartholow & Bartholow's consumer bankruptcy and bankruptcy-focused consumer litigation practice with Mr. Armstrong's and Ms. Kellett's similar practices, which focused on pursuing claims on behalf of consumer debtors against banks, lenders, creditors, mortgage servicers and debt collectors in state and federal courts, including bankruptcy courts in the Northern, Eastern, and Southern Districts of Texas, and District Courts in the Northern and Eastern Districts of Texas.

79. With Armstrong Kellett Bartholow P.C., I also expanded my practice to include

consumer class action litigation in Federal District and Bankruptcy Courts, working extensively with my partner Karen Kellett and learning from her substantial consumer financial services class action experience. My litigation work with Armstrong Kellett Bartholow P.C. covered a broad range of consumer financial services issues and claims, most of which arose under or related to consumer bankruptcy cases, as well as claims pursuant to the Fair Debt Collection Practices Act, the Texas Debt Collection Act, the Real Estate Settlement Procedures Act, and other related statutory and common-law causes of action. Several of these suits involved causes of action relating to violations of the Bankruptcy Code's automatic stay and discharge injunction provisions, as well as claims against banks, lenders, mortgage servicers and debt collectors for violations of other provisions of the Bankruptcy Code and Rules allegedly caused by systemic problems with their internal policies, practices, and procedures.

80. For the last ten years, a substantial portion of our practice has been devoted to representing debtors and former debtors in cases in which the mortgage servicer failed to comply with Bankruptcy Rule 3002.1, and, as a result, wrongfully demanded undisclosed amounts and threatened and attempted foreclosure when such amounts were not paid. In many cases, mortgage servicers waited until after the debtors had successfully completed their chapter 13 plan before attempting to collect debts based on amounts not owed because they were not disclosed pursuant to Bankruptcy Rule 3002.1, and/or because the bankruptcy court had entered an order deeming the mortgage account current at the end of the case.

81. On September 10, 2015, one of the named partners of Armstrong Kellett Bartholow P.C. left the firm and the practice of law. As a result, Ms. Kellett and I formed a new firm, Kellett & Bartholow PLLC, shortly thereafter. I continue to engage in the same types of consumer and bankruptcy litigation that I engaged in at Armstrong Kellett Bartholow P.C.

82. In addition to my representation of the class plaintiffs in the instant case, I have represented class plaintiffs in several bankruptcy and bankruptcy-related class actions, including *Rodriguez v. Countrywide* (consumer class of former Chapter 13 debtors certified after contested three-day evidentiary class certification hearing, certification upheld on appeal to the Fifth Circuit); *Cano v. GMAC* (certifying nationwide settlement class against GMAC); *Cotton v. Wells Fargo* (certifying nationwide settlement class against Wells Fargo for filing false Rule 3002.1 notices regarding unauthorized mortgage modifications); *Jones v. Atlas Acquisitions, LLC* (certifying nationwide settlement class against debt buyer for alleged practice of filing fraudulent bankruptcy proofs of claim for non-existent debts); and *Brown, et al. v. Goldman Sachs* (class action alleging the defendant violated the automatic stay).

83. In *In re Think Finance*, I served as bankruptcy counsel to consumer plaintiffs in multiple pre-petition consumer class actions. In that capacity, despite the debtor's strenuous objection, my team and I successfully obtained bankruptcy court authorization to file class proofs of claim on behalf of our putative classes. As a consequence, we were able to negotiate a nationwide settlement that included certification of the class claims and substantial recovery for the consumer creditor class members, which settlement was approved in connection with a confirmed Chapter 11 plan. Similarly, in *In re Ditech*, a Chapter 11 bankruptcy filed in the Southern District of New York by a mortgage servicer, I served as chair of the consumer creditors' committee appointed by the United States Trustee. In that capacity, I successfully lobbied for the Committee to oppose confirmation of the debtor's proposed Chapter 11 plan, which would have resulted in the sale of the debtor's portfolio of mortgage servicing rights free and clear of consumer claims, in spite of the fact that the debtor's portfolio of loans included a significant amount of illegal fees and charges. The Committee's opposition to the debtor's Chapter 11 plan was

successful, and thereafter, the Committee successfully negotiated a more favorable Chapter 11 plan, which preserved consumer claims to correct unauthorized charges to borrowers' mortgage loans and provided a separate $10 million consumer claims fund, which was substantially in excess of the amount provided for in the plan for payment of general unsecured claims, which consumer creditors would have shared with Ditech's other general unsecured creditors, had Ditech's original plan been approved.

84. My firm and I have also represented consumer class plaintiffs in non-bankruptcy class action litigation, including in: *Forsburg*; *Patterson v. Wells Fargo* (NDCA) (alleging Wells Fargo opened unauthorized consumer bank accounts for consumers who otherwise had no banking relationship with Wells Fargo).

85. In particular, I have substantial experience litigating mortgage servicing issues, having successfully litigated numerous cases asserting claims for violation of the Truth in Lending Act (TILA) and the Real Estate Settlement Procedures Act (RESPA), and their implementing regulations, Regulations Z and X respectively, as well as claims for violation of the Fair Credit Reporting Act (FCRA) and the Fair Debt Collection Practices Act (FDCPA), and substantial consumer bankruptcy-related mortgage litigation involving alleged violations of the automatic stay (11 U.S.C. § 362), the discharge injunction (11 U.S.C. § 524), confirmed Chapter 13 bankruptcy plans, and Bankruptcy Rule 3002.1, as well as claims for abuse of process and seeking remedies under the Court's inherent authority and § 105(a) of the Bankruptcy Code.

Professional Memberships and Speaking Experience

86. I am a longstanding member of the National Association of Consumer Advocates (NACA), the National Consumer Law Center (NCLC), the National Association of Consumer Bankruptcy Attorneys (NACBA) (having received NACBA's "Distinguished Service Award" for

2016), the American Bankruptcy Institute (ABI), and the John C. Ford American Inn of Court. Since 2010, I have been a frequent speaker on consumer litigation-related topics, especially regarding residential mortgage servicing issues and individual and class action consumer litigation on behalf of consumers and consumer debtors in bankruptcy, including at national conventions for NACBA, NACA, the NCLC, the ABI, and the National Conference of Bankruptcy Judges (NCBJ). I also frequently speak on these and related topics at local and regional continuing legal education conferences. Together with my former colleague, O. Max Gardner III (who retired in December of 2022), I have co-taught several multi-day "boot camp" training sessions, with a focus on mortgage litigation issues and litigation issues arising in Chapter 13 and Chapter 7 consumer bankruptcy cases. I taught multiple times at "Max Gardner's Bankruptcy Boot Camp," twice at "Max Gardner's Ultimate Litigation Boot Camp," and also at "Max Gardner's Actual Damages in Consumer Statutory Injury Cases."

87. As reflected on my *curriculum vitae*, a copy of which is attached hereto as Exhibit A, I have obtained numerous favorable written opinions in class actions and individual cases, all of which involved claims based on bankruptcy issues.

88. Kellett & Bartholow's hourly rates have been approved in several cases in various jurisdictions:

- *In re Vallejo*, BK No. 11-70432, filed in the United States Bankruptcy Court for the Southern District of Texas, Docket Nos. 158 and 169;
- *In re Zarate*, BK No. 15-70087, filed in the United States Bankruptcy Court for the Southern District of Texas, Docket Nos. 79 and 81;
- *In re Irma Contreras*, BK No. 15-70201, filed in the United States Bankruptcy Court for the Southern District of Texas, Docket Nos. 53 and 57;
- *In re Adan Contreras, Jr.*, BK No. 15-70634, filed in the United States Bankruptcy Court for the Southern District of Texas, Docket Nos. 49 and 52;
- *Hammond v. Adam Ross Paul, Inc., et al*, Adv. No. 12-03227, filed in the United States Bankruptcy Court for the Northern District of Texas, Docket Nos. 71-73;
- *In re Dunigan*, BK No. 11-32989, filed in the United States Bankruptcy Court for the

Northern District of Texas, Docket Nos. 68 and 76;

- *In re Kochukunju*, BK No. 10-32433, filed in the United States Bankruptcy Court for the Northern District of Texas, Docket Nos. 83 and 88;
- *In re Rowe*, BK No. 09-45027, filed in the United States Bankruptcy Court for the Northern District of Texas, Docket Nos. 129 and 135;
- *In re Stokey*, BK No. 13-31513, filed in the United States Bankruptcy Court for the Northern District of Texas, Docket Nos. 147 and 155;
- *Bruner-Halteman v. Educational Credit Management Corp.*, Adv. No. 14-03041, filed in the United States Bankruptcy Court for the Northern District of Texas, Docket Nos. 71, 73, and 103
- *Amburgey v. Enzed, Inc.*, Adv. No. 14-04077, filed in the United States Bankruptcy Court for the Northern District of Texas, Docket No. 49;
- *In re Wells*, BK Case No. 14-34240, filed in the United States Bankruptcy Court for the Northern District of Texas, Docket Nos. 70 and 77;
- *In re Sanchez*, BK Case No. 15-70592, filed in the United State Bankruptcy Court for the Southern District of Texas, Docket Nos. 77 and 96;
- *In re Salinas*, BK Case No. 16-34716, filed in the United States Bankruptcy Court for the Southern District of Texas, Docket Nos. 119 and 134
- *In re Lopez*, Adv. No. 13-07019, filed in the United States Bankruptcy Court for the Southern District of Texas, Docket Nos. 194, 274, and 275;
- *In re Franklin*, BK Case No. 10-20010, filed in the United States Bankruptcy Court for the Southern District of New York, Docket Nos. 159 and 160;
- *In re Cash*, BK Case No. 15-30510, filed in the United States Bankruptcy Court for the Western District of Louisiana, Docket Nos. 59 and 66;
- *In re Shankles*, BK Case No. 11-43075, filed in the United States Bankruptcy Court for the Eastern District of Texas, Docket Nos. 327 and 336;
- *Haynes v. Wells Fargo Bank, N.A.*, Case No. 2:08-cv-183, filed in the United States District Court for the Eastern District of Texas, Docket No. 168.

89. My firm and I have vigorously prosecuted this suit to date.

90. Prior to and during this case, Kellett & Bartholow PLLC has committed substantial resources in both time and expenses over the last four years in this case. I will continue to commit all the resources necessary to the case to bring it to completion, including through trial and any appeals, should the settlement ultimately not be approved. Our firm has sufficient resources to pursue this litigation.

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct.

Executed on July 31, 2024.

/s/ Theodore O. Bartholow, III
Theodore O. Bartholow, III

Exhibit D

CLERK'S OFFICE U.S. DISTRICT COURT
AT ROANOKE, VA
FILED
OCT 11 2024
LAURA A. AUSTIN, CLERK
BY: K Blum
DEPUTY CLERK

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
ROANOKE DIVISION

TROY SHANNON HARLOW	§	
	§	
MARK STEPHEN ESTES	§	
	§	
KIMBERLY PORTER FERWELL,	§	
	§	
BEATRIZ VILLEGAS-RODRIGUEZ	§	
and	§	**ADVERSARY NO. 20-07028**
RODOLFO RODRIGUEZ,	§	
on behalf of themselves and all others similarly-situated,	§	**DISTRICT COURT NO. 7:24-cv-00424**
	§	
Plaintiffs,	§	
	§	
v.	§	
	§	
WELLS FARGO BANK, N.A.	§	
	§	
Defendant.	§	

ORDER GRANTING CLASS COUNSEL'S MOTION FOR ATTORNEYS' FEES, NON-TAXABLE COSTS, AND CLASS REPRESENTATIVE SERVICE AWARDS

Pending before this Court is Class Counsel's Motion for Attorneys' Fees, Non-Taxable Costs, and Class Representative Service Awards and Brief in Support (ECF Nos. 6-7), together with the supplement to same (the "Motion"). The Motion stems from Class Counsel's work in connection with the settlement of the above-captioned class action proceeding. Class Counsel requests that the Court award Class Counsel $4,950,000.00, representing 33% of the common fund in this case, as well as litigation expenses in the amount of $73,389.09, and service awards to the five class representatives in the amount of $12,500.00 each, totaling $62,500.00. This Court considers the pleadings filed, the evidence presented, and all relevant statutes, rules, and case law to determine whether Class Counsel is entitled to the attorneys' fees requested in the Motion.

For the reasons stated on the record, the Court finds that Class Counsel's request for $4,950,000.00 in attorneys' fees and $73,389.09 in expenses is reasonable, as is the $12,500.00 service award for each of the five class representatives. Thus, the Court FINDS AND ORDERS AS FOLLOWS:

1. The Court awards Class Counsel attorneys' fees in the amount of $4,950,000.00;
2. The Court awards Class Counsel expenses in the amount of $73,389.09;
3. The Court approves a service award for each class representative in the amount of $12,500.00.

SIGNED: 10/11/2024

UNITED STATES DISTRICT JUDGE

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

In re: WELLS FARGO FORBEARANCE SETTLEMENT LITIGATION	Case No.: 2:24-cv-01026-MHW-EPD Judge Michael H. Watson Magistrate Judge Elizabeth A. Preston Deavers DECLARATION OF PROFESSOR WILLIAM H.J. HUBBARD

1. My name is Professor William H.J. Hubbard, Deputy Dean and the Harry N. Wyatt Professor of Law at the University of Chicago Law School. I have taught law at the University of Chicago Law School since 2011. In addition, I currently hold a part-time appointment as a Research Professor at the American Bar Foundation, an independent research institute devoted to the interdisciplinary study of law, the legal profession, and access to justice. Before entering academia, I was in private practice at the Chicago office of Mayer Brown LLP, where I worked in Mayer Brown's litigation and appellate departments and was a founding members of the firm's Electronic Discovery and Records Management Group. I then earned a PhD in Economics from the University of Chicago, where my dissertation chair was Nobel-laureate Professor Gary Becker.

2. In my scholarship and in my teaching, I combine my experience as a practicing attorney with my training in economics. In particular, my training in economics helps me to identify the ways in which legal rules and court decisions create incentives that affect the behavior of lawyers and litigants, and it enables me to analyze empirical data to measure how legal rules affect the behavior of lawyers, litigants, and other actors in the legal system. My scholarship focuses on courts, litigation, and civil procedure. My primary expertise is in the

study of civil practice in the United States federal courts, but I have studied and written on litigation and civil practice in other contexts, including the courts of Taiwan and India. I have published two books and over twenty academic articles on these and related topics, and I currently have a third book under contract and additional academic articles in progress. Over the past decade, I have presented my research at dozens of conferences, symposia, lectures, and academic workshops to audiences in four continents. I have held numerous leadership and editorial positions in the field of law and economics, including Editor of a leading law-and-economics journal, the *Journal of Legal Studies* for the past decade. I was Co-President of the Conference on Empirical Legal Studies in 2023 and have been a board member of the American Law and Economics Association and the Society for Empirical Legal Studies. I have taught courses in Civil Procedure and seminars in Law & Economics.

3. As a law professor and scholar of civil procedure, I devote considerable time and energy to understanding the rules of civil procedure and their impact on courts, lawyers, and litigants. My interest in understanding the power of procedure to shape behavior goes back to my studies under Judge Richard Posner, who taught Economic Analysis of Law at the University of Chicago Law School and who authored the seminal treatise ECONOMIC ANALYSIS OF LAW. When I returned to the University of Chicago Law School as a professor, my studies under Judge Posner evolved into a working relationship with him as colleagues on the faculty. Most relevant to the matter at hand, I was a reviewer for his major work co-authored with Lee Epstein and William Landes, THE BEHAVIOR OF FEDERAL JUDGES (Harvard University Press 2013).

4. For additional information about my background and expertise, the Court may refer to my curriculum vitae, attached hereto as Exhibit A, which also includes a list of my publications authored over more than a decade.

5. I have not testified as an expert in the last four years, either at trial or deposition.

6. For work preparing this declaration, I am being compensated at a rate of $600 per hour.

7. I declare the following truthfully and on the basis of my personal knowledge and experience, to which I am competent to testify.

Expert Opinions

Introduction

8. The power of rules to shape behavior can be very mild, or it can be very strong. In my years of research, a consistent pattern has emerged in the empirical research that I and others have done. When a procedural rule affects *lawyers'* financial gains from litigation, it will have a big effect on what happens in litigation. And when a rule doesn't affect lawyers' financial gains from litigation, the effects are less certain. This is true even for major rulings by the Supreme Court on civil procedure. For example, if a detailed and persuasive complaint is more likely to convince a defendant to settle a case, then lawyers will draft detailed and persuasive complaints, regardless of whether the formal pleading standard is "notice pleading" (before *Bell Atlantic v. Twombly*, 550 U.S. 544 (2007)) or "plausibility pleading" (after *Bell Atlantic v. Twombly*) or "super-heightened pleading" (such as under the PSLRA, 15 U.S.C. § 78u-4). See William H.J. Hubbard, *A Fresh Look at Plausibility Pleading*, 83 U. CHI. L. REV. 693 (2016). And if the Supreme Court interprets Rule 23 to allow class action judgments to award much larger damages in federal court than in state court, then class action filings will immediately shift from state court to federal court. See William H.J. Hubbard, *An Empirical Study of the Effect of* Shady Grove v. Allstate *on Forum-Shopping in the New York Courts*. 10 J. L., ECON., & POL'Y 151 (2013).

9. Thus, the financial incentives created by procedures rules can have dramatic effects on how disputes are litigated. These effects may be beneficial or harmful, but either way it is important to understand the ways that procedural rules create *incentives* that will shape the conduct of litigation. I believe that consideration of these incentives is crucial to designing sensible legal rules and to the sound exercise of judicial discretion. Consideration of the economic consequences and incentive effects of judicial rulings is crucial whenever a court deliberates. And it is especially important when awarding and apportioning attorneys' fees, because the rules or norms that courts follow when awarding attorneys' fees create *direct* financial incentives for counsel behavior. It is these background principles that motivate me to offer the following analysis of the potential economic incentives that would be created by the pending fee award for the class action settlement in the instant matter.

10. As the Court is aware, this case involves a distinct sequence of events relevant to the question of attorneys' fees. Counsel for one plaintiff group ("*Echard* counsel") successfully negotiated a settlement on behalf of a nation-wide class, counsel for a competing plaintiff group ("California counsel") objected to the negotiated settlement, and the settlement was increased following global mediation proceedings that resolved the objections. I see several important incentives and principles that the Court should consider in this situation. My observations are informed by my training in law and economics and by the insights of Judge Posner (in his scholarship and jurisprudence) and other scholars.

11. In general, I believe the Court should structure attorney compensation in this case in a way that incentivizes efficiently maximizing value to the class. To accomplish this, I have identified six guiding principles, which I summarize here and on which I expand further below:

(1) A formulaic approach to awarding attorneys' fees is desirable. Attorneys' fees in class action litigation are a means to an end, not an end in themselves. Thus, a good rule for the allocation of attorneys' fees will be guided by economic logic and provide a simple formula that provides sound incentives for class counsel in this case and future cases, while limiting the need for extensive fact finding or open-ended deliberation by the court.

(2) The formula endorsed by Judge Posner in *In re Trans Union Corp. Privacy Litig.*, 629 F.3d 741 (7th Cir. 2011), is appropriate here. As I discuss in greater detail below, the formula used in *In re Trans Union* is advisable here for a number of reasons. First, it applies existing rules for awarding fees to a similar context where there was an original settlement, competing plaintiffs objected to the settlement, and the original settling plaintiffs and objectors resolved the objections through a significantly improved amended settlement. It is a simple formula that is easy for a court to apply, and it creates incentives for class counsel to pursue valuable settlements for the class while avoiding unnecessary or value-destroying objections to proposed settlements.

(3) As a matter of economic logic, the original settling party should be awarded 100% of the fees in the original settlement. The original settlement is the watershed event, and without objections, the original settling counsel would presumably get all fees on the settlement (subject to the court's approval, of course). Allowing objector's counsel to share in fees on the original settlement would violate the basic rule that objectors are paid on the incremental improvements their work achieved for the class. Allowing them to also get paid for the original settlement would undermine existing proper incentives and create perverse incentives in three ways. First, if the original settling parties were required to share the fees earned on the original settlement with objectors' counsel, it would generally dampen class

attorneys' incentives to settle. The possibility that new counsel will object and thereby obtain a share of the original class counsel's fees would create uncertainty about whether settlement would translate into fair compensation. Second, if objectors can obtain a share of the original settling counsel's fees, then potential objectors will have an incentive to file unnecessary and low-value objections, simply to obtain a share of the original counsel's fees. This is wasteful and disruptive of the settlement process. Finally, I agree with Professor Cole that if the original settling attorneys put their fees at risk by trying to settle objections, they would have a powerful incentive to fight out the objections rather than settling, which could prolong litigation and harm members of the class which would benefit from an improved and expedited settlement.

(4) Original settling counsel and objector's counsel share credit for the improvements reached to resolve the objections. *In re Trans Union* was not breaking ground by giving original settling counsel 100% credit for the original settlement, but Judge Posner did add important analysis of how to allocate fees on the improvement. He was right to determine that the improvement (here the $91 million achieved in global mediation) was the joint product of all counsel, and credit should be equally split between the original settling counsel and objector's counsel.

(5) In a case like this one, the Court should apportion the fee award between counsel using a percentage-based formula, rather than by the lodestar method. Basing apportionment on each plaintiff group's lodestar would incentivize busy work to inflate hours, when the incentive should be to encourage efficient resolution of class actions. As noted above, *In re Trans Union* allocating original counsel 100% of the fees for the original settlement creates

proper incentives for both the original counsel and potential objectors. (I am making no assertions about the use of lodestar in other appropriate contexts.)

(6) Who filed suit first should not be given weight. The Court should not incentivize races to the courthouse by placing weight on who filed a lawsuit first, which could lead to frivolous filings or hastily prepared suits being filed prematurely. This is particularly true in cases like this one, where the unlawful conduct that was the basis for the plaintiffs' claims was already in the public domain through widely reported media stories. Generally, there is no need to incentivize or reward hasty filings in such public domain cases, and the mere filing of complaints has no direct benefit to the class. It is the development and successful resolution of the claims through judgment or settlement that provides a quantifiable benefit to the class.

In the sections of this Declaration that follow, I expand on each of these principles, apply them to the circumstances of this case, and discuss other principles that are relevant here.

A formulaic approach to awarding attorneys' fees is desirable.

12. Fee award methodology should be structured to create ex ante incentives that serve the goals of the class action device. Class counsel should have incentive to file actions and seek class certification when a class holds a valuable set of claims and aggregate litigation is the most efficient way to obtain redress on those claims. Conversely, class counsel should not be incentivized to come to court when a class of claims lacks merit. Attorneys' fees in class actions can be quite substantial, and the prospect of fee awards creates powerful incentives for attorneys to bring class action claims. Thus, it is important that the rules governing allocation of class counsel fees create the right incentives. There are three primary dimensions to this.

13. First, the best way to get strong ex ante incentives is to have a clear, understandable, and general rule of how attorneys' fees are allocated to class counsel. A clear

and simple rule is more likely to guide behavior (such as the filing and settling of class action claims), because lawyers are better able to predict whether their choices will generate a fee award, and how large it will be. For this reason, I endorse a method for allocating fees that uses a simple formula, as described in the next section.

14. Second, the rule for allocating fees should align counsel's incentives with the interests of the class. That class representative's and class counsel's incentives should be aligned with the interests of the class is a bedrock principle of class action practice, grounded in due process and the Federal Rules of Civil Procedure. See, e.g., *Hansberry v. Lee*, 311 U.S. 32, 43 (1940) (grounding the requirement that class members be "adequately represented" in constitutional due process); Fed. R. Civ. P. 23(a)(4) ("the representative parties will fairly and adequately protect the interests of the class"); Fed. R. Civ. P. 23(g)(4) ("Class counsel must fairly and adequately represent the interests of the class"). While there are many ways to maintain this alignment, fee structure is one of them. The private market for counsel relies in large part on contingency fees for several reasons, including aligning incentives between the attorney and client, and this consideration militates in favor of awarding attorneys' fees as a percentage of the class recovery in the class action context. For this reason, I endorse a formula that awards fees as a percentage of the class recovery.

15. Third, rules should also align counsel's incentives with the interests of the court in protecting the integrity of the process and the efficient administration of justice. Counsel should have incentive to bring meritorious and valuable claims and objections, but counsel should not be incentivized to bring meritless claims or raise spurious objections. As I explain in more detail below, I endorse a formula that is designed to disincentivize objections to class settlements when

those objections would delay settlement without creating value for the class, while incentivizing objections that create value for the class.

The *In re Trans Union* formula is appropriate here.

16. *In re Trans Union Corp. Privacy Litig.*, 629 F.3d 741 (7th Cir. 2011) is the most analogous appellate court decision to the fee apportionment issue at bar of which I am aware. While no two cases are exactly the same, I believe the approach and formula in *In re Trans Union* represent sound economic principles that apply to this case. To the extent that the facts of the cases differ, those distinctions are immaterial to my analysis.

17. *In re Trans Union* represents an application of sound economic principles that generate the desirable incentives that I have outlined above. In that case, counsel for a putative class successfully negotiated a class settlement (valued at $40 million), and other lawyers in competing cases objected to the settlement. The objections led the trial court to reject the $40 million settlement. The settlement was then renegotiated for a value of $110 million, or an increase by a factor of 2.75 times. The class size did not change. On review of the fee award, Judge Posner endorsed a formulaic approach that placed the original settlement value ($40 million) and the added value ($70 million) in separate buckets for fee allocation purposes. Judge Posner held it was proper to award 100% of fees on the first $40 million to the counsel that negotiated and reached agreement on the first $40 million settlement. He then awarded the first-settling plaintiffs 50% of fees on the added $70 million. The remainder of the fees on the added $70 million went to the objecting counsel.

18. The basic logic of *In re Trans Union* was that the counsel who negotiated the original settlement had created an "asset"—the settlement itself—through significant effort, expense, and creativity. Standing on its own, this asset was valuable, and the original settling

plaintiffs should obtain all of the fees for that original settlement amount. This part of the formula does not break new ground and is necessary for the reasons discussed in the next section below.

19. Where *In re Trans Union* adds important principles is in its discussion about how to allocate credit for the new money brought to the class after competing plaintiffs object to the original settlement and help bring about valuable improvements to it. Should all credit go to the objectors' counsel, or should it be shared by all counsel? As Judge Posner put it, this is "a problem of joint causation." 629 F.3d at 747. The solution to the problem is that the fees for the increase in settlement value should be shared, and for two key reasons. First, both the original settling counsel and the objecting counsel contributed to the creation of the additional value in the new proposed settlement. Thus, the increase in value is the joint product of both parties and both parties should share in the enhanced value achieved. Second, Dividing the attorneys' fees on the new value ensures that *both* the original settling counsel and the objecting counsel have an *incentive* to create more value. Class counsel who reaches a proposed class settlement would have no incentive to facilitate renegotiating a better settlement if they received no share of the benefits of that renegotiation.

20. The formula in *In re Trans Union* maps perfectly onto the present case. Here, *Echard* counsel is the original settling counsel. As the counsel who created the original proposed settlement, they are entitled to its value (i.e., 100% of the attorneys' fee on the original $94 million settlement value). California counsel should have no claim on attorneys' fees for the original $94 million settlement value, but their objections certainly helped increase the value of the asset (the proposed settlement). Thus, both *Echard* counsel and California counsel should

share in the increased value of the asset (i.e., they should split the additional $91 million, with each receiving 50% of the attorneys' fees on that amount).

21. Further, the economic logic of *In re Trans Union* maps perfectly onto the present case, as well. Fee allocation rules should incentivize counsel to pursue valuable settlements, and they should also incentivize counsel to pursue valuable renegotiations of settlements. Awarding 100% of the original settlement's fees to *Echard* counsel rewards them for the work that they (and no other counsel) did in achieving that settlement. Splitting the fee award on the additional $91 million rewards *Echard* counsel for allowing and facilitating renegotiation and also rewards California counsel for filing objections that proved valuable to the class. Echard and other settling parties would never pursue (or even consent to) a renegotiation of a settlement to improve it if they knew they would not be compensated for any improvement (or could even be harmed by it). Professor Cole makes a similar argument in her declaration, when she discusses the need to encourage, rather than punish, resolution of objections through negotiation or ADR. I entirely agree with this point.

22. Thus, under the *In re Trans Union* methodology, the Court should reward *Echard* counsel's extensive work in developing their claims and negotiating and drafting the initial $94 million settlement by awarding *Echard* counsel 100% of fees on the initial $94 million settlement fund, and 50% of fees on the $91 million added after California counsel opposed the initial settlement. *Echard* counsel's work that resulted in the initial settlement included fending off dispositive motions, developing damages theories, analyzing voluminous discovery, working with experts, and negotiating for four days of mediation with a retired United States District Judge, which *Echard* counsel did alone, without any assistance from California counsel. And while California counsel's efforts opposing the initial settlement clearly added value by creating

the conditions necessary to improve upon the settlement through additional negotiation, the $91 million added to the settlement thereafter was jointly caused by the efforts of *Echard* counsel and California counsel, and both should be compensated for that increase in the settlement amount.

23. To be sure, the *In re Trans Union* formula provides only "rough justice" as Judge Posner explicitly acknowledged. 629 F.3d at 748. After all, one could ask, "Why 50/50? Why not some other division of fees?" But this is a feature, not a bug. As Judge Posner noted, further effort to fine-tune the exact division of fees between counsel would "produce only speculative refinements, given the inherent uncertainties of estimation in such a case, and would do so at a heavy cost in judicial and party resources unlikely to be offset by any benefit in greater precision, which would in any event be illusory." *Id.* In other words, fine-tuning the division of attorneys' fees could go on forever, given the multitude of factors that any party could point to as potentially relevant, and it would be costly to the attorneys, court, and ultimately the class. But the prospect of further fine-tuning to better align the economic incentives of counsel, however, is doubtful. *In re Trans Union* is a simple rule that generates good incentives without complex fact finding and extensive collateral litigation.

24. Further, the clear, simple, and sound formula employed by Judge Posner in *In re Trans Union* does not require consideration of other factors that appear to have been raised by California counsel, but which, as a matter of economic logic, should not matter. One such immaterial factor is that in the case at bar, the objectors (California counsel) were eventually appointed as co-class counsel with *Echard* counsel. The *In re Trans Union* formula reflects the economic reality of the creation of an asset and the increase in its value. It does not depend on the labels attached to one group of lawyers versus another group of lawyers. Indeed, in the present case, the Court made the appointment after all negotiations were complete, and obtaining

the title of co-class counsel did not add any value for the class in and of itself. See e.g. *Gottlieb v. Barry*, 43 F.3d 474, 488–89 (10th Cir. 1994) (designation of class counsel not determinative of value). The post-hoc class counsel appointment does not impact the relevant incentives or analysis. Indeed, having co-class counsel is sometimes the price of global settlement, and courts should incentivize a first-settling party to do what is necessary to provide relief to the class, including agreeing to be co-class counsel with the objectors' counsel without risk of financial loss. If subsequent appointment of co-class counsel harmed a first-settling party's fee recovery, counsel would be incentivized to vociferously resist co-class counsel appointment, even when cooperation and joint appointment would be in the best interest of the class. This should be avoided.

25. Another immaterial factor is the presence of aspersions cast on initial settling counsel by objectors. Indeed, in *In re Trans Union* itself, Judge Posner refused to be distracted by such aspersions when setting attorneys' fees. Fee awards should be designed to reward counsel for adding value to the class's settlement, not to incentivize mudslinging or speculation about counsel's motives. Such an incentive would waste judicial resources and divert money and attention away from the heart of the matter, which is the claims of the class and the defenses of the defendant.

26. Likewise, the *In re Trans Union* formula appropriately ignores other factors whose relevance to incentives are more speculative. As I understand it, California counsel has argued that they should receive a share of the attorneys' fees for the original $94 million settlement value because their separate, parallel litigation could have been a factor in the defendant's decision to agree to the $94 million *Echard* settlement. It is true that, in a metaphysical sense, many factors could contribute to Wells Fargo agreeing to the original $94

million settlement beyond the efforts of *Echard* counsel to negotiate that settlement. For example, the Department of Justice could say it was their enforcement pressure (or other agencies' regulatory pressure) that incentivized Wells Fargo to settle for $94 million. Or market forces (including public relations considerations or investor activism) could contribute to the pressure on Wells Fargo to settle for $94 million. All this may (or may not) have truth to it, but it doesn't and shouldn't matter to the court. It is a fool's errand to ask a court to allocate credit for the settlement among the myriad actors (most of whom are not even before the court) who could have had some indirect influence on the original settlement. Attorneys' fees are allocated to the attorneys who negotiate the settlement for the class.

27. To sum up, the formula Judge Posner adopted in *In re Trans Union* has important advantages, and it should be followed in the present case. The formula creates incentives for both first-settling counsel and objecting counsel to pursue settlements that create value for the classes they represent. It disincentivizes the consumption of judicial resources and attorney energy on expensive determinations of fees based on numerous and hard-to-prove factors. And it focuses on the economic substance of the settlement, not on formal labels, disparagement of counsel's motives, or speculations about other factors.

The original settling party should be awarded 100% of the fees in the original settlement.

28. As I have stated, fee awards in class actions exist to incentivize bringing meritorious class actions on behalf of injured individuals. For the fee award in this case to provide this incentive, it is essential as a matter of economic logic that *Echard* counsel, as the original settling party, receive 100% of the attorneys' fee on the value of the original settlement. There are several reasons for this.

29. First, and most obviously, *Echard* counsel would have received 100% credit for the $94 million negotiated, had the California counsel not objected to that settlement (and subject to the Court's approval, of course).

30. Second, as explained by Judge Posner in *In re Trans Union* and described above, the original $94 million settlement was an asset created by *Echard* counsel, and other counsel have no claim to a stake in the fees for that settlement. Notably, the $40 million original settlement in *In re Trans Union* was deemed a valuable asset created by the originally settling counsel, despite the court's rejection of that settlement. This makes sense because, as Professor Cole discusses in her declaration, the $94 million here (and the $40 million in *In re Trans Union*) set the presumptive starting settlement value at the beginning of any efforts to renegotiate.

31. Third, and less obviously, awarding 100% of fees on the original settlement to the counsel that originally reached that settlement is essential to creating incentives for high-value objections and disincentives for low-value (or even negative-value) objections. The key idea here is this: If an objector can get a share of the fees from the original settlement by raising an objection, then lawyers will have incentive to raise objections *even when the objections do not increase the amount that class members ultimately receive.* This is because an objector can profit from getting a share of the original settlement, even if they do not meaningfully increase the size of the settlement to the class.

32. Under what I believe is and should be the rule (i.e., the *In re Trans Union* formula), attorneys' fees incentivize *only valuable objections*, because an objector's fees are based upon incremental improvement above and beyond the original settlement amount. An objector who increases the settlement amount above the original amount by millions is rewarded with substantial fees; an objector who increases the settlement amount by zero gets zero in fees.

33. But in a world where objectors can collect a share of the attorneys' fees from the original settlement amount, trivial and worthless objections become profitable. In this world, objectors will raise objections no matter how small the increase in the class settlement—even a penny. This is because raising any valid objection guarantees a share of the attorneys' fees for the original settlement. The class, though, benefits from an objection only if it leads to a meaningfully larger settlement amount. An objection that leads to no gain, or even a small gain in the settlement value is worse than nothing, because any modicum of gain to the settlement amount is offset by the resources consumed by the additional settlement negotiations, judicial effort, and delay in distributing relief to the class. In short, allowing objectors to grab a share of the attorneys' fees from the original settlement creates strong incentives for weak and wasteful objections. A virtue of the *In re Trans Union* formula is that it creates incentives for objectors to bring only objections that generate significant increases in value for the class.

34. I'll note that this logic is validated by the circumstances of the present case. California counsel raised their objections and, together with *Echard* counsel, pursued global mediation for a major increase in the size of the class and the total settlement amount. The *In re Trans Union* formula rewards high-value objections such as these. If we insert the $91 million increase in settlement value in the present case and assume a 25% attorneys' fee, then California counsel would receive $91 million × 25% attorneys' fee × 50% split under *In re Trans Union* = $11.375 million. (Note that I assume a 25% attorneys' fee award to be consistent with the maximum award provided by the settlement agreement, here, but I am not opining on the proper percentage the attorney's fee award should be in this case.) This is significant compensation for an objector. (For comparison, the objectors in *In re Trans Union* precipitated an increase in the settlement of $70 million and the court said they should have been entitled to about $6.9 million,

although they recovered somewhat less than this because one of the objectors did not appeal their fee award. 629 F.3d at 748.) Of course, California counsel would prefer to receive even greater fees, naturally! But the goal of the allocation of fees is to incentivize objections when they would lead to big increments in the size of the settlement, while discouraging wasteful objections, and the *In re Trans Union* formula accomplishes this, under the facts of this case and generally.

35. Furthermore, here, *Echard* counsel have informed the Court that under the *In re Trans Union* fee apportionment methodology, *Echard* counsel would increase the benefits to the class by not seeking the maximum 25% of the first $94 million or 12.5% on the additional $91 million. The *In re Trans Union* approach facilitates such actions by ensuring that whatever fees they relinquish will go to the benefit of the class, rather than to inflating the fees of the other plaintiffs' counsel.

36. In short, incentives for the class to obtain relief, and to incentivize meritorious actions, should guide the court's approach to setting fees. Because of that, there should be 100% of the fees on the $94 million going to the original settling plaintiffs, and then the rest shared. The key here is that this is what creates value for the class.

Attorney fee apportionment should not be based on lodestar.

37. When competing plaintiff groups are competing for fees from the same settlement, comparing the plaintiffs' groups' lodestar totals is a poor proxy for determining which group added value to the settlement. I have already shared my opinion that it is best to apply the strictly formulaic approach used in *In re Trans Union*. A percentage-based formula like the one in *In re Trans Union*, rather than an hours-based approach to awarding or allocating fees, is desirable for a basic reason: from an economic point of view, the court should be compensating counsel based on their outputs, not on their inputs.

38. Rules for allocating fees should incentivize counsel to create value for the class. Thus, to the extent possible, those rules should allocate fees based on exactly that value. Class counsel's "output"—the settlements they generate for the class—is what is valuable to the justice system, and awarding larger fees for larger settlements incentivizes the creation of exactly that. Class counsel's "input"—the time spend on a case—has no inherent value to the system; it is a means to an end. Indeed, it is a cost to the system, not a benefit, because we would rather have the same output at a lower cost in terms of counsel's time and effort. Awarding larger fees for longer hours of work incentivizes creating a cost, not a benefit. "Busy work" for the sake of having hours to report is simply waste.

39. Of course, there are contexts in which attorneys are compensated by the hour rather than on a percentage basis. This is not ideal, for the reasons given above, but in some circumstances hourly compensation represents a desirable arrangement due to the circumstances. For example, when I was in private practice, I billed my clients by the hour. This is because the clients I represented were primarily defendants in civil actions, and it is hard to measure the value that defense counsel creates, since it is damages *avoided* (an amount that cannot be observed or verified) as opposed to the value plaintiff's counsel creates, which is damages *awarded* (an amount easily observed and verified).

40. Crucially, though, considerations like these are absent in the context of class counsel. The value class counsel create for the class is easily observed. And the purpose of class counsel fees is indeed to align the incentives of counsel and the class. Thus, allocating attorneys' fees based on the value created for the class, rather than on a lodestar method, makes more sense.

41. Further, a percentage-based method has the additional merit of simplicity. It does not require the court to pore over billing records. This is a costly tax on judicial resources,

especially given that the court would need to scrutinize billing records in detail to determine which tasks added real value, and whether a reasonable amount of time was spent on those tasks.

42. I should note that I am not claiming that lodestar has no place in the determination of attorneys' fees in class action litigation generally. Rather, my argument is specifically that when the contributions of two competing groups of counsel are being compared for purposes of allocating attorneys' fees between them, the key is to employ a rule that creates the right incentives for counsel to efficiently create value for the class and to conserve judicial resources. *In re Trans Union* provides such a rule. And even if the court were to choose a different rule than *In re Trans Union*, the basic principles in play would call for a rule that allocated fees based on the settlement amounts generated, rather than hours spent.

Who filed suit first should not be given weight in allocation.

43. Placing weight on who was the first to file would improperly incentivize a race to the courthouse and increase the burden on the court, without benefit to the class.

44. Prioritizing first-filing counsel in the allocation of attorneys' fees would incentivize counsel to file suit as fast as possible in order to maximize their claim to attorneys' fees in the event of settlement, regardless of whether that counsel's actions are value-creating or value-destroying for the class claims. Haste to file increases the risk of a poorly crafted complaint, the naming of putative class representatives who are inadequate, the filing of complaints based on incomplete information, or groundless complaints being filed because ascertaining whether a claim has merit is time consuming. All of these potential outcomes jeopardize potentially valuable class claims and burden the court with unnecessary or premature litigation. Even in cases like this one, which you might call a "public domain" case because the unlawful conduct was widely reported in public media, a race to the courthouse is problematic.

While the wide reporting of wrongdoing reduces the risk of a groundless complaint (since the basis for the claim is public knowledge), all of the other risks are present.

45. Also, and especially in a public domain case, the drafting and filing of complaints has no direct or quantifiable benefit to the class. The class only benefits when counsel are able to successfully convert a claim into valuable compensation for the class, through negotiation or judgment. Fee allocation rules rightfully ignore "achievements" lacking discernible class benefit.

46. Further, even a factor as simple as "who filed first" can increase the decision-making burden on the court. This is especially true in "public domain" cases like the present case or *In re Trans Union*. In cases like these, there are numerous actions filed, and different groups of putative class counsel may team up with one another, leading to the creation of consolidated actions that contain a mix of cases filed at different times. Who is the "first filing" counsel when different counsel filed their initial actions at different times, but each group of counsel are now representing classes containing plaintiffs who filed at different times?

47. In *In re Trans Union*, the first-settling plaintiff group included plaintiffs who filed their cases several years after the first case was filed. Judge Posner endorsed giving the first-settling group credit for the entirety of the initial settlement amount, despite many of the attorneys having filed their cases well after the first-filed case. This is the right approach, and it applies equally to the case at bar. The California plaintiffs are a group of plaintiffs who filed at different times. Accordingly, to the extent a court finds value in filing a case first, to whom does the Court give credit for filing first? Does it impute that value on the later-filed plaintiffs who eventually partnered with the first-filed plaintiff? And if so, why not impute that earlier filing to *all* the plaintiffs, now that California counsel are co-counsel with *Echard* counsel? These questions are as puzzling as they are pointless. Giving weight to first filing creates poor

incentives, so the Court should avoid doing so. And the fact that figuring out who filed first can be costly only reinforces the wisdom of avoiding this factor.

Other factors and incentives are present here.

48. The economic analysis of class action settlement is extremely complex, so this Declaration focuses upon what I believe are the key economic principles, incentives, and considerations for the matter at hand.

49. Additional factors, beyond those that I have emphasized above, could further reinforce the wisdom of Judge Posner's approach in *In re Trans Union*. For example, what incentives would the *In re Trans Union* approach create for the use of mediation to reach class action settlements? In this respect, the Court has the benefit of the opinion of Professor Cole.

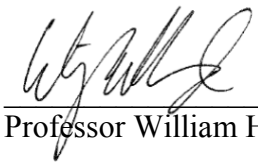
50. I agree with Professor Cole's declaration, which states that the courts should incentivize early settlement when sufficient information is available. I will not recapitulate the reasoning that already appears in her declaration, but in short, use of mediation has been found to ease burdens on the courts and reduce litigation costs, while resolving disputes faster. I agree with Professor Cole that *Echard* counsel should be rewarded for their successful use of a careful mediation process with a qualified third-party neutral to facilitate early resolution.

51. I also concur with Professor Cole's opinion that if the Court awards California counsel fees from the $94 million that *Echard* Counsel negotiated, it would impose a disincentive against the use of mediation or additional negotiations to resolve objections to proposed settlements. Class counsel who negotiate a settlement will have incentive to resist any objections to a proposed settlement, lest objectors gain a share of their attorneys' fees from the original settlement. In contrast, the *In re Trans Union* approach would encourage class counsel to consider tools such as mediation to increase a settlement, because they do not stand to lose

anything, and in fact stand to gain, from a cooperative process that minimizes the burden on the court. This is why, as Professor Cole articulates, fee awards should reward settling counsel for agreeing to negotiate with objectors to resolve the objections.

52. The *In re Trans Union* approach, by rewarding results rather than gamesmanship, would allow this Court to reward both groups of counsel for their contributions to the ultimate settlement. It would avoid penalizing *Echard* counsel for pursuing the path of mediation rather than confrontation. This does justice to the parties and counsel in this case, and importantly, it sets the right incentives for future class actions.

Executed this 23rd day of October 2024 in Chicago, Illinois:



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University of Southern California, B.A. and M.A. in Economics, *summa cum laude*, 1997

Selected Academic Publications

Aparna Chandra, Sital Kalantry, and William H.J. Hubbard, COURT ON TRIAL: A DATA-DRIVEN ACCOUNT OF THE SUPREME COURT OF INDIA (Penguin Random House India 2023)

Ronen Avraham and William H.J. Hubbard, *Civil Procedure as the Regulation of*

Externalities: Toward a New Theory of Civil Litigation, 89 UNIVERSITY OF CHICAGO LAW REVIEW 1 (2022).

Yun-chien Chang and William H.J. Hubbard, *New Empirical Tests for Classic Litigation Selection Models*, 23 AMERICAN LAW AND ECONOMICS REVIEW 348 (2021).

William H.J. Hubbard, CIVIL PROCEDURE: AN INTEGRATED APPROACH (Foundation Press 2021) (casebook).

William H.J. Hubbard, Swanson v. Citibank *and the 1L Canon*, 87 UNIVERSITY OF CHICAGO LAW REVIEW 2733 (2020).

Ronen Avraham and William H.J. Hubbard, *The Spectrum of Procedural Flexibility*, 87 UNIVERSITY OF CHICAGO LAW REVIEW 883 (2020).

William H.J. Hubbard, *A replication study worth replicating: A comment on Salmanowitz and Spamann*, 58 INT'L REV. L. & ECON. 1 (2019) (available online at https://doi.org/10.1016/j.irle.2018.12.002).

Aparna Chandra, William H.J. Hubbard, and Sital Kalantry, *The Supreme Court of India: An Empirical Overview of the Institution*, in A QUALIFIED HOPE: THE INDIAN SUPREME COURT AND PROGRESSIVE SOCIAL CHANGE, Gerald N. Rosenberg and Sudhir Krishnaswamy, eds. (Cambridge: Cambridge University Press 2019).

Yun-chien Chang and William H.J. Hubbard, *Speedy Adjudication in Hard Cases and Low Settlement Rates in Easy Cases: An Empirical Analysis of Taiwan Courts with Comparison to U.S. Federal Courts*, in SELECTION AND DECISION IN JUDICIAL PROCESS AROUND THE WORLD: EMPIRICAL INQUIRES, Yun-chien Chang, ed. (Cambridge: Cambridge University Press 2019).

William H.J. Hubbard and David A. Hyman, *What's in a Name? A Taxonomy of Replication*, 60 INT'L REV. L. & ECON. (2019) (https://doi.org/10.1016/j.irle.2019.105851).

Aparna Chandra, William Hubbard, and Sital Kalantry, *From Executive Appointment to the Collegium System: The Impact on Diversity in the Indian Supreme Court*, 51 VRÜ [VERFASSUNG UND RECHT IN ÜBERSEE] 273 (2018) (available online at https://doi.org/10.5771/0506-7286-2018-3-273)

Aparna Chandra, William H.J. Hubbard, and Sital Kalantry, *The Supreme Court of India: A People's Court?* 1 INDIAN LAW REVIEW 145 (2017)

William H.J. Hubbard, *Quantum Economics, Newtonian Economics, and Law*, 2017 MICHIGAN STATE LAW REVIEW 425.

William H.J. Hubbard, *The Effects of* Twombly *and* Iqbal, 14 JOURNAL OF EMPIRICAL LEGAL STUDIES 474 (2017) (lead article).

William H.J. Hubbard, *Sinking Costs to Force or Deter Settlement*, 32 J. L. ECON. & ORG. 545 (2016).

William H.J. Hubbard, *A Fresh Look at Plausibility Pleading*, 83 U. CHI. L. REV. 693 (2016).

William H.J. Hubbard, *Yong-Shik Lee: "Call for a New Analytical Model for Law and Development": A Comment*, 8 L. & DEV. REV. 271 (2016).

M. Todd Henderson and William H.J. Hubbard, *Judicial Noncompliance with Mandatory Procedural Rules under the PSLRA*, 44 J. LEGAL STUD. S87 (2015).

William H.J. Hubbard, *The Discovery Sombrero, and Other Metaphors for Litigation*, 64 CATHOLIC UNIV. L. REV. 867 (2015).

William H.J. Hubbard, *An Empirical Study of the Effect of Shady Grove v. Allstate on Forum-Shopping in the New York Courts*, 10 J. L., ECON., AND POLICY 151 (2013).

William H.J. Hubbard, *Testing for Change in Procedural Standards, with Application to* Bell Atlantic v. Twombly, 42 J. LEGAL STUD. 35 (2013).

William H.J. Hubbard, *Optimal Class Size,* Dukes*, and the Funny Thing about* Shady Grove, 62 DEPAUL L. REV. 693 (2013).

William H.J. Hubbard, *Another Look at the Eurobarometer Surveys*, 50 COMMON MARKET L. REV. 187 (2013).

William H.J. Hubbard, *The Phantom Gender Difference in the College Wage Premium*, 46 J. HUMAN RESOURCES 568 (2011).

Gary S. Becker, William H.J. Hubbard, and Kevin M. Murphy, *Explaining the Worldwide Boom in Higher Education of Women*, 4 J. HUMAN CAPITAL 203 (2010).

Gary S. Becker, William H.J. Hubbard, and Kevin M. Murphy, *The Market for College Graduates and the Worldwide Boom in Higher Education of Women*, 100 AMER. ECON. REV.: PAPERS AND PROCEEDINGS 229 (2010).

Selected Working Papers

William H.J. Hubbard, *Courts and Arbitration through the Lens of Supply and Demand*

William H.J. Hubbard, *Costly Signaling, Pleading, and Settlement*

William H.J. Hubbard, *Stalling, Conflict, and Settlement*

Selected Professional Activities

Editor, JOURNAL OF LEGAL STUDIES (2013–present).

Board Member, SOCIETY FOR EMPIRICAL LEGAL STUDIES (2016–present); AMERICAN LAW AND ECONOMICS ASSOCIATION (2017–2020, 2021–2022)

Co-President, CONFERENCE ON EMPIRICAL LEGAL STUDIES, University of Chicago Law School (Oct. 13–14, 2023)

Co-organizer, INTERNATIONAL JUNIOR SCHOLARS FORUM, ETH Zurich/Tsinghua University Law School/University of Chicago Law School (Dec. 1-3, 2020; Oct. 26-28, 2021, June 15–16, 2023)

Co-organizer, EARL B. DICKERSON CENTENNIAL CONFERENCE, University of Chicago Law School (Oct. 30, 2020; April 16, 2021)

Area Organizer, AMERICAN LAW AND ECONOMICS ASSOCIATION CONFERENCE 2015, 2017, 2018, 2022

Member, AMERICAN ECONOMIC ASSN.; AMERICAN LAW AND ECONOMICS ASSN.; SOCIETY FOR EMPIRICAL LEGAL STUDIES; AMERICAN BAR ASSN.; ILLINOIS BAR; CREDO (CATHOLIC RESEARCH ECONOMICS DISCUSSION ORGANIZATION).

Referee for HARVARD UNIVERSITY PRESS; JOURNAL OF LAW AND ECONOMICS; JOURNAL OF LEGAL STUDIES; JOURNAL OF POLITICAL ECONOMY; JOURNAL OF LAW, ECONOMICS, AND ORGANIZATION; INTERNATIONAL JOURNAL OF THE ECONOMICS OF BUSINESS; INDUSTRIAL RELATIONS; INTERNATIONAL REVIEW OF LAW AND ECONOMICS; JOURNAL OF INSTITUTIONAL ECONOMICS; STANFORD JOURNAL OF COMPLEX LITIGATION; JOURNAL OF LEGAL ANALYSIS; SUPREME COURT ECONOMIC REVIEW; ANNUAL REVIEW OF LAW AND SOCIAL SCIENCE; LAW AND SOCIAL INQUIRY; NORTHWESTERN UNIVERSITY LAW REVIEW; OXFORD UNIVERSITY PRESS.

University of Chicago Law School Diversity Committee: Co-Chair, 2016–2019, Chair, 2019–2020, 2022–2023

Selected Teaching

Civil Procedure; Advanced Civil Procedure; Canonical Ideas in American Legal Thought (with Nicholas Stephanopoulos); Critical Race Studies; Workshop on Law and Economics; Greenberg Seminar: Law and Disaster (with Omri Ben-Shahar)

JSD Students: Rishad Chowdury (2016), Adi Leibovitch (2017), Weijia Rao (2019), Ramon Feldbrin (2022), Ziv Schwartz (2022), Yali Peng (2022), Krithika Ashok (2023)

PhD (Economics) Students: Elizabeth Chorvat (2013), Maria Maciá (2019)

Selected Presentations

"Court on Trial: Lessons for Court Reform from Empirical Studies of the Supreme Court of India." The Berger International Speaker Series and South Asia Program, Cornell Law School (March 12, 2024).

"This Whirlwind." University of Chicago Law School Midway Dinner Faculty Address (February 1, 2024). https://www.law.uchicago.edu/news/whirlwind-most-wonderful-part-law-school.

"Book Discussion on Court on Trial: A Data-Driven Account of the Supreme Court of India." Virtual Roundtables on Asian Law Series, Centre for Asian Legal Studies, National University of Singapore (Nov. 28, 2023). https://www.youtube.com/watch?v=a93n6iQ_DSw.

"Diversity Jurisdiction 2022: What We Know, What We Don't, And Where We Might Go." Law & Society Association Annual Meeting, at ISCTE University Institute of Lisbon (July 14, 2022).

"Courts and Arbitration through the Lens of Supply and Demand." 25th Annual Meeting of the Latin American and Iberian Law and Economics Association (ALACDE), Pontificia Universidad Católica of Ecuador (held online, October 21, 2021).

"The Supreme Court of India: Controversy and Reform." American Bar Foundation Speaker Series, Northwestern University Law School (Mar. 11, 2020).

"Toward a New Theory of Civil Procedure." Law and Economics Colloquium, Northwestern University Law School (Feb. 6, 2020).

"New Directions in the Empirical Study of Courts." China University of Political Science and Law (June 2, 2018).

"Procedural Flexibility in Three Dimensions." With Ronen Avraham. Notre Dame Law School Faculty Colloquium (February 1, 2018).

"War is *Not* in the Error Term: Costly Litigation and Conflict under Complete Information." Workshop and Lecture Series in Law & Economics, ETH Zürich (March 13, 2018).

"The Supreme Court of India: An Empirical Overview." First Conference on Empirical Legal Studies – Asia, Academia Sinica, Taiwan (June 15, 2017).

"Testing Litigation Selection Hypotheses with Taiwanese Court Data." With Yun-chien Chang. Symposium: Do Courts Rule Efficiently? Empirical Inquiries, 4th Empirical Studies of Judicial Systems Int'l Conference, Academia Sinica, Taiwan (June 13, 2017).

"Quantum Economics, Newtonian Economics, and Law." University of Texas Law School Law & Economics Seminar (March 6, 2017).

"The Unintended Consequences of Case-by-Case Rescue: An Empirical Study of Indian Supreme Court Cases from 2010 to 2014." Columbia Law School Colloquium on Courts and Legal Process and Legal Theory Seminar (February 27, 2017).

"A Different Kind of Supreme Court? Empirical Study of the Supreme Court of India." Chicago's Best Ideas, University of Chicago Law School (January 17, 2017).

"The Fourfold Credibility Problem in Law and War." Faculty Workshop, Cornell Law School (August 24, 2016).

"Costly Signaling, Pleading, and Settlement." 2016 Workshop on Law and Economics at the Stony Brook Center for Game Theory (July 14, 2016).

"The Empirical Effects of *Twombly* and *Iqbal*." Faculty Workshop, University of Virginia Law School (March 4, 2016).

"Roundtable on Empirical Study of the Supreme Court of India: A Consultation with Experts." With Aparna Chandra and Sital Kalantry. University of Chicago Center in Delhi (January 16, 2016).

"Examining the Empirical Effects of *Twombly* and *Iqbal*." Courts and Litigation Panel I, Conference on Empirical Legal Studies, Washington University Law School (October 30, 2015).

"The Empirical Effects of *Twombly* and *Iqbal*." Faculty Workshop, Harvard Law School (October 29, 2015).

"The Discovery Sombrero and Other Metaphors for Litigation." Law and Economics Seminar, Harvard Law School (September 29, 2015).

"The Supreme Court of India: An Institutional Overview." Conference: The Supreme Court of India and Progressive Social Change, Columbia University Law School (September 25, 2015).

"The Fourfold Credibility Problem in Law and War." Law and Economics Workshop, Hebrew University Faculty of Law (May 27, 2015).

"Newtonian Law and Economics, Quantum Law and Economics, and the Search for a Theory of Relativity." 2015 Coase Lecture, University of Chicago Law School (April 14, 2015).

"Measuring the Empirical Effects of *Twombly* and *Iqbal*." Law and Economics Workshop, University of Michigan Law School (April 2, 2015).

"Measuring the Empirical Effects of *Twombly* and *Iqbal*." Law and Economics Workshop, Boston University Law School (March 24, 2015).

"A General Model of Nuisance Suits." Law & Economics Workshop, University of Toronto Faculty of Law (February 24, 2015).

"Theory and Data on Plausibility Pleading." Chicago Junior Faculty Workshop, Chicago-Kent College of Law (January 30, 2015).

"Nuisance Litigation." Law & Economics Workshop, Tel Aviv University Faculty of Law (May 19, 2014).

"Nuisance Litigation." Law & Economics Workshop, Berkeley Law School (April 14, 2014).

"The Paradoxes, Real and Imagined, of *Twombly* and *Iqbal*." Law, Behavior, and Social Science Colloquium. University of Illinois Law School (April 22, 2013).

"Two Models of Pleading." Northwestern University Law and Economics Colloquium (November 29, 2012).

"Another Look at the Eurobarometer Contract Law Survey Data." European Contract Law: A Law-and-Economics Perspective. University of Chicago Law School and the Institute for Law and Economics (April 27, 2012).

"Too Big Not to Fail?" The 22nd Annual DePaul Law Review Symposium: *Class Action Rollback?* Wal-Mart v. Dukes *and the Future of Class Action Litigation*. DePaul University College of Law (February 24, 2012).

"Testimony for the Hearing on the Costs and Burdens of Civil Discovery." United States House of Representatives, Committee on the Judiciary, Subcommittee on the Constitution (December 13, 2011).

"The Problem of Measuring Legal Change, with Application to *Bell Atlantic v. Twombly*." Center on Law, Economics, and Organization Workshop, USC Gould School of Law (October 17, 2011).

CERTIFICATE OF SERVICE

This is to certify that a true and exact copy of the foregoing was filed electronically on the 28th day of October, 2024, via the Court's electronic filing system and notice of this filing will be sent to all Parties by operation of the Court's electronic filing system.

/s/ Alyssa Koepfgen
Alyssa Koepfgen
Attorney for Echard Plaintiffs

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

In re: WELLS FARGO FORBEARANCE SETTLEMENT LITIGATION	Case No.: 2:24-cv-01026-MHW-EPD Judge Michael H. Watson Magistrate Judge Elizabeth A. Preston Deavers DECLARATION OF PROFESSOR SARAH RUDOLPH COLE

1. My name is Professor Sarah Rudolph Cole, the Michael E. Moritz Chair in Alternative Dispute Resolution at Moritz College of Law (Ohio State University). I declare the following truthfully and on the basis of my personal knowledge and experience, to which I am competent to testify.

2. Over the last thirty years, I have mediated over 100 cases, trained over 300 mediators, as well as written, taught and lectured about mediation both in my capacity as a chaired professor of law and professional mediator. I am also the lead author on the primary treatise in the field – Mediation: Law, Policy & Practice (3d ed. 2011 with annual supplements). As part of revising my treatise, each year I review every federal and state decision that involves judicial review of a class action mediated settlement. I teach mediation to law students, which includes training them as mediators, educating them about the important policy issues in mediation and observing them mediating. For more about my extensive background in the field, please see my curriculum vitae, attached hereto as Exhibit A, which also includes a list of my publications authored in the previous ten years.

3. I have not testified as an expert in the last four years, either at trial or deposition.

4. For work preparing this declaration, I am being compensated at a rate of $595 per hour.

Expert Opinions

5. I have been asked by counsel for the *Echard* Plaintiffs to share my opinions about various topics relating to the settlement process in this case, including the original mediation before Retired District Court Judge Andrew Guilford (hereafter "Guilford mediation") and the global mediation before Retired District Court Judge Layn Phillips (hereafter "global mediation"). I have reached the following opinions to a reasonable degree of professional certainty, which are discussed further in this declaration:

- The Echard plaintiffs acted reasonably in engaging in early mediation with Wells Fargo.
- Mediation with a qualified third-party neutral is the gold standard for ensuring a negotiation is arms-length and non-collusive. The Guilford mediation had the hallmarks of a fair and arms-length mediation, such that the settlement of the *Echard* matter (hereafter "Echard settlement") should be presumed to be fair. A settlement based upon a mediator's proposal, reached after four mediation sessions, cannot very well be deemed collusive.
- Judicial policy should encourage class counsel who (1) seek to resolve cases early and (2) attempt to resolve objections to a proposed settlement through global mediation with the objectors. These actions can conserve judicial resources and expedite and enhance relief to the Class.

- It would undermine judicial policy favoring mediation to punish class counsel for engaging in early mediation or later engaging in global mediation to resolve objections and achieve global peace. Such a ruling would force class counsel to resist any changes or improvements to a proposed settlement, requiring objections to be litigated rather than settled, and depriving the class of a timely or enhanced recovery.
- Stated another way, if the success of global mediation to resolve objections (which typically improves a settlement) is viewed as impugning the original settlement or as a basis for punishing the original settling plaintiffs, nobody would engage in global mediation.
- A later improvement of a settlement through global mediation does not indicate that the original settlement was collusive, the result of a reverse auction, or even unreasonable. There are many reasons why the settlement value of a case may increase over time, including that defendants may be willing to pay a premium to the hold-outs to gain final resolution of a dispute.
- Partial settlements, like the Echard settlement, can be seen as facilitating the global resolution of a dispute by limiting the issues to be resolved and anchoring the parties' expectations. The first settlement often serves as a bellwether that establishes claim value and influences the outcome of later mediations.
- Here, for example, the Echard settlement already achieved a $94 million settlement for 186,781[1] accounts ($503.26/account), so a mediator facilitating

[1] I understand that Counsel provided the original and amended class sizes based upon refreshed data provided by Wells Fargo, with the understanding that the numbers could change slightly. Such changes would not impact my testimony.

global mediation would expect the parties to begin discussions at a number well over the $94 million because of the original agreement. Since the global mediation added approximately 86,262 additional accounts to the settlement, the parties to the global mediation would reasonably expect Wells Fargo to pay more than $503.26 for each new account in the class, or at least an additional $43 million. In this way, one can reasonably see the Echard settlement as setting a global mediation floor of approximately $137 million, without accounting for inflation.

- Here, also, the Echard settlement established numerous key terms for the global settlement, simplifying the issues that needed to be resolved in the global mediation. For example, the Guilford mediation and Echard settlement largely established the class definition, the distribution plan (37.2% to be paid immediately followed by a claims process), incentive payments, and the release. Comparing the two settlements, the global settlement is fairly viewed as an amended settlement agreement.
- In addition, a partial settlement creates momentum for settlement. Here, for example, one can view the early Echard settlement as incentivizing all of the parties to come to the table.
- The mediation agreement indicates that the global mediation was a 3-way mediation between Wells Fargo and the two plaintiff teams. The mediation does not convert to a 2-party mediation simply because some parties take the lead on negotiating certain terms, which are then subject to all parties' agreement. Mediators often allow certain parties to negotiate certain issues simply for

efficiency or for other strategic reasons. So long as all of the parties agree to the settlement coming out of the mediation, as occurred here, the specific roles played during the mediation are immaterial and confidential.

- Relatedly, the mediation privilege, protecting mediation communications and conduct during the mediation, is critical to the success of the mediation process and should be strictly enforced.

The Wisdom Of Early Mediation

6. Strategic decisions about when to engage in mediation involves consideration of many factors, including balancing litigation risks at different phases of the proceeding, the defendants' business objectives, and the plaintiffs' interest in limiting risks and expediting resolution. In my view, it always makes sense to mediate a dispute whenever there is an opportunity to do so, because of the low stakes and low risk involved. Parties are not required to settle at mediation, and it remains confidential, so nothing can be used against any of the mediating parties in a subsequent civil, administrative, or arbitral proceeding (I speak to the importance of maintaining mediation confidentiality further below). And progress can be made during mediation to bridge gaps on discrete issues, even where a complete settlement remains elusive. Parties must also consider that opportunities to negotiate with an adverse party are not always present and can disappear, so it usually makes sense to accept offers to mediate.

7. I have reviewed the documents in this case and had several discussions with counsel. Here, I believe with a reasonable degree of legal probability and certainty that the *Echard* Plaintiffs' decision to mediate early made sense, given the facts of this case, including: the novelty and complexity of the underlying dispute, the expenditures that would be required throughout the course of litigation, pending dispositive motions, and Wells Fargo's willingness

to engage in mediation. A party faced with a pending dispositive motion that threatens to weaken their case may reasonably believe that their leverage is greater before the courts rule on the pending motion. Here, I understand that Wells Fargo had filed a Motion to Dismiss the *Echard* case, which remained undecided, and that following the parties reaching the $94 million settlement, claims were dismissed in a related action, further suggesting to me that the *Echard* Plaintiffs' counsel made a reasonable decision to mediate when they did. And given the low cost and low risk of mediating early (or at any time), a litigant's choice to mediate in this type of dispute and situation is reasonable. *See* Cole et. al., Mediation: Law, Policy & Practice §5:11 (3d ed. 2011 and supplements 2012-23) (several mediation experts and empirical evidence support the argument that early referral to mediation can be effective and increases the possibility that parties will reduce their expenses).

8. Indeed, empirical research supports the argument that early mediation is effective and advantageous for the parties and the court system. *See* Cole at § 5:11 and §§14.2 to 14:13 (discussing empirical studies supporting this proposition). Many experts, including myself, believe that the best time to mediate is the earliest practical time at which the parties can evaluate their case. Early mediation efforts typically improve the likelihood of early case disposition at a much lower cost to the parties. Accordingly, upon review of the case and its timeline, I conclude that the timing of the Guilford mediation, and of the resulting settlement, was perfectly reasonable, and indeed advantageous.

The Guilford Mediation Had The Hallmarks Of A Fair And Arms-Length Mediation

9. My review of Judge Guilford's declaration, the mediator for the original settlement, convinces me to a reasonable degree of professional certainty that the first successful mediation conducted in this case was an arms-length mediation and that there was no collusion

among counsel during the mediation. Judge Guilford has an impeccable reputation as a judge and now mediator, and I know Judicate West to have high standards and a rigorous screening process for its third-party neutrals. In his declaration, Judge Guilford describes the number of days the parties mediated (four) and the intensity of the mediations, convincing me that this was an arms-length mediation. Equally powerful and compelling is that the dispute was resolved using a mediator's proposal, a figure originating from Judge Guilford. A settlement negotiated with such a mediation should be presumed fair.

10. Although I cannot testify to the details of Judge Guilford's mediation, I can speak to how qualified mediators typically conduct mediations. In a typical mediation, a mediator offers a mediator's proposal only after every other avenue for resolution has been exhausted. Moreover, a mediator would not create a mediator's proposal unless the mediator fully understood the facts, law, the parties' interests, and the risks and benefits of failing to settle. In a typical mediation, the mediator generates the proposal without party input and informs the parties that if they do not accept the proposal, the mediation will end. Here the parties accepted Judge Guilford's proposal, which is compelling evidence that the mediated Echard settlement was not the product of collusion and that each party reasonably believed it was a fair deal.

11. Although Judge Guilford's declaration considered alone is quite convincing that this mediated resolution was reasonable and not the product of collusion, even without that declaration, I would be convinced to a reasonable degree of legal certainty that in a complex case like this one, four days of mediation over six months before settling with a mediator's proposal demonstrates that the mediated settlement was the result of good faith negotiation and not a reverse auction. Furthermore, most mediations are conducted entirely in caucus so that the parties are not negotiating directly with each other but through the mediator. The mediator's role

is to ensure that the negotiations are conducted at arms-length. The presence of a neutral third-party will typically immunize the mediation process from party misbehavior.

Judicial Policy Favors Mediation And Resolving Settlement Objections Through Negotiation

12. Judicial policy has long been to encourage negotiated settlement of disputes and the use of ADR. Courts favor this policy for a variety of reasons, including reducing costs, easing the burden on the court system, and in the class action context, guaranteeing and expediting relief. Accordingly, in class actions, courts generally should, and typically do, reward class counsel who (1) seek to resolve cases early, and (2) attempt to resolve objections to a proposed settlement through global mediation with objectors.

13. Regarding judicial policy around early settlement, if courts were to find that early case resolution through an arms-length mediation is collusive or otherwise improper, it would disincentivize parties from participating in early mediation. That would be the opposite of the encouragement courts routinely give to parties to resolve disputes, including in the class action context. Such disincentives would lead to burdens for the courts and a waste of judicial resources. I agree with the empirical research that I have reviewed on this topic, which support parties' efforts to engage in early mediation and to resolve cases as soon as possible. It follows that to further this judicial policy, courts should incentivize early mediation and settlement by rewarding counsel that reach an arms-length negotiated settlement, when the court has the discretion to do so.

14. Similar to the benefits of early mediation, mediation can benefit the courts and parties when used to resolve objections to a settlement, such as in the class action context. In a class action, a settlement reached through mediation is typically contingent, since absent class

members have an opportunity to be heard and object and the court must approve the settlement before it takes effect.

15. There is not a lot of literature on the role of ADR in resolving objections to a settlement, but decisions reflect the important role of global mediation in resolving objections to class settlements *See e.g., Klee v. Nissan N. Am., Inc.*, No. CV 12-08238 AWT (PJWx), 2015 U.S. Dist. LEXIS 88270 (C.D. Cal. July 7, 2015) (global mediation involving objectors improved class settlement and resolved objection; counsel for originally settling plaintiffs appointed class counsel).

16. Global mediation to resolve objections is particularly important where unresolved objections threaten to prolong litigation and delay recovery for the class. The use of global mediation to resolve objections can ensure the quickest resolution of the case and can result in improvements to the class settlement, including sometimes additional compensation for class members.

17. The courts should strongly encourage and incentivize class attorneys to utilize global mediation to resolve objections and expedite and improve class recoveries without judicial intervention or prolonged litigation. Without such resolution, the courts would be faced with a protracted battle over objections to the original settlement which, if successful, would lead to the same improvements to the settlement that can be reached through mediation. It is much more efficient for objections to be resolved through an amended settlement, where possible. The Court will still have the final say on whether the amended settlement protects the class and meets standards for approval.

18. Moreover, it would strongly disincentivize global settlement if the court were to punish the original settling parties because they successfully pursued global mediation. In my

experience, no reasonable class action attorney would engage in global mediation if the very success of such mediation threatened their representation of the class or their right to get paid for achieving the original settlement.

19. I strongly disagree with the notion that improvements to a class settlement to resolve objections is evidence that the early mediation was collusive or that the original settlement was unfair. In my experience, second guessing a negotiated agreement, even after a rigorous mediation process, is misplaced Monday morning quarterbacking. Here, Judge Guilford's mediation appears to have been successful and valuable, including adding substantial value to the second, global mediation process.

20. Improvements to a class settlement to resolve objections and provide global peace do not show that the original settlement was unfair or inappropriate. Circumstances change, with different levels of uncertainty around different issues at different times, and different settlement amounts can be fair and reasonable at different points in time of the same dispute. In addition, as I've seen through my experience facilitating many negotiations, defendants often place a value on obtaining global peace and resolving an entire controversy. Thus, it is not a surprise that the defendants here would offer additional resources to eliminate entirely the risk of future litigation. Holdouts to settlement, or objectors to a negotiated settlement, can sometimes drive the hardest bargain to leverage the premium defendants often place on a final, global resolution. But the decision to hold out must be balanced against other considerations weighing in favor of earlier settlement, including the interests of the class to be certain of recovery, recover more quickly, as well as the interests of the court in early resolution.

21. When I consider what systemic impacts would result from courts punishing a first-settling class action plaintiff for renegotiating their settlement to resolve objections, I

conclude the impacts would be detrimental and should be avoided. Were courts to punish first-settling plaintiffs who agree to mediate with objectors in order to resolve their settlement objections and improve the settlement, it would have a chilling effect on mediated resolution. Plaintiffs' counsel would never agree to negotiate with objectors. This would lead to more contested litigation, more delays, raise costs and increase burdens on the court. Indeed the policy should be the opposite – to reward first-settling counsel for pursuing negotiated resolution of objectors' claims. Courts have incentivized this conduct. *See e.g. In re Trans Union*, 629 F.3d 741 (7th Cir. 2011) (Posner, J.); *Police Ret. Sys. of St. Louis v. Granite Constr. Inc.*, No. C 19-04744 WHA, 2022 U.S. Dist. LEXIS 47749, at *26-27 (N.D. Cal. Mar. 17, 2022) (the original settlement, not objector's improvements upon it, is the "monumental event" in the award of fees); *and see* Class Action Professional Objectors: What to Do About Them?, 39 Fla. St. U.L. Rev. 865, 879-880 ("the increment is a joint product of the efforts of class counsel and the objector").

The *Echard* Settlement Created Momentum And Was A Benchmark For The Global Settlement

22. Agreements to partially resolve a dispute, such as the *Echard* settlement, can facilitate the eventual full resolution. Here, the *Echard* settlement created momentum towards global settlement and set a benchmark for the value to be placed on the claims.

23. Here, by the time the parties went to global mediation, there was already a binding settlement for $94 million for about 186,781 mortgage accounts. So, a reasonable mediator of the global mediation would expect that the negotiations would start at well over $94 million. And once Wells Fargo had agreed to pay $94 million to partially resolve the claim, there was significant momentum going into global mediation.

24. The $94 million settlement also created a benchmark that would have made global resolution easier, as follows. The *Echard* settlement established a $503.26/loan benchmark (or bellwether).[2] Where there is an early settlement, and then later negotiations to resolve objections, including by expanding the class, the initial settlement would essentially establish a presumptive minimum settlement amount. In other words, if I knew that the class was going to increase from 186,781 loans to approximately 273,000, as the mediator, I would expect that negotiations over the settlement fund should start at approximately $137 million, as already established by the first agreement on a pro rata basis. I think a reasonable mediator would expect that as well. I would then expect a defendant to agree to a higher figure above that amount to obtain global resolution of all related cases against it, assuming that is possible. Another way of looking at the effect of the original settlement amount is that it has an "anchoring effect," a psychological term that means judgments about any subsequent agreement are influenced by the standard set by the original agreement. This essentially means the original settlement set a floor for relief, because in my experience, parties resist negotiating against themselves.

25. As I understand it, another factor in mediation over an amended class settlement is that it cannot dilute the recovery of the original settlement class and be approved, because it would harm the original settlement class. Thus, the amended settlement either needs to have two classes (the original class and the new class) or needs to provide everyone with at least the recovery provided in the original settlement. Here, I understand that the amended settlement agreed to expand the class but not create two classes.

[2] This figure rounds to the cent and is not adjusted for inflation. It is my understanding that economist Jonathan Shefftz calculated that, adjusted for inflation, the per-loan value of the *Echard* settlement is $527.13 in today's dollars, or a total inflation-adjusted benchmark value of approximately $143.9 million for a class of 273,000 loans.

26. In short, if I were the mediator asked to facilitate the negotiation of an amended settlement to add 86,262 mortgage accounts, I would recognize that the *Echard* settlement set a floor of about $137 million for global resolution (or about $43 million for the additional accounts), and I would expect to begin negotiations there.

27. There are other indications of a bellwether status at work here, and other ways that we can see that the *Echard* settlement formed the basis for and facilitated the global settlement. For example, the global settlement did not re-negotiate the distribution plan for the settlement. The *Echard* settlement provided a 37.2% automatic payment that would be sent out immediately, then a claims process for any remaining actual damages, with a final round of distribution for any funds that were remaining. The global settlement incorporates that same distribution plan and expressly states that the *Echard* settlement will be the benchmark for the distribution plan. In addition, the parties did not renegotiate the class definition, but merely tweaked the *Echard* settlement class definition to expand the class.

28. In other words, here, the global mediation did not try to recreate the wheel; it built upon the *Echard* settlement, primarily with an expansion of the class and the settlement fund. In this way the *Echard* settlement anchored and facilitated the global settlement.

29. Comparing the two settlements, as shown through the redline attached at **Exhibit B**, the global settlement is fairly described as an amendment to the *Echard* settlement.

Global Mediation To Resolve Objections Should Be Incentivized, Not Punished

30. I would stress again that policy considerations weigh heavily in favor of encouraging parties to use mediation throughout the litigation process because of its many benefits. Here, Echard and Wells Fargo reached an agreement early in the case but were willing

to participate in subsequent mediation with the objecting plaintiffs to improve upon it and ensure its approval. That the parties subsequently settled all their claims in a global settlement is not evidence that an earlier mediated settlement was problematic. The latter does not impugn the former. Decisions about when, how and whether to settle, and for how much, change throughout the course of litigation.

31. *Echard* Plaintiffs' counsel's willingness to continue to push for a global settlement, when a settlement of their clients' claims had already been reached, is admirable, indicative of *Echard* counsel prioritizing the interests of class members, and should be rewarded to encourage similar conduct in other cases. Without Echard's participation, additional resources for all plaintiffs might not have been obtained. Courts should make every effort to incentivize early settlers' participation in subsequent settlement discussions, when their participation will be useful to obtention of a global settlement agreement. Such participation benefits the parties and reduces the burden on the court system.

The Global Settlement Was The Result Of A Three-Party Mediation

32. I disagree with the suggestion that a two-party mediation led to the $185 million global settlement. As described above, the *Echard* settlement facilitated and anchored the global settlement and likely set a global settlement floor of approximately $137 million.

33. The global mediation was a three-party mediation. All three parties agreed to participate in the global mediation and to be bound by the mediation privilege, and all three parties agreed to the final settlement coming out of the mediation. *See* **Exhibit C** (mediation letter); **Exhibit D** (mediation agreement signed by all parties); **Exhibit E** (redacted term sheet signed by all parties).

34. A party should not be allowed to breach the mediation privilege by claiming that they played a greater role in negotiating certain issues. Because all conduct during mediation is privileged, mediators are free to delegate negotiation topics among the participants for efficiency or for any other reason. Often mediators have subcommittees or representatives negotiate certain issues. Provided that at the end of the day all the parties agree to the settlement, such delegation is immaterial and confidential. It would undermine the mediation process if every party felt that they had to negotiate every issue out of fear that they otherwise would get less credit for the settlement. Often a party can assist the mediator and the mediation process by allowing others to take the first stab at negotiating certain issues, knowing that at the end of the day they retain veto authority and that all the conduct during the mediation is confidential.

35. In sum, the Court should not breach the mediation privilege by allowing parties to make claims about what happened during mediation. Nor should it suggest that those who talk more during mediation play a more important role. The policies favoring mediation are better served by a neutral mathematical formula like that adopted by Judge Posner in *In re Trans Union*, which gives the originally settling party and objectors equal credit for the improvements to the settlement.

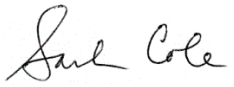
Mediation Confidentiality Is Vital

36. Relatedly, I understand there may be some dispute about the scope of confidentiality of the mediation proceedings in this case. Confidentiality of mediation communications is a cornerstone of the mediation process and essential to encourage party candor during mediation. The Uniform Mediation Act, and the vast majority of federal district court local rules, mandate that communications made during mediation cannot be admitted into evidence in any subsequent judicial, arbitral or administrative proceeding. The mediation

agreement signed by the three parties also guaranteed strict confidentiality of the global mediation. *See* **Exhibit D.**

37. Confidentiality is a core value of mediation. If litigants believe the confidentiality of mediation can be broken or overcome, it would undermine the effectiveness of mediation proceedings. Parties to mediation generally rely on confidentiality to speak candidly during negotiations in pursuit of an agreement, and piercing that confidentiality would have a serious chilling effect. Piercing mediation confidentiality should only be permitted in the rarest of circumstances. I have not seen any evidence regarding this matter that would justify piercing the mediation privilege for either of the mediations.

Executed this 11th day of October, 2024 in Columbus, Ohio,



Professor Sarah Rudolph Cole

EXHIBIT A

SARAH RUDOLPH COLE

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EDUCATION

University of Chicago Law School, J.D. 1990, *cum laude*

Editor-in-Chief, University of Chicago Legal Forum, 1989-90
Casper Platt Award for the Outstanding Paper Written in the Law School for 1989-90.

University of Puget Sound, B.A. American History, 1986, *cum laude*

ACADEMIC EMPLOYMENT

Spring 2022-24	**Visiting Professor, Universite Paris 2 (Fulbright)**
2020 - present	**Michael E. Moritz Chair in Alternative Dispute Resolution**
Fall 2019	**Visiting Professor, Harvard Law School**
Fall 2018 – present	**Steering Committee, Divided Community Project**
July 2006 – September 2021	**Director, Program on Dispute Resolution**
August 2012 – 2020	**John W. Bricker Professor of Law**
August 2005-2012	**Squire, Sanders and Dempsey Designated Professor of Law**
August 2002 – 2005	**Professor of Law**
June 1998 - August 2002:	**Associate Professor of Law**

Moritz College of Law, The Ohio State University, Columbus, Ohio
Courses Taught: Facilitation, Dispute Resolution Processes: Theory and Practice, Torts, Issues in Arbitration, Commercial and Labor Arbitration, Arbitration Practice, Mediation, Legal Writing, Labor Law

August 1997 - May 1998: Visiting Associate Professor of Law
University of Oklahoma College of Law, Norman Oklahoma

August 1995 to May 1997: Assistant Professor of Law
Creighton University School of Law, Omaha, Nebraska
Promoted to Associate Professor Spring 1997
August 1994 to August 1995: Visiting Assistant Professor of Law
Creighton University School of Law, Omaha, Nebraska

GRANTS

Fall 2021 – Present -- Primary Investigator, *University Collaboration on Overcoming Attitudinal and Situational Barriers to Collaborative Initiatives to Advance Racial Equity: A Confluence of Dispute Process Design, Law & Social Science*; recipient of a President's Research Excellence (PRE) Catalyst award in the amount of $199,995.00.

May – August 2021 – Primary Investigator, Ohio State University Outreach and Engagement Grant to support engaging with community leaders and distilling lessons learned from domestic state and local truth and reconciliation commission style processes into the second edition of "A Practical Guide to Planning Initiatives for Working to Advance Racial Equity".

PROFESSIONAL EMPLOYMENT

Associate, Seyfarth, Shaw, Fairweather & Geraldson, Chicago, concentrating in labor and employment law (1993-94).

Associate, Heller, Ehrman, White and McAuliffe, Seattle, concentrating in labor and employment law (1992-93).

Judicial and Administrative Clerk for the Hon. Eugene A. Wright, United States Court of Appeals for the Ninth Circuit, Seattle (1991-92).

Associate, Heller, Ehrman, White and McAuliffe, Seattle (1990-91).

AWARDS AND RECOGNITION

Recipient, 2022-23 ABA Section on Dispute Resolution Outstanding Scholarly Work Award
Recipient, Outstanding Book in the Field of ADR, International Institute for Conflict Prevention & Resolution for *Discussions in Dispute Resolution* (with co-editors Art Hinshaw and Andrea Schneider)
Recipient, Outstanding Professional Article, International Institute for Conflict Prevention & Resolution for *Arbitrator Diversity: Can It Be Achieved?*
Fulbright Specialist Roster

Member, American Bar Foundation Fellows (2021)
Member, American Legal Institute (ALI) (2020)
Scholar-in-residence, ABA Mid-Winter Labor and Employment Meeting (2018)
Alumni Award for Distinguished Teaching (2013) (Given to approximately 10 out of 8000 professors at Ohio State University each year)
Best First Year Professor Award (2011)
Student "Quid Pro Quo" Award (2003)
Student Bar Association Award, "Professor Who Goes Above and Beyond the Call of Duty," University of Oklahoma, April 1998
Winner, Judicial Fellows Competition, 1997-98
Phi Beta Kappa
Coolidge-Otis Chapman Honors Scholar
Outstanding Graduate from the University of Puget Sound, 1986
Five-time NCAA Division II swimming champion and 1985 Outstanding NCAA Division II Woman Swimmer
Member, University of Puget Sound Athletic Hall of Fame (inducted 2003)
Member, Tacoma-Pierce County Athletic Commission Hall of Fame (inducted 2007)

SCHOLARSHIP

BOOKS

DISCUSSIONS IN DISPUTE RESOLUTION, with Art Hinshaw and Andrea Schneider, eds. (Oxford University Press 2021).

DISPUTE RESOLUTION: NEGOTIATION, MEDIATION AND OTHER PROCESSES (7th ed. 2020) (with Stephen B. Goldberg, Frank E. A. Sander and Nancy H. Rogers).

MEDIATION: LAW, POLICY AND PRACTICE (3d ed. 2011) (with Nancy H. Rogers, James Coben, Peter Thompson and Craig A. McEwen) (supplements 1999-2022).

BOOK CHAPTERS

Sarah R. Cole and Kristen Blankley, Arbitration Chapter for DESIGNING SYSTEMS AND PROCESSES FOR MANAGING DISPUTES, Craig A. McEwen, Frank Sander, Nancy H. Rogers, and Robert C. Bordone (1st and 2nd ed. 2013 and 2019).

Sarah R. Cole and Kristen Blankley, Arbitration Chapter for THE HANDBOOK OF DISPUTE RESOLUTION, Bob Bordone and Michael Moffitt, eds.

ARTICLES

Sarah R. Cole, Grande Lum, Craig McEwen and Nancy H. Rogers, *"Framing" in Public Initiatives to Advance Racial Equity*, 38 OHIO STATE J. ON DISP. RESOL. 255 (2023)

Sarah R. Cole and Amanda Spangler, *Virtual Mediation: The Only Door Needed in the Multi-Door Courthouse?* 52 STETSON L. REV. 477 (2023)

Sarah R. Cole, *Biden Administration's Proposed Title IX Rule Acknowledges Mediation's Value*, CPR Alternatives (September 2022)

Sarah R. Cole, *The State of the Art: Mediation in Title IX Regulations*, CPR Alternatives (June and July 2022)

Sarah R. Cole, *Arbitrator Diversity*, republished in a four-part series for CPR Alternatives (October, November, December 2021 and January 2022)

Sarah R. Cole, *Mediate Your Response: Reconciling the Benefits and Drawbacks of the New Title IX Regulations*, 36 OHIO STATE J. ON DISP. RES. 633 (2022)

Sarah R. Cole, *What Title IX Dispute Systems Designers Can Learn from Arbitration*, 13 PENN ST. ARB. L. REV. (2021)

Sarah R. Cole, *Arbitrator Diversity: Can It Be Achieved?* 98 WASH U. L. QTLY 965 (2021)

Sarah R. Cole, *Everything Old is New Again (A Comment on Soia Mentschikoff's Commercial Arbitration)* (Oxford University Press 2021)

Sarah R. Cole, *The Lost Promise of Arbitration*, 70 SO. METHODIST L. REV. 849 (2017)

Sarah R. Cole, *Curbing the Runaway Arbitrator in Commercial Arbitration: Making Exceeding the Powers Count,* 68 ALABAMA L. REV. 179 (2016)

Sarah R. Cole, *Blurred Lines: Are Non-Attorneys Who Represent Parties in Arbitrations Involving Statutory Claims Practicing Law?* 48 U.C. DAVIS L. REV. 921 (2015)

Sarah R. Cole, Craig A. McEwen, Nancy H. Rogers, James R. Coben, and Peter N. Thompson, *Where Mediation Is Concerned, Sometimes "There Ought Not To Be a Law*!" 20 DISPUTE RESOL. MAGAZINE 34 (2014).

Sarah R. Cole, *The Federalization of Consumer Arbitration: Possible Solutions*, 2013 U. CHI. LEGAL F. 271 (2013)

Sarah R. Cole, *On Babies and Bathwater: The Arbitration Fairness Act and the Supreme Court's Recent Arbitration Jurisprudence*, 48 HOUSTON L. REV. 457 (2011)

Sarah R. Cole, *Let the Grand Experiment Begin: Pyett Authorizes Arbitration of Unionized Employees' Statutory Discrimination Claims*, 14 LEWIS AND CLARK LAW REV. 861 (2010)

"What Should You Know Regarding Possible Changes to Consumer Arbitration?" ALL RISE at 34 (Fall 2009) and 8 Mayhew Hite Report 1 (2009)

Sarah R. Cole and Kristen Blankley, *Empirical Research on Consumer Arbitration*, 113 PENN STATE L. REV. 1051 (2009)

Sarah R. Cole and Theodore Frank, *The Current State of Consumer Arbitration*, 15 DISP. RES. MAG. 30 (2008)

Sarah R. Cole, *Revising the FAA to Permit Expanded Judicial Review of Arbitration Awards*, 8 UNLV L. R. 214 (2007)

Sarah R. Cole and Kristen M. Blankley, *Online Mediation: Where We Have Been, Where We Are Now, and Where We Should Be*, 38 UNIV. OF TOLEDO L. REV. 193 (2006)

Sarah R. Cole, *Mediation Confidentiality: A Promise Unfulfilled?*, 54 KANSAS L. REV. 1419 (2006)

Sarah R. Cole, *Unauthorized Practice of Law Charges: A Risk for Lawyers Representing Clients in Mediation and Arbitration in a Multijurisdictional Practice Environment*, 13 DISP. RES. MAG. 26 (Fall 2006)

Fairness in Securities Arbitration: A Constitutional Mandate? 26 PACE L. REV. 73 (2006)

Mediator Certification, 11 DISP. RES. MAG. 7 (2005)

Arbitration and State Action, 2005 BYU L. REV. 1 (2005)

ADR and the Batson Principle (with E. Gary Spitko), 38 GEORGIA L. REV. 1145 (2004)

Updating Arbitrator Ethics, 10 DISP. RES. MAG. 24 (Summer 2004)

Does Bazzle Dazzle? Not Really, 2 MAYHEW-HITE REPORT ON DISPUTE RESOLUTION AND THE COURTS No. 2 (December 2003)

What is Mediation? 2 MAYHEW-HITE REPORT ON DISPUTE RESOLUTION AND THE COURTS No. 1 (November 2003)

The Revised Uniform Arbitration Act: The Wrong Cure? 8 DISP. RES. MAG. (Summer 2002)

Uniform Arbitration: One Size Fits All Does Not Fit, 16 OHIO ST. J. ON DISP. RES. 759 (2001)

Managerial Litigants? The Overlooked Problem of Party Autonomy in Dispute Resolution, 51

HASTINGS L.J. 1199 (2000)

Unintended Effects: Undermining the Role of the EEOC in 'Gilmer' Cases, J. OF ALTERNATIVE DISP. RES. IN EMP. (Spring 2000)

Sustaining Incremental Expansion: Ohio State's Experience in Developing the Dispute Resolution Curriculum, 50 U. FL. L. REV. 667 (1998) (with Nancy H. Rogers and Joseph B. Stulberg)

A Funny Thing Happened on the Way to the (Alternative) Forum: Reexamining Alexander v. Gardner-Denver in the Wake of Gilmer v. Interstate/Johnson Lane Corp., 1997 B.Y.U. L. REV. 591

Continuation Coverage Under COBRA: A Study in Statutory Interpretation, 22 J. OF LEGIS. 195 (1996)

Incentives and Arbitration: The Case Against Enforcement of Executory Arbitration Agreements, 64 UMKC L. REV. 1 (1996)

Obligations of the United States Trustee under the Administrative Procedure Act, 5 J. OF BANKR. L. AND PRAC. 371 (1996)

Blackstone's Vision of Alternative Dispute Resolution, 22 MEMPHIS ST. U. L. REV. 279 (Winter 1992)

Comment, *Inequities in the Current Judicial Analysis of Misrepresentation of Fertility Claims*, 1989 U. CHI. LEGAL F. 331

BLOG

www.indisputably.org (with Michael Moffitt, Andrea Schneider, Cynthia Alkon, Art Hinshaw, John Lande)

SELECTED MAJOR PRESENTATIONS, OPINION PIECES AND MEDIA CONTACTS

Interviewed and quoted by Khorri Atkinson, *Does Arbitration Face an Existential Crisis?* (Bloomberg March 24, 2023)

Speaker, *Neutral Diversity in ADR*, Ontario Bar Association (December 14, 2022)

Interviewed and quoted by Robert Iafolla, *Amazon Fights to Move Driver's Privacy Lawsuit to Arbitration* (Bloomberg November 17, 2022)

Speaker, *What Do Arbitrators Want the Advocates to Know*, AAA Roundtable (November 2022)

Speaker, *Arbitration Roundtable*, Ohio Office of Collective Bargaining (November 7, 2022)

Interviewed on-air by Sarah Donaldson, NBC4 for story on possible Kroger strike (September 21, 2022)

Interviewed on-air by Jamie Ostroff, NBC4 for story about Honda's attempt to recover workers' wrongly paid overtime (September 16, 2022)

Presenter, *SCOTUS Arbitration Review: A Panel Discussion* (Zoom August 9, 2022)

Interviewed and quoted by Brooks Kubena, Houston Chronicle and MSN, *Deshaun Watson Suspended Six Games; NFL Considers Appeal for Longer Punishment* (August 3, 2022)

Interviewed on air for Local 12 in Cincinnati about hung jury in police officer discrimination case (July 26, 2022)

Interviewed and quoted in an article by Robert Iafolla, *High Court's Arbitration Ruling Gets Michaels 9th Circuit Test* (Bloomberg July 27, 2022)

Interviewed and quoted in an article by Robert Iafolla, *PAGA and the Supreme Court* (Bloomberg June 15, 2022)

Interviewed and quoted in an article by Jan Wolfe, *Supreme Court Rejects Forced Arbitration*, Wall St. J. (June 6, 2022)

Speaker, *Sexual Harassment and Arbitration*, COLERA Speaker Series (Columbus, May 17, 2022)

Interviewed and quoted in article by Erin Mulvaney, *Fox News Case to Test New Arbitration Law's Retroactive Reach* (Bloomberg, April 14, 2022)

Op-Ed, *The End of Forced Arbitration Isn't the Beginning of Corporate Transparency*, thehill.com (February 17, 2022)

Speaker, Arbitrator Contract Interpretation, 2021 Arbitrator and Advocate Symposium (Columbus, Ohio September 2021)

Speaker, Social Media in the Workplace, Midwest Labor Law Conference (October 15, 2021)

Speaker, Arbitrator Diversity, Arizona State University Law School (October 19, 2021)

Speaker, Improving Diversity in Arbitration, Texas A&M (remote, November 3, 2021)

Speaker, "Forced Arbitration" on the Ann Fisher Show on 89.7 WOSU (February 24, 2022)

Speaker, Ending Forced Arbitration of Sexual Assault and Sexual Harassment Act, ABA Section on Dispute Resolution Conference (April 26, 2022).

Presenter, *Virtual Mediation in a Post-Covid World*, Stetson Law Review Symposium, Is Remote Justice Still Justice? (April 1, 2022).

Presenter, *"Framing" in Initiatives to Advance Racial Equity,* Harvard Negotiation Program and Ohio State Journal on Dispute Resolution Symposium (April 8, 2022).

Interviewed and quoted in article by Robert Iafolla, *Court Fights Surge Over Arbitration Carveout for Workers* (Bloomberg, April 27, 2021)

Op-Ed, *Biden Administration Should Not Reject Current Title IX Rules on Sexual Harassment*, Cleveland Plain Dealer and Cleveland.com (April 11, 2021)

Interviewed and quoted in article by Charles Toutant, *After Defeat in Court, Opponents of Workplace Arbitration are Running out of Options* (New Jersey Law Journal, March 29, 2021)

Presenter, *Mediation Best Practices*, Federal Bar Association Dispute Resolution Committee (March 10, 2021)

Presenter, *What Title IX Dispute Systems Designers Can Learn from Arbitration*, Penn State Law Arbitration Law Review Symposium (Zoom, February 2021)

Presenter, Weavers' Conference (Ohio State University, January 21, 2021)

Mooter, Harvard Federalist Society, Harvard Law Review and Harvard ACS, Mooted Supreme Court Advocate in preparation for upcoming argument at the Supreme Court on *Henry Schein v. Archer and White Sales Inc.* (December 1, 2020)

Presenter, *Mediate Your Response: Reconciling the Benefits and Drawbacks of the New Title IX Regulations*, Ohio State Journal Dispute Resolution Symposium (Zoom, November 2020)

Interviewed and quoted in *Covid-19 Safety Pledges Common at Ohio Universities* (Columbus Dispatch, August 10, 2020), https://www.dispatch.com/news/20200810/covid-19-safety-pledges-common-at-ohio-universities-but-not-all-are-same

Interviewed and quoted in Robert Iafolla, *Top Court Declines Case on California Wage Arbitration Rule* (Bloomberg, July 16, 2020)

Presenter, SEALS Conference (August 2019) (participated in panel on broadening the teaching of dispute resolution across the law school curriculum)

Presenter, *Engaging the Real World: Classroom Teaching and Scholarship* (Plenary Session) and *Learning Styles and Pedagogy* at Appreciating our Legacy and Engaging Our Future

Conference (Pepperdine University, June 2019)

Presenter, *Labor Law Update*, Arbitrators and Advocates Symposium (Columbus, April 2018)

Scholar-in-Residence and Presenter, *Diversity Among Arbitrators*, ABA Mid-Winter Labor and Employment ADR Meeting (Tampa 2018)

Scholar-in-Residence and Presenter, *Class Action Arbitration and Murphy Oil*, ABA Mid-Winter Labor and Employment ADR Meeting (Tampa 2018)

Presenter, *Labor Law Update*, Arbitrators and Advocates Symposium (Columbus, April 2017)

Presenter, *Party-Appointed Arbitrators: Ethical Dilemma or Sensible Alternative*, USC Symposium on Ethics and Dispute Resolution (Los Angeles, April 2016)

Presenter, *Arbitration Law in Review 2015-16*, Columbus Bar Association Section on Dispute Resolution (Columbus, March 2016)

Presenter, *Viability of Joint Sessions in Mediation*, Porter Wright Morris and Arthur CLE (Columbus, December 2015)

Presenter and Moderator, *Teaching Arbitration Law*, ABA Section on Dispute Resolution Annual Conference (Seattle, April 2015).

Presenter, *How Being Angry Leads to Good Research*, ABA Section on Dispute Resolution Annual Meeting (Seattle, April 2015)

Presenter, *Implications of Psychology for Structuring Roles in Dispute Resolution*, ABA Section on Dispute Resolution Annual Conference (Miami, April 2013)

Presenter, *Representation and ADR: Ethical Issues Created by Non-Lawyer and Lawyer Representation in Mediation and Arbitration,* ABA Section on Dispute Resolution Annual Conference (Miami, April 2013)

Graduation Speaker, Office of Collective Bargaining Arbitration School (December 12, 2013)

Presenter, *Mediation Confidentiality* (Istanbul, Turkey, May 2013)

Presenter, *Fixing the Federal Arbitration Act – if it Needs Fixing*, ABA Section on Dispute Resolution Annual Conference (Chicago, April 2012)

Presenter, *Future of Vindicating Statutory Rights Doctrine in Arbitration*, ABA Section on Dispute Resolution Annual Conference (Chicago, April 2012)

Interview with theatlanticwire.com regarding civil liability in Steubenville rape case (April 8, 2013)

Interview with CTV (Canadian Television News Network) re civil liability in Steubenville rape case. (April 9, 2013)

Presenter, *The Federalization of Consumer Arbitration: Possible Solutions*, Sixth Annual Works-in-Progress Symposium (Columbus, November 9, 2012)

Presenter, *Frontiers of Consumer Protection*, University of Chicago Legal Forum 2012 Symposium (Chicago, November 2, 2012)

Presenter, *AALS Section on Dispute Resolution Program on Arbitration*, AALS Annual Meeting (Washington D.C. January 2012)

Presentation to Columbus Bar Association Section on Dispute Resolution, *Arbitration Law Update* (January 13, 2012)

Track Coordinator, *Teaching Law School ADR Classes*, Pepperdine Law School (Malibu, CA, June 21-22, 2011)

Interview with San Francisco Daily Law Journal and Los Angeles Daily Journal on new *Greenwood v. Compucredit Corp.* (case granted certiorari in May 2011)

Speaker, *Arbitration Case Law Update*, 2011 ABA Dispute Resolution Conference (Denver, Colorado, April 14, 2011)

Faculty Workshop Speaker, *On Babies and Bathwater: The Arbitration Fairness Act and Recent Supreme Court Arbitration Jurisprudence*, Texas Wesleyan Law School (April 19, 2011)

Presenter, *What's New in Mediator Certification*? Ohio Mediation Association Annual Meeting, (May 7, 2010)

Presenter, *Arbitrating in the Public Sector*, Ohio Patrolmen's Benevolent Association (April 16, 2010)

Presenter, *Arbitration Jurisprudence 2010*, Columbus Bar Association – Dispute Resolution Section Meeting, (March 12, 2010)

Presenter, *Mediator Qualifications*, Columbus Bar Association (December 2009)

Presenter, *Workshop on Difficult Conversations* (with Ellen Deason) at Ohio State's Presidents and Provost's Leadership Institute (February 2009)

Presenter, *Planning and Executing Difficult Conversations*, Food Services Leadership Institute Meeting, Columbus, Ohio (February 2009)

Presenter, *So You Want to be a Neutral*, State Employment Relations Board Conference (February 27, 2009)

Presenter, Ohio Employer Class Action Summit, *Class Action Arbitration* (June 4, 2008)

Speaker, *Supreme Court Arbitration Jurisprudence*, ABA Section on Dispute Resolution Meeting, Seattle, Washington (April 2008)

Workshop for Law and Leadership, *Making Meeting Manageable*, Moritz College of Law (January 2008)

Speaker, *Good Faith in Dispute Resolution*, OSBA Annual Meeting (May 18, 2007)

Speaker, *Revising the FAA to Permit Expanded Judicial Review of Arbitration Awards*, UNLV Law Review Symposium (January 26, 2007)

Speaker, *Confidentiality in Mediation*, Ohio Commission on Dispute Resolution Conference (September 29, 2006)

Speaker, *Online Mediation*, University of Toledo Law Review Symposium (April 22, 2006)

Op-ed on *Buckeye Check Cashing*, Business First (April 21, 2006)

Discover Bank and the Future of Class Action Waivers, ABA-CLE Teleconference and Audio Webcast (September 29, 2005)

Mediation Confidentiality: A Promise Unfulfilled?, Ohio State University Faculty Workshop (September 28, 2005)

Quality Assurance of Mediation: Is Certification of Mediators the Answer?, Ohio Mediation Association Annual Conference Seminar (40 attendees) (March 26, 2004)

Interview on NPR's Marketplace regarding legislation to immunize gun manufacturers from lawsuits (February 2004)

Uniform Mediation Act, Presentation to Columbus Bar Association's Alternative Dispute Resolution Section (25 attendees) (January 2004)

Uniform Mediation Act, Presentation to Joint Meeting of Ohio Commission on Dispute Resolution and Supreme Court Commission on Dispute Resolution (50 attendees) (November 2003)

Panelist, ABA Teleconference and Webcast on *Green Tree Financial Corp. v. Bazzle: Class Action Litigation in Arbitrations* (150 attendees) (July 30, 2003)

Uniform Mediation Act Update, 1st Annual National Conference for Minority Professionals in Dispute Resolution (May 2003, Columbus, Ohio)

Arbitration Ethics, ABA Section on Dispute Resolution Conference (April 2003, San Antonio, Texas)

Civil Justice Reform: Fair, Just and Accessible Arbitration, ABA Section on Dispute Resolution Conference (April 2002, Seattle, Washington)

Arbitration of Consumer Disputes, Interview with Susan Berg (January 2002)

Arbitration of Automobile Disputes, Interview with Jamie Pietras, Columbus Alive (July 12, 2001)

Microsoft Mediator, Interview with CBS Marketwatch (October 2001)

Good Faith and Good Faith Participation in ADR: What is it and is it Enforceable? ABA Section on Dispute Resolution Conference and Tenth Annual Northwest ADR Conference (April 2001, Washington D.C. and Seattle, Washington)

Seminar on Dispute Resolution, Hamline University School of Law (June 2000, Minneapolis, Minnesota)

Negotiation CLE (May 2000, Columbus, Ohio)

Hot Topics in Mediation: The EEOC and Beyond, Ninth Annual Northwest ADR Conference (April 2000, Seattle, Washington)

Thinking Outside the Box, American Bar Association Dispute Resolution Section Conference (April 2000, San Francisco, California)

Alternative Dispute Resolution and the Courts, Federal Civil Litigation in Ohio (October 1999, Columbus, Ohio)

Facilitating Group Decision-Making and *Recent Developments in Arbitration*, Second Annual Ohio State University College of Law Dispute Resolution Institute (June 1999)

Mediation Advocacy, OSBA Annual Convention (May 1999, Cleveland, Ohio)

Drafting Mandatory Arbitration Agreements, Eighth Annual Northwest ADR Conference (May

1999, Seattle, Washington)

Where is Alternative Dispute Resolution Going? at Ohio Continuing Legal Education Conference on ADR (December 1998)

Arbitration and the Federal Courts, at Federal Civil Litigation in Ohio Seminar (October 30, 1998)

Recent Developments in Arbitration, and *Drafting Arbitration Agreements*, at First Annual Ohio State Dispute Resolution Institute (June 1998)

Recent Developments in Arbitration, at Seventh Annual Northwest Alternative Dispute Resolution Conference (April, 1998, Seattle)

Discrimination, Arbitration, Violation, Interview with Leigh Jones, The Daily Record (April 1998)

South Dakota v. United States Department of Interior: The Evolution of the Non-Delegation Doctrine, for Native American Law Students Association (April, 1998 University of Oklahoma)

They Could Have Used A Mediator, Interview with David Segal, Washington Post (October 7, 1996)

Introduction to Alternative Dispute Resolution, Omaha Underwriters' Monthly Meeting (October 1, 1996)

Violence Against Women Act, at Creighton University School of Law, Women's History Month, (Spring, 1995)

The Effect of Gilmer v. Interstate/Johnson Lane Corp. on Arbitration of Employment Disputes, Second Annual Northwest Alternative Dispute Resolution Conference (September 1991 Seattle)

BAR ADMISSIONS

Washington	1990
Illinois	1993
Ohio	2014
United States Court of Appeals for the Ninth Circuit	1992
United States Court of Appeals for the Seventh Circuit	1993
United States District Court for the Northern District of Illinois	1993
United States District Court for the Western District of Washington	1992

SERVICE

Member, Ohio State University Provost Search Committee	2020-21
Member, OSBA Ad Hoc Committee on Foreclosure and Civil Justice	2020-21
Member, Ohio State University Faculty Hearing Committee	2020-present
Appeals Chair, Office of Institutional Equity	2020-present
Chair Emeritus, AALS Section on Dispute Resolution	2016-17
Chair, AALS Section on Dispute Resolution	2015-16
Chair-Elect, AALS Section on Dispute Resolution	2014-15
Member, AALS Section on Dispute Resolution Executive Committee	2012-17
Board Member, Better Business Bureau of Central Ohio	2013-16
President, Central Ohio Labor and Employment Ass'n (COLERA)	2012-13
Board Member, Central Ohio Labor and Employment Ass'n (COLERA)	2011-16
Member, ABA Section on Dispute Resolution Nominating Committee	2007
Member, Legal Educator's Colloquium Planning Committee for ABA Section on Dispute Resolution Conference	2007
Member, Public Service Institute, ABA Section on Dispute Resolution	2003-08
Chair, Arbitration Committee, ABA Section on Dispute Resolution	2002-03
Subcommittee Chair, Arbitration Committee, Arbitration Curriculum	2003-08
Member, Committee on ABA Model Arbitrator Disclosure Standards	2004-present
Member, ABA Representation in Mediation Competition Problem Drafting Team	2001-02
Member, Uniform Mediation Act Drafting Committee	1997-2001
Member of Editorial Board, Journal of Alternative Dispute Resolution in Employment	1998-2001

Mediator, Federal Settlement Week	2000-present
EEOC Mediator	2001-02
Better Business Bureau Arbitrator	2002-15
State Employment Relations Board (SERB) mediator/fact-finder	2005-15, 2019-present
OCB-OCSEA mediator/arbitrator	2010-present
FINRA Arbitrator	2004-21
AAA Arbitrator	2014-present
CPR Arbitrator and Mediator, Employment, Mass Claims Employment and Commercial Panels	2020-present
Administrative Law Judge, State Employment Relations Board	2015-17

LAW SCHOOL SERVICE

Member, Administration Committee	2023
Chair, Appointments Committee	2021-22
Member, Search Committee for DCP Director and DCP Fellow	2020-21
Member, Appointments Committee	2020-21
Member, Faculty Workshop Committee	2019-20
Member, Sabbatical Review Committee	2020
Member, College Investigation Committee	2018-20
Member, LP3 Planning Committee	2017-18
Member, Faculty Workshop Committee	2012-13
Member, Student Commons Renovation Committee	2011-12
Member, Moritz Scholarship Selection Committee	2009

Chair, Long Range Planning Committee	2007-2008
Director, Program on Dispute Resolution	2006-21
Member, Long Range Planning Committee	2005-06
Director, Vorys Institute on Dispute Resolution and the Courts	Summer 2003
Faculty liaison to Staff Advisory Committee	2003-05
Member and Sub-Committee Chair, Administration Committee	2002-03
Member and Sub-Committee Chair, Long-Range Planning Committee	2001-02
Member, Academic Affairs Committee	2000-01
Member, Admissions Committee	1998-2000
Co-Advisor, Journal of Dispute Resolution	2001-present
Coach, Representation in Mediation Team	2000-02
Coach, International Competition for Online Dispute Resolution	2002-2006
Co-Advisor, Dispute Resolution Association	1998-2010

EXHIBIT B

UNITED STATES DISTRICT COURT

~~UNITED STATES DISTRICT COURT~~

FOR THE SOUTHERN DISTRICT OF OHIO

EASTERN DIVISION (COLUMBUS)

BRIAN ECHARD~~,~~ et al., ~~Plaintiff~~Plaintiffs, v. WELLS FARGO BANK, N.A. Defendant.	CASE NO. 2:21-cv-05080-MHW-~~KAJ~~EPD (Judge Michael H. Watson) (Magistrate Judge ~~Kimberly~~Elizabeth A. ~~Jolson~~Preston Deavers) ~~**SETTLEMENT AGREEMENT**~~

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

In re: WELLS FARGO FORBEARANCE LITIGATION	CASE NO. 2:24-cv-01026-MHW-EPD (Judge Michael H. Watson) (Magistrate Judge Elizabeth A. Preston Deavers)

SETTLEMENT AGREEMENT

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SETTLEMENT AGREEMENT

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

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

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

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

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

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

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

WHEREAS, Plaintiffs' ~~First Amended Complaint (ECF No. 14)~~pleadings filed in the respective Actions alleged, among other things, that Wells Fargo placed Customers, including Plaintiffs, into a Forbearance without their informed consent, and asserted claims for breach of contract, breach of fiduciary duty, fraud, ~~violations of TILA, violations of RESPA, violations of~~

[1] Capitalized terms are defined in Section I.

~~FCRA,~~ unjust enrichment, negligence ~~and~~, negligent misrepresentation~~,~~ and violations of TILA, RESPA, FCRA, RICO and ~~violations of~~ the ~~Ohio Deceptive Trade Practices Act~~State Statutes, among others;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

WHEREAS, that motion to transfer was granted;

WHEREAS, Plaintiffs and Wells Fargo have agreed to the terms of this arm's-length Agreement, which embodies all of the terms and conditions of the Settlement between the Settling Parties, which, subject to the approval of the Court as provided below, ~~and which is intended to~~will supersede any and all prior agreements between the Settling Parties, including, but not limited, to the Term Sheet entered into by the Parties on ~~July 22~~or about February 12, 2024 and the settlement agreement entered into by Wells Fargo and the *Echard* Plaintiffs on or about September 8, 2022;

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

WHEREAS, the Plaintiffs and Wells Fargo stipulate that the fact of this Agreement, any of the terms in this Agreement, any documents filed in support of this Agreement, or any statement made in the negotiation thereof shall not be deemed or construed to be an admission or evidence of (i) any violation of any statute or law, (ii) any liability or wrongdoing by Wells Fargo, (iii) liability on any claims or allegations or the value thereof, or (iv) the propriety of certifying a litigation class in any proceeding, and shall not be used by any person for any purpose whatsoever in the ~~Action~~Actions or any other legal proceeding, including but not limited to arbitrations, mediations, or subsequent litigations other than a proceeding to enforce the terms of this Agreement;

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

I. DEFINITIONS

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

1. "~~Action~~Actions" means, collectively, *Echard v. Wells Fargo Bank, N.A.*, Case No. 2:21-cv-05080-MHW-KAJ, currently pending in the United States District Court for the Southern District of Ohio~~.~~, and *In re Wells Fargo Forbearance Litigation*, Case No. 2:24-cv-01026-MHW-EPD, currently pending in the United States District Court for the Southern District of Ohio.

~~2. "Additional Compensation" means payment from the Claims Fund for which Eligible Class Members may be considered by submitting the Claim Form to the Settlement Administrator as set forth in Paragraph IV.B.2 of the Agreement.~~

~~3.~~2. "Administrator" or "Settlement Administrator" or "Claims Administrator" means ~~JND Legal Administration~~Epiq Class Action & Claims Solutions, Inc.

~~4.~~3. "Agreement" means this settlement agreement entered into by the Settling Parties.

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

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

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

7. "Automatic Payment Fund" means a $~~35~~69,000,000.00 fund that the Settlement Administrator will create after Final Approval utilizing funds from the Settlement Fund.

~~8. "Claim Form" means the form, in substantially the same form and with substantially the same content as **Exhibit A**, that Eligible Class Members will need to complete and submit to the Settlement Administrator to be considered for Additional Compensation out of the Claims Fund as set forth in Paragraph IV.B.2. of the Agreement.~~

~~9. "Claim Form Deadline" means the date by which Eligible Class Members must submit a completed Claim Form to the Settlement Administrator in accordance with the requirements set forth in Exhibit B of the Agreement and which shall be one hundred and twenty (120) Days from the Notice Deadline.~~

~~10. "Claims Fund" means the fund that the Settlement Administrator will create and utilize to distribute Additional Compensation to Eligible Class Members who complete and submit a Claim Form (and supporting documentation) pursuant to the criteria set forth in Paragraph V.A.. The Claims Fund will consist of the amounts remaining in the Settlement Fund after: (a) making Automatic Payments to Eligible Class Members from the Automatic Payment Fund; (b) deducting any Fee and Expense Award and Service Awards approved by the Court; and (c) paying for the Settlement Administrator's Costs and Expenses.~~

~~11.~~8. "Class" or "Class Member" means all persons in the United States who: (a) had a Mortgage serviced by Wells Fargo that was placed into a Forbearance Without Adequate Informed Consent between March 1, 2020 and December 31, 2021; and (b) were not a debtor or the Co-Borrower of a debtor in a Chapter- 13 bankruptcy case on the date that the ~~person~~Mortgage was placed into the Forbearance; and (c) are not Wells Fargo's officers, directors, or employees, Counsel for Wells Fargo, or Class Counsel. -The Class and Class Members include all individuals who signed the deed of trust, mortgage or other security document associated with a Mortgage even if they did not sign the underlying promissory note or loan.

9. "Class Counsel" shall refer to ~~Smith & Lowney, PLLC.~~ the attorneys that the Court appoints as Class Counsel pursuant to Fed. R. Civ. P. 23(g) and Paragraph II.C of this Agreement.

~~12.~~10. "Class List" means the list of Class Members to be created by Wells Fargo using the data and methodology that Wells Fargo previously provided to Consolidated Plaintiffs' Counsel and *Echard* Counsel. The Class List will include information for the Class Members that is accessible to Wells Fargo in its system of record, including, to the extent that it is available, Class Member names, last known addresses, and email addresses.

~~13.~~11. "Class Notice" has the meaning set forth in Paragraph II.D. of the Agreement.

~~14.~~12. "Class Released Claims" has the meaning set forth in Paragraph III.A. of the Agreement.

~~15.~~13. "Class Releasors" has the meaning set forth in Paragraph III.A. of the Agreement.

~~16.~~14. "Class Releasees" has the meaning set forth in Paragraph III.A. of the Agreement.

~~17.~~15. "Class Representatives" means Plaintiffs ~~Brian Echard, Heather Shimp, and Stephen~~Luis Castro, Marisol Castro, Pamela Delpapa, Jenna Doctor, Brian Echard, Patricia Foley, Samara Green, Patrick Healy, Barbara Prado, Renrick Robinson, and Vivian Robinson, and Heather Shimp.

16. "Co-Borrower" means an individual who is a co-signer on a Mortgage that Wells Fargo placed into an At-Issue Forbearance.

17. "Consolidated Action" or "*In re Wells Fargo Forbearance Litigation*" means *In re Wells Fargo Forbearance Litigation*, No. 2:24-cv-01026-MHW-EPD (S.D. Ohio), which consists of the following actions that were consolidated on August 19, 2022 for all pretrial proceedings: *Delpapa v. Wells Fargo Bank, N.A., et al.*, No. 2:24-cv-01026-MHW-EPD (S.D. Ohio); *Green v. Wells Fargo & Co., et al.*, No. 2:24-cv-01027 (S.D. Ohio); *Forsburg v. Wells Fargo & Co, et al.*,

No. 2:24-cv-01030 (S.D. Ohio); and *Healy v. Wells Fargo Bank, N.A., et al.*, No. 2:24-cv-01028 (S.D. Ohio).

18. "Consolidated Plaintiffs" means Luis Castro, Marisol Castro, Pamela Delpapa, Jenna Doctor, Samara Green, Patrick Healy, Barbara Prado, Renrick Robinson, and Vivian Robinson.

19. "Consolidated Plaintiffs' Counsel" shall refer to Derek Loeser, Gretchen Freeman Cappio, and Zachary Gussin of Keller Rohrback L.L.P.; Abbas Kazerounian and Jason Ibey of Kazerounian Law Group, APC; and Thad Bartholow and Karen Kellett of Kellett & Bartholow, PLLC.

~~18.~~20. "Counsel for Wells Fargo" shall refer to William ~~C.~~ Mayberry ~~and,~~ Amy ~~P.~~ Williams, and Andrew Atkins of Troutman Pepper Hamilton Sanders, LLP and ~~D. Jeffrey Ireland of Faruki, PLL~~Christopher Viapiano and Brendan Cullen of Sullivan & Cromwell LLP.

~~19.~~21. "Court" shall refer to the United States District Court for the Southern District of Ohio.

~~20.~~22. "Customers" means individuals who had a Mortgage serviced by Wells Fargo.

~~21.~~23. "Day" or "Days" has the meaning ascribed to it in Federal Rule of Civil Procedure 6, and all time periods specified in this Agreement shall be computed in a manner consistent with that rule. All references to days shall be interpreted to mean calendar days, unless otherwise noted.

~~22.~~24. "~~Defendant~~Defendants" means Wells Fargo Bank, N.A. and Wells Fargo & Co.

~~23.~~25. "Distribution Plan" is the plan for distributing the Net Settlement Amount~~, attached as **Exhibit B**~~.

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

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

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

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

~~24.~~30. "Effective Date" means the first date by which all of the events and conditions specified in Paragraph VIII.A. of the Agreement have occurred and have been met.

~~25.~~31. "Eligible Class Member" means a Class Member who did not exclude himself or herself from the Settlement by the Exclusion/Objection Deadline.

~~26.~~32. "Exclusion/Objection Deadline" means the deadline for requesting exclusion from the Class or objecting to the Settlement, which shall be sixty (60) Days from the Notice Deadline.

~~27.~~33. "Execution Date" means the latest date associated with a signature on the fully executed Agreement as set forth on the Agreement's signature pages.

~~28.~~34. "FCRA" ~~shall mean~~means the Fair Credit Reporting Act.

~~29.~~35. "Fee and Expense ~~Application~~Applications" means the ~~application Class~~applications submitted by Consolidated Plaintiffs' Counsel ~~submits~~and *Echard* Counsel to the Court for an award of attorneys' fees and reimbursement of reasonable expenses incurred in connection with prosecuting the ~~Action~~Actions not to exceed the amount set forth in Paragraph VII.A. of the Agreement.

~~30.~~36. "Fee and Expense Award" means any amounts that are awarded by the Court in response to ~~Class Counsel's~~the Fee and Expense ~~Application~~Applications.

~~31.~~37. "Final" means, with respect to any order of the Court, including, without limitation, the Judgment, that such order represents a final and binding determination of all issues within its scope and is not subject to further review on appeal or otherwise. Without limitation, an order becomes "Final" when: (a) no appeal has been filed and the prescribed time for commencing any

appeal has expired; or (b) an appeal has been filed and either (i) the appeal has been dismissed and the prescribed time, if any, for commencing any further appeal has expired, or (ii) the order has been affirmed in its entirety and the prescribed time, if any, for commencing any further appeal has expired. For purposes of this Agreement, an "appeal" includes appeals as of right, discretionary appeals, interlocutory appeals, proceedings involving writs of certiorari or mandamus, and any other proceedings of like kind. Any appeal or other proceeding pertaining solely to any order issued with respect to an application for attorneys' fees and expenses consistent with this Agreement shall not in any way delay or preclude the Judgment from becoming Final.

~~32.~~38. "Final Approval" has the meaning set forth in Paragraph II.~~E~~G. of the Agreement.

~~33.~~39. "Final Approval Hearing" means the hearing, to be scheduled by the Court, at which the Court will consider the Motion for Final Approval.

~~34.~~40. "Final Approval Order" has the meaning set forth in Paragraph II.~~E~~G. of the Agreement.

~~35. "First Amended Complaint" means the "First Amended Complaint – Class Action" filed by Plaintiffs in this Action on May 3, 2021.~~

~~36.~~41. "Forbearance" means ~~a~~any temporary suspension of a customer's monthly mortgage payment obligations.

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

~~37.~~43. "Judgment" means the order of judgment and dismissal of the Action with prejudice.

~~38.~~44. "Mortgage" means a loan secured by residential real estate, including a purchase money loan (aka "~~mortgage loan~~") home equity loan, or home equity line of credit.

~~39.~~45. "Net Settlement Amount" means all amounts in the Settlement Fund, including interest, which is available for distribution to Eligible Class Members after payment of ~~the~~any Fee

and Expense ~~Award~~Awards approved by the Court, ~~the~~any Service Awards approved by the Court, and the Settlement Administrator's Costs and Expenses.

~~40.~~46. "Notice Deadline" means the deadline for the Settlement Administrator to send the Notice of Settlement and Claim Form to the Class Members in accordance with the Notice Plan and which shall be ~~sixty (60~~forty-five (45) Days after Preliminary Approval.

~~41.~~47. "Notice of Settlement" means the written notice of the Settlement that will be provided to the Class in substantially the same form and with substantially the same content as **Exhibit ~~C~~A.**

~~42.~~48. "Notice Plan" has the meaning set forth in Paragraph II.~~D~~E. of the Agreement concerning the proposed form of notice to the Class.

~~43.~~49. "Opt-Out" means a person who falls within the definition of the Class who has timely and validly elected to be excluded from the Class pursuant to the procedures set forth in Paragraph VIII.~~D~~C. of the Agreement. It does not include any person whose request for exclusion is challenged by ~~Defendant~~Defendants and the challenge is not overruled by the Court or withdrawn by ~~Defendant~~Defendants, any person whose communication is not treated as a request for exclusion, and/or any person whose request for exclusion is not valid or is otherwise void.

~~44.~~50. "Opt-Out List" is the list of Class Members who submit valid and timely Requests for Exclusion from the Class as set forth in Paragraph VIII.~~D~~C. of the Agreement.

~~45.~~ "Plaintiffs" means ~~Brian~~, collectively, the *Echard*~~, Heather Shimp,~~ Plaintiffs and ~~Stephen Shimp.~~

~~46.~~51. ~~"Potentially Related Actions" includes the following pending cases: (1) *In re Wells Fargo Forbearance Litigation*, 3:20-cv-06009-JD (N.D. Cal.), which consists of~~ the ~~following actions that were consolidated on August 19, 2022 for all pretrial proceedings: *Delpapa v. Wells Fargo Bank, N.A., et al.*, 3:20-cv-06009-JD (N.D. Cal); *Green v. Wells Fargo & Co., et al.*, 3:20-cv-5296; *Urista v. Wells Fargo*~~ Consolidated Plaintiffs.~~& Co., et al.,~~ ~~3:22-cv-00227 (N.D. Cal.);~~

~~*Forsburg v. Wells Fargo & Co, et al.*, No. 3:22-cv-02890 (N.D. Cal); and *Healy v. Wells Fargo Bank, N.A., et al.*, 3:22-cv-00226 (N.D. Cal); and (2) *Harlow v. Wells Fargo & Co., et al.*, A.P. No. 20-07028 (Bankr. W.D. Va) (Pet. No. 17-71487).~~

~~47.~~52. "Preliminary Approval" has the meaning set forth in Paragraph II.~~C~~D. of the Agreement.

~~48.~~53. "Preliminary Approval Order" has the meaning set forth in Paragraph II.~~C~~D. of the Agreement.

~~49.~~54. "Proactive Wells Fargo Business Decision" means:

a. Customers who requested Forbearance on one Mortgage account between March 9, 2020 and April 7, 2020, and were provided a Forbearance on one or more other Mortgage accounts;

b. Customers who contacted Wells Fargo by phone between March 9, 2020 and March 31, 2020, expressing COVID-19 impact and who were provided a Forbearance without an express request;

c. Customers who sent a secured email to Wells Fargo conveying COVID-19 impact or hardship, or requesting assistance or information, between March 20, 2020 and April 2, 2020, and who were provided a Forbearance without an express request; ~~and~~

d. Customers who had a pending application in the home preservation process as of March 25, 2020 and who were provided a Forbearance without an express request~~.~~; and

e. Customers who were in an active Chapter 7, 11 or 12 bankruptcy case and who filed a document with the bankruptcy court expressing COVID impact or requesting payments relief between March 18, 2020 and June 8, 2020 and who were provided a Forbearance without an express request.

~~50.~~55. "Protective ~~Order~~Orders" means the Stipulated Protective ~~Order~~Orders entered in ~~this Action on November 5, 2021~~the respective Actions.

~~51.~~56. "Remaining Amounts" means any monies that remain in the Settlement Fund after the Settlement Administrator distributes: (a) the Automatic Payments; (b) ~~Additional Compensation~~Supplemental Payments; (c) ~~the~~any Fee and Expense Award approved by the Court; (d) ~~the~~any Service Awards approved by the Court; and (e) the Settlement Administrator's Costs and Expenses.

~~52.~~57. "RESPA" ~~shall mean~~means the Real Estate Settlement Practices Act.

58. "RICO" means the Racketeer Influenced and Corrupt Organizations Act.

~~53.~~59. "Service Award" means any amounts that are awarded by the Court to Plaintiffs for their service as Class Representatives as described in Paragraph VII.E of the Agreement.

~~54.~~60. "Service Award Applications" has the meaning set forth in Paragraph VII.E of the Agreement.

~~55.~~61. "Settlement" means the settlement of the claims released by the Agreement.

~~56.~~62. "Settlement Administrator's Costs and Expenses" means the Settlement Administrator's costs and expenses to administer the Settlement ~~(including but not limited to the fees of the Special Master for work performed pursuant to Paragraph IV.B.2. herein).~~.

~~57.~~63. "Settlement Fund" means the $~~94~~185,000,000 that will be deposited by ~~Well~~Wells Fargo into an interest bearing account administered by the Settlement Administrator, plus any interest earned thereon, to cover the amounts to be paid for: (a) the Automatic Payments; (b) ~~Additional Compensation~~Supplemental Payments; (c) ~~the~~any Fee and Expense Award approved by the Court; (d) ~~the~~any Service Awards approved by the Court; and (e) the Settlement Administrator's Costs and Expenses.

~~58.~~64. "Settlement Website" means the website created by the Settlement Administrator ~~for purposes of submitting Claim Forms online~~ with a URL acceptable to the Settling Parties subject to Wells Fargo's final right of approval.

~~59.~~65. "Settling Parties" means the Plaintiffs, both individually and on behalf of the Class, and Wells Fargo.

66. "~~Special Master~~State Statutes" means the ~~qualified individual retained by the Settling Parties to assist with distribution of Additional Compensation from the Claims~~California Consumer Credit Reporting Act, California Rosenthal Fair Debt Collection Practices Act, California Unfair Competition Law, Georgia Fair Business Practices Act, New York Deceptive Trade Practices Act, Virginia Business Conspiracy Statute, Texas Debt Collection Act, Florida Consumer Collections Practices Act and the Ohio Deceptive Trade Practices Act.

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

~~60.~~68. "Supplemental Payments" means payments from the Supplemental Payment Fund for which Eligible Class Members may be considered pursuant to the Allocation Plan as set forth in Paragraph IV.B.2~~-~~. of ~~the~~this Agreement.

~~61.~~69. "Term Sheet" means the Term Sheet agreed to by the Settling Parties on or about ~~July 22, 2022.~~February 12, 2024.

~~62.~~70. "TILA" ~~shall mean~~means the Truth in Lending Act.

~~63.~~71. "Wells Fargo" means Wells Fargo Bank, N.A. and Wells Fargo & Co.

~~64.~~72. "Without Adequate Informed Consent" means:

a. the Mortgage entered Forbearance via Wells Fargo's online banking or interactive voice response ("IVR") portal before May 11, 2020, unless the customer (i) made no payments from the date that the Forbearance was requested and continuing during the entire Forbearance period[2]; (ii) ~~made more than one request for~~ also requested Forbearance via Wells Fargo's online banking or IVR portal on or after May 11, 2020; or (iii) requested ~~an extension of the~~a Forbearance extension; or

b. the Mortgage entered Forbearance as a result of a Proactive Wells Fargo Business Decision, unless the customer (i) requested forbearance online or through the IVR portal~~,~~ on or after May 11, 2020; or (ii) requested ~~an extension of the~~a Forbearance extension; or

c. Wells Fargo ~~has~~ previously determined that the Forbearance was ~~erroneous~~provided in error.

~~65.~~73. As used in the Agreement, the plural of any defined terms includes the singular thereof and vice versa, except where the context requires otherwise.

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

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

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

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

2. The Consolidated Plaintiffs have filed a Notice of Related Case pursuant to S.D. Ohio Civ. R. 3.1(b), seeking relation of *In re Wells Fargo Forbearance Litigation* and *Echard*. The Court designated the cases as related on April 3, 2024. The Agreement and all related requests, including the Motion for Preliminary Approval, the Motion for Final Approval, appointment of Class Counsel, Service Awards, and Litigation Fee and Costs, will be presented simultaneously in both the *In re Wells Fargo Forbearance Litigation* and *Echard* matters and noticed for joint hearing in front of Judge Watson, unless ordered otherwise by the Court. All pleadings shall state that Consolidated Plaintiffs' Counsel will be counsel of record in *In re Wells Fargo Forbearance Litigation,* and *Echard* Counsel will be counsel of record in *Echard*, and no party to this Agreement shall oppose these respective designations with regard to the exercise of authority for the respective Actions. These designations shall not constitute appointment under Rule 23(g) or (e). Express Court authorization shall be required for authority to act on behalf of the proposed settlement class, which shall be sought as set forth in in paragraph II.C below.

~~A.~~B. Certification of Class ~~and Appointment of Class Counsel~~.

For settlement purposes only, the Settling Parties agree to certification of the Class pursuant to ~~Rule~~Fed. R. Civ. P. 23(a) and (b)(3~~) and to the appointment of Smith & Lowney, PLLC as Class Counsel for the Class under Rule 23(g~~). The Settling Parties do not agree to, and Plaintiffs do not pursue, class certification pursuant to ~~Rule~~Fed. R. Civ. P. 23(b)(2). The Settling Parties' stipulation to the certification of the Class is for purposes of the Settlement set forth in this Agreement only. Wells Fargo's agreement to certification of the ~~Rule~~Fed. R. Civ. P. 23(b)(3) Class is solely for the purpose of this Agreement and does not, and shall not, constitute, in this or any other proceeding, an admission by Wells Fargo of any kind or any determination that certification of a class for trial or other litigation purposes in the ~~Action~~Actions or any other separate action is, or would be, appropriate. If the Settlement is not granted Final Approval or this

Agreement is otherwise terminated or rendered null and void, the certification of the Class shall be automatically vacated and shall not constitute evidence of or any determination that the requirements for certification of a class for trial or other litigation purposes in ~~this Action~~the Actions or any other action are satisfied; in such circumstances, Wells Fargo reserves all rights to challenge certification of any class for trial or other litigation purposes in the ~~Action~~Actions or in any other action on all available grounds as if no class had been certified in ~~this Action~~the Actions for purposes of the Settlement.

~~**B. Amendment of the First Amended Complaint.**~~

~~As soon as practicable following the Execution Date, and prior to or concurrent with filing a Motion for Preliminary Approval of this Agreement, Plaintiffs, through Class Counsel, shall amend the First Amended Complaint to add Heather and Stephen Shimp as named plaintiffs in the Action in substantially the same form as **Exhibit D** attached hereto.~~

B. Appointment of Class Counsel

Concurrently with the filing of the Motion for Preliminary Approval with the Court as set forth in paragraph II.D below, *Echard* Counsel and Consolidated Plaintiffs' Counsel will petition for appointment of Class Counsel as provided by separate agreement addressing leadership, decision-making and other divisions of responsibilities, if such agreement is reached. If no agreement is reached, *Echard* Counsel and Consolidated Plaintiffs' Counsel shall each file, concurrently with their Motions for Preliminary Approval, separate motions pursuant to Fed. R. Civ. P. 23(g) seeking appointment as Class Counsel with authority to act on behalf of the Class, unless ordered otherwise by the Court. Consolidated Plaintiffs' Counsel and *Echard* Counsel expressly reserve the right to make any argument regarding any matter they deem appropriate in connection with these motions. Notwithstanding the appointment of Class Counsel, all counsel

may seek court-awarded litigation expenses and attorneys' fees for time and expenses reasonably expended in the Actions by a single or separate motions in the Actions as set forth in paragraph VII.A.

~~C.~~D. Motion for Preliminary Approval~~.~~

~~As soon as practicable following the Execution Date, Class Counsel~~ Counsel for the Consolidated Plaintiffs shall ~~file~~prepare the initial draft of the preliminary approval motion and related exhibits and shall provide copies of the drafts of these materials to *Echard* counsel and Counsel for Wells Fargo for review and reasonable input. No later than April 17, at 17:00 Eastern Daylight Time, the Consolidated Plaintiffs' Counsel and *Echard* Counsel shall simultaneously submit a Motion for Preliminary Approval of this Agreement (including all Exhibits) to the Court ~~and shall~~in the respective Actions and apply for entry of an order ("Preliminary Approval Order") that would, for settlement purposes only: (1) preliminarily approve this Settlement ("Preliminary Approval"); and (2) certify a conditional settlement class pursuant to Fed. R. Civ. P. 23(a) and (b)(3~~); and (3)~~). Motions to appoint Class Counsel shall be made separate from the Motion for Preliminary Approval as set forth in paragraph II.C. Consolidated Plaintiffs' Counsel and *Echard* Counsel will endeavor to submit a uniform Motion for Preliminary Approval pursuant to Fed. R. Civ. P. 23(e) in the Actions and further agree that the Motion for Preliminary Approval will be limited to solely discussing the fairness and adequacy of the Settlement Agreement without any discussion of the *Echard* Settlement or the conduct of counsel. A courtesy copy of any Motion for Preliminary Approval shall be sent to Wells Fargo prior to submission by Consolidated Plaintiffs and Echard Counsel, who shall evaluate in good faith Wells Fargo's proposed edits and confer regarding any edits with which they disagree. Unless otherwise ordered by the Court or agreed to by the Parties, the Motion for Preliminary Approval filed in the respective Actions shall be noticed for a joint hearing in front of Judge Watson.

~~D.~~E. Class ~~and Class Action Fairness Act~~ Notices~~.~~

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

Wells Fargo shall provide ~~contact information for~~ the Class ~~Members~~List to Class Counsel and the Settlement Administrator as soon as practicable after the Execution Date, but no later than ~~thirty (30~~five (5) Days after Preliminary Approval and the appointment of Class Counsel pursuant to paragraph II.C of the Agreement. The Settlement Administrator will use reasonable efforts to update and confirm the accuracy of the Class Members' contact information in the Class List through the United States Postal Service change of address system.

On or before the Notice Deadline (~~sixty (60~~forty-five (45) Days after Preliminary Approval), the Settlement Administrator shall send the Notice of Settlement and Claim Form to the Class Members in accordance with the Notice Plan.

F. Class Action Fairness Act Notices

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

~~E.~~G. Motion for Final Approval and Entry of Final Judgment~~.~~

~~Not~~As soon as practicable following the Exclusion/Opt Out Deadline and not less than fourteen (14) ~~Days~~days prior to the date set by the Court to consider whether this Settlement should be finally approved, Class Counsel shall submit a Motion for Final Approval of the Settlement by the Court~~.~~, a courtesy copy of which shall be sent to Wells Fargo prior to submission by Class Counsel, who shall evaluate in good faith Wells Fargo's proposed edits and confer regarding any edits with which they disagree. Class Counsel shall seek entry of the Final Approval Order and Judgment, which shall be approved as to form and content by Wells Fargo prior to submission by Class Counsel, containing at least the following:

1. Finding that the Court has personal jurisdiction over Plaintiffs and all Class Members and that the Court has subject matter jurisdiction to approve this Settlement and Agreement;

2. Certifying the Class, pursuant to Fed. R. Civ. P. 23(a) and (b)(3), solely for purposes of this Settlement;

3. Fully and finally approving this Agreement and its terms as being fair, reasonable, and adequate within the meaning of Fed. R. Civ. P. 23, and directing its consummation pursuant to its terms and conditions;

4. Declaring this Agreement and the Final Approval Order and Judgment to be binding on and to have res judicata and preclusive effect in all pending and future lawsuits or other proceedings encompassed by the Class Released Claims maintained by or on behalf of the Class Releasors;

5. Finding that the notice given to the Class Members pursuant to the Notice Plan and Class Notice (i) constituted the best notice practicable under the circumstances; (ii) constituted

notice that was reasonably calculated under the circumstances to apprise Class Members of the pendency of the ~~Action~~Actions, of their right to object to or exclude themselves from the proposed Settlement as applicable, of their right to appear at the Final Approval Hearing, and of their right to seek relief; (iii) constituted reasonable, due, adequate, and sufficient notice to all Persons entitled to receive notice; and (iv) complies in all respects with the requirements of Fed. R. Civ. P. 23, due process, and any other applicable law;

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

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

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

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

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

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

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

13. Authorizing the Settling Parties, without further approval from the Court, to agree to and adopt such amendments, modifications, and expansions of this Agreement as shall be consistent in all material respects with the Final Approval Order and Judgment and not limit the rights of the Settling Parties or Class Members; and

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

~~F.~~H. Stay Order~~.~~

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

III. RELEASES

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

A. Plaintiffs and Class Release of Wells Fargo~~.~~

Plaintiffs and each and every Class Member, individually or together, and each and every one of their former, present, or future agents, predecessors, successors, heirs, legatees, executors, administrators, insurers, assigns, trustees, spouses, and domestic partners ("Class Releasors") releases and fully discharges Wells Fargo, and each of its former, present, or future agents, insurers, predecessors, successors, subsidiaries, parent company(ies), affiliates, officers, directors, employees, and attorneys ("Class Releasees") from all claims asserted in the Actions and from any

and all past and/or present claims, counterclaims, lawsuits, set-offs, costs, losses, rights, demands, charges, complaints, actions, causes of action, obligations, or liabilities of any and every kind, whether class, individual, or otherwise in nature, including, without limitation, those known or unknown or capable of being known; those which are unknown but might be discovered or discoverable based upon facts other than or different from those facts known or believed at this time; those which are foreseen or unforeseen, suspected or unsuspected, asserted or unasserted, and/or contingent or non-contingent; and those which are accrued, unaccrued, matured or not matured, under the laws of any jurisdiction, which they, whether directly, representatively, derivatively, or in any other capacity, ever had, now have, or hereafter can, shall, or may have, resulting from, arising from, or relating in any way to the At-Issue Forbearances that Class Releasees provided to the Class Releasors (the "Class Released Claims").

1. No Future Actions Following Release.

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

2. Covenant Not to Sue.

Class Releasors hereby covenant not to sue the Class Releasees with respect to any Class Released Claims, including any claims that Class Releasors, or any of them, does not know or suspect to exist in his or her favor at the time of the release that if known by him or her, might have affected his or her settlement with and release of the Class Releasees, or might have affected his or her decision not to object to or opt-out of this Settlement. Class Releasors shall be

permanently barred and enjoined from instituting, commencing, or prosecuting any claims against the Class Releasees of any kind (including, but not limited to, for actual damages, statutory damages, restitution, and exemplary or punitive damages) based on the Class Released Claims.

The Class Releasors contemplate and agree that this Agreement may be pleaded as a bar to a lawsuit, and an injunction may be obtained preventing any action from being initiated or maintained, in any case sought to be prosecuted on behalf of any Class Releasors (including, but not limited to, for actual damages, statutory damages, and exemplary or punitive damages) based on the Class Released Claims.

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

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

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

(b) by any and all equivalent, similar, or comparable federal or state rules, regulations, laws, or principles of law of any other jurisdiction that may be applicable herein; and/or (c) any law or principle of law of any jurisdiction that would limit or restrict the effect or scope of the provisions of the release set forth in the Agreement. The Class Releasors expressly agree that ~~by executing this Agreement, and~~ for the consideration received ~~hereunder~~under this Agreement, it is their intention to release, and they are releasing, all Class Released Claims, including any claims that Class Releasors, or any of them, does not know or suspect to exist in his or her favor at the time

of the release that if known by him or her, might have affected his or her settlement with and release of the Class Releasees, or might have affected his or her decision not to object to or opt-out of this Settlement. The Class Releasors acknowledge that they may hereafter discover claims or facts other than or different from those which they know, believe, or suspect to be true with respect to the subject matter of the Class Released Claims, but the Class Releasors expressly waive and fully, finally, and forever settle and release any and all past, present, and future claims, counterclaims, lawsuits, set-offs, costs, losses, rights, demands, charges, complaints, actions, causes of action, obligations, or liabilities of any and every kind, whether class, individual, or otherwise in nature, including, without limitation, those known or unknown or capable of being known; those which are unknown but might be discovered or discoverable based upon facts other than or different from those facts known or believed at this time; those which are foreseen or unforeseen, suspected or unsuspected, asserted or unasserted, and/or contingent or non-contingent; and those which are accrued, unaccrued, matured or not matured, all from the beginning of the world until the Effective Date, under the laws of any jurisdiction, which Class Releasors or any of them, whether directly, representatively, derivatively, or in any other capacity, ever had, now have, or hereafter can, shall, or may have, arising out of the Class Released Claims. The release of unknown, unanticipated, unsuspected, unforeseen, and unaccrued losses or claims in this paragraph is contractual and not a mere recital.

4. Dismissal~~.~~

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

5. Agreement To Be Bound~~.~~

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

IV. SETTLEMENT CONSIDERATION

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

A. Settlement Fund~~.~~

Within forty-five (45) Days after Preliminary Approval of the Settlement, Wells Fargo agrees to deposit ~~$94 million ($94~~the sum of $185,000,000~~.00)~~ into a ~~non-reversionary~~ Settlement Fund to be maintained by the Settlement Administrator and used to pay for the following obligations under this Agreement: (1) Automatic Payments to Eligible Class Members from the Automatic Payment Fund; (2) ~~Additional Compensation payments~~Supplemental Payments to Eligible Class Members from the ~~Claims~~Supplemental Payment Fund; (3) ~~the~~any Fee and Expense Award(s) approved by the Court; (4) ~~the~~any Service Awards approved by the Court; and (5)~~-~~ all costs and expenses associated with administering the Settlement. In no event shall Wells Fargo deposit any additional funds into the Settlement Fund to cover any obligations set forth in the Agreement. Wells Fargo shall have no responsibility or liability for the maintenance, preservation, investment, or distribution of any amount of the Settlement Fund.

B. Distribution of Net Settlement Amount.

The Net Settlement Amount shall be distributed according to the Distribution Plan ~~attached as **Exhibit B**.~~. In summary:

1. Automatic Payments.

Within thirty (30) Days of the Effective Date, the first $~~35~~69 million ($69,000,000.00) will be distributed equally to Eligible Class Members based upon the number of At-Issue Forbearances.

Eligible Class Members who are co-borrowers on a Mortgage that received an At-Issue Forbearance will be treated as a single Class Member for the purposes of receiving an Automatic Payment.

2. ~~Claims~~Supplemental Payment Fund.

a. The remainder of the Net Settlement Amount shall be placed into a ~~Claims~~Supplemental Payment Fund and available to pay ~~Additional Compensation~~Supplemental Payments to Eligible Class Members based on an Allocation Plan. Supplemental Payments to Eligible Class Members shall be made as soon as reasonably practicable. The Allocation Plan shall allow Eligible Class Members who ~~submit a valid claim that they were (i) denied credit; (ii) paid an increased interest rate or other cost of credit; or (iii) suffered other provable~~are co-borrowers on a Mortgage to receive Supplemental Payments for individually incurred damages ~~proximately caused~~.

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

for Preliminary Approval, and the implementation of the Notice Plan shall not be delayed by ~~being placed into an At-Issue Forbearance.~~any disagreement among Plaintiffs regarding the Allocation Plan. The Allocation Plan shall be submitted to the Court for approval with the Motion for Preliminary Approval.

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

3. Remaining Amounts~~.~~

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

4. Administrative Costs and Expenses~~.~~

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

V. NOTICE AND ADMINISTRATION OF SETTLEMENT

A. Claim Form.

The Claim Form shall be substantiallyprepared in conformanceconnection with the formatAllocation Plan and content set forth in **Exhibit A**submitted to this Agreement, subject to reasonable modifications required by the Court. with the Motion for Preliminary Approval. The Claim Form will allow Class Members to submit and complete the Claim Form online and by electronic signature and will include a link to the Settlement Website and/or a QR Code or any other appropriate available technology to allow Class Members to submit claims electronically. Class Members will also be able to complete, sign, and mail a copy of the completed Claim Form to the Settlement Administrator, or upload it to the Settlement Website.

B. Notice.

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

C. Time to Appeal.

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

D. No Liability for Distribution of the Settlement Fund.

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

VI. DUTIES OF THE SETTLEMENT ADMINISTRATOR

A. The Settlement Administrator ~~will administrate~~Will Administer the ~~Settling Parties'~~ Settlement~~.~~

The Settlement Administrator shall be responsible for the following tasks:

1. Conducting a National Change of Address search to obtain up-to-date address information on Class Members prior to disseminating the Notice of Settlement;

2. Printing and disseminating the Notice of Settlement by email (where available) and first-class mail ~~and~~(where email ~~(where~~is not available) to each and every Class Member;

3. Printing and disseminating the applicable Claim Form by ~~first-class mail and~~ email (where available) and first-class mail (where email is not available) to each and every Class Member;

4. Furnishing promptly to Class Counsel and Counsel for ~~the Settling Parties~~Wells Fargo copies of any Requests for Exclusion, Opt-Out Forms, objections, or other written or electronic communications from each Class Member that the Settlement Administrator receives;

5. Determining the amount of the Automatic Payments and the ~~Additional Compensation payments~~Supplemental Payments owed to Eligible Class Members in accordance with this Agreement;

6. Keeping track of each request for exclusion and Opt-Out form, including maintaining the original mailing envelope in which the request for exclusion or Opt-Out form was mailed and reporting to Counsel for both sides the total number and identities of those who have requested exclusion or returned completed Opt-Out forms;

7. Taking all steps necessary to implement the Distribution Plan, including ~~working with the Special Master and~~ issuing Automatic Payments and ~~Additional Compensation payments~~Supplemental Payments;

8. Skip-tracing or otherwise attempting to ascertain current address information for each Settlement check returned as undeliverable;

9. Placing a stop-pay order on all Settlement checks not cashed before their void date;

10. Working with Class Counsel to take appropriate measures to maximize the number of Class Members who receive and deposit the Automatic and Supplemental Payment checks awarded to them, which actions may include providing additional notice, reissuing checks, and extending deadlines as mutually agreed to by Class Counsel and Wells Fargo;

~~10.~~11. Performing all tax reporting duties required by federal, state, and/or local law related to the administration of the Settlement Fund, any Automatic Payments, ~~Additional Compensation~~Supplemental Payments, Fee and Expense Award~~,~~(s), and Service Awards pursuant to this Settlement Agreement;

~~11.~~12. Responding to inquiries of Class Members regarding the terms of Settlement and procedures for filing objections, requests for exclusion, and Claim Forms;

~~12.~~13. Referring to Class Counsel all inquiries by Class Members regarding matters not within the Settlement Administrator's duties specified herein and contemporaneously giving Class Counsel, and Counsel for Wells Fargo notice of all such inquiries;

~~13.~~14. Responding to inquiries of Class Counsel regarding Class Members who have contacted Class Counsel regarding the terms of the Settlement and contemporaneously giving Class Counsel and Counsel for Wells Fargo notice of all such inquiries;

~~14.~~15. Apprising Class Counsel, and Counsel for Wells Fargo of the activities of the Settlement Administrator via a weekly report, including status reports regarding the Class Notice, requests for exclusion, completed Opt-Out forms, and completed Claim Forms received, and promptly providing copies to Class Counsel, and Counsel for Wells Fargo of such documents

and all electronic or written communications between the Settlement Administrator and any Class Member;

~~15.~~16. Responding to requests for further information from Class Members via a toll-free number or an email, including providing a copy of this Settlement Agreement, the ~~First Amended Complaint~~operative Complaints in the Actions, or any other materials available on the Settlement Website, to any Class Member who requests such documents;

~~16.~~17. Creating and maintaining the Settlement Website, and removing the Settlement Website from the Internet promptly if the Settlement is terminated or if the Court denies Final Approval of the Settlement, and, in any event, within ~~ninety (90~~one hundred and eighty (180) Days after ~~the Effective Date~~all Remaining Amount payments have been disbursed;

~~17.~~18. Obtaining approval from the Settling Parties for the name of the Settlement Website before publishing;

~~18.~~19. Maintaining adequate records of its activities, including the dates of the mailing of Class Notice(s), second mailing, requests for exclusion, and Opt-Out forms, returned mail and other communications, and attempted written or electronic communications with Class Members;

~~19.~~20. Confirming in writing the substance of its activities and its completion of the administration of the Settlement;

~~20.~~21. Responding timely to communications from Class Counsel or Counsel for Wells Fargo;

~~21.~~22. Reporting timely each Automatic Payment, ~~Additional Compensation~~Supplemental Payment, and Remaining Amounts payment on an IRS Form W-2 and IRS Form 1099 to each applicable Class Member;

~~22.~~23. Reporting timely on an IRS Form 1099 the Fee and Expense Award(s) and Service Awards to the ~~Class~~Consolidated Plaintiffs' Counsel, *Echard* Counsel, and Class Representatives, respectively;

~~23.~~24. Providing assistance with mailing the CAFA notices required by the Settlement Agreement which shall be provided to the appropriate federal and state officials within ten (10) Days after the filing of the Preliminary Approval Motion pursuant to 28 U.S.C. § 1715;

~~24.~~25. Emailing and/or calling Class Members who did not cash their Automatic Payment or ~~Additional Compensation~~Supplemental Payment checks so that a new Settlement check can be issued;

~~25.~~26. Disbursing any Remaining Amounts of the Settlement Fund in accordance with Paragraph IV.B.3. of the Agreement; and

~~26.~~27. Performing such other tasks as ~~the Settling Parties~~Class Counsel and Counsel for Wells Fargo mutually agree or that are specified in this Agreement.

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

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

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

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

A. Fee and Expense Application~~.~~(s)

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

B. Payment of Fee and Expense Award.

Any amounts that are awarded by the Court pursuant to the paragraph above (the "Fee and Expense Award") shall be paid remain in the Settlement Fund until resolution of all appeals related to the Fee and Expense Award, at which time it shall be paid by the Settlement Administrator from the Settlement Fund within thirty (30) Days of the Effective Date. The Fee and Expense Award, plus interest that has accrued on the Fee, unless ordered otherwise by the Court or agreed to by Consolidated Plaintiffs' Counsel and Expense Award while held in escrow, shall be paid to Smith & Lowney, PLLC, which may further pay such funds to other counsel, subject to the terms herein.*Echard* Counsel.

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

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

D. No Liability for Attorneys' Fees and Expenses of ClassConsolidated Plaintiffs' Counsel. and *Echard* Counsel

Neither the Class Releasees nor their counsel shall have any responsibility for, interest in, or liability whatsoever with respect to any payment(s) to ClassConsolidated Plaintiffs' Counsel or

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

E. Class Representatives' Service Award Application~~.~~

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

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

A. Effective Date.

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

1. Wells Fargo no longer has any right to terminate this Agreement, nor is there a possibility of termination of this Agreement as set forth herein or, if Wells Fargo does have such right, Wells Fargo has given written notice to Plaintiffs' Counsel that it will not exercise such right and Plaintiffs, through Class Counsel, no longer have the right to terminate this Agreement pursuant to VIII.E;

2. The Court has finally approved the Settlement as described herein, following notice to the Class and a hearing, as prescribed by Fed. R. Civ. P. 23, and has entered the Final Approval Order and Judgment;

3. The Class Released Claims and the ~~Action~~Actions are dismissed with prejudice pursuant to the Final Approval Order and Judgment; and

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

a. If no appeal is taken from the Final Approval Order or Judgment, the date after the time to appeal therefrom has expired; or

b. If any appeal is taken from the Final Approval Order or Judgment, the date after all appeals therefrom, including petitions for rehearing or re-argument, petitions for rehearing en banc, and petitions for certiorari or any other form of review, have been finally disposed of, such that the time to appeal therefrom has expired, in a manner resulting in an affirmance without material modification of the relevant order or judgment.

~~**B. Depositing Money into the Settlement Fund and Occurrence of Effective Date.**~~

~~Within sixty (60) Days after Preliminary Approval of the Settlement, Wells Fargo will transfer the sum of $94,000,000 to the Settlement Administrator to be held in an escrow account maintained by the Settlement Administrator as the Settlement Fund. After the occurrence of Effective Date, and all of the events referenced in Paragraph VIII.A, the Settlement Administrator shall make the following payments:~~

~~1. The Automatic Payments to the Class shall be issued within thirty (30) Days after the Effective Date;~~

~~2. The Fee and Expense Award and Service Awards payments shall be issued within thirty (30) Days after the Effective Date; and~~

~~3. The Additional Compensation payments to the Class shall be issued as soon as reasonably practicable.~~

~~C.~~B. Failure of Effective Date to Occur~~.

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

~~D.~~C. Requests for Exclusion/Opt-Outs~~.~~

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

1. In order to become an Opt-Out, a Class Member must mail a request for exclusion ~~with~~to the Settlement Administrator with a post-mark date no later than the Exclusion/Objection Deadline. The request for exclusion must be personally signed by the Class Member and include all information specified in the Class Notice. Opt-Outs may opt-out of the Class only on an individual basis; so-called "mass" or "class" opt-outs shall not be allowed and shall be of no force or effect. For the avoidance of doubt, no Class Member, or any person acting

on behalf of or in concert with that Class Member, may submit a request for exclusion of any other Class Member. If a Class Member submits both a request for exclusion and a Claim Form, the Claim Form shall take precedence and the Class Member shall not be deemed to have validly excluded themselves from the Settlement. In the event that two Class Members are co-borrowers on the same Mortgage account and one Class Member opts out of the Settlement, both Class Members will be treated as opt-outs with respect to that Mortgage and neither Class Member will be eligible to receive a Settlement payment with respect to that Mortgage; provided, however, that if the co-borrower who did not opt out of the Settlement has a different eligible Mortgage, the co-borrower who did not opt out can receive a Settlement payment with respect to the different eligible Mortgage.

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

a. With respect to any Opt-Outs, Wells Fargo reserves all legal rights and defenses, including, but not limited to, any defenses relating to whether the person qualifies as a Class Member and/or has standing to bring any claim.

b. Wells Fargo may challenge the validity of any Opt-Out by filing a motion with the Court within five (5) Days of the Settlement Administrator providing Counsel for Wells Fargo a complete and final list of Opt-Outs. The Court shall have jurisdiction to resolve any disputes regarding the validity of Opt-Outs. Any decision by Wells Fargo not to dispute an Opt-Out shall not be a waiver,

determination, or preclusive finding against the Class Releasees in any proceeding.

c. In the event that the number of Opt-Outs ~~is more than five percent (5%) of Class Members~~meets the conditions set forth in a confidential supplemental letter agreement between the Parties, Wells Fargo, in its sole discretion, may terminate this Agreement pursuant to Paragraph VIII.~~F~~E. The supplemental letter shall not be submitted to the Court except in the event of a dispute thereunder or a separate Court order, in which case the Parties shall seek to file it only under seal.

~~E.~~D. Objections~~.~~

Class Members who wish to object to any aspect of the Settlement, including any Fee and Expense Application, must file with the Court a written statement containing their objections prior to the Exclusion/Objection Deadline and abide by the requirements laid out in the Class Notice. The written objections must also be mailed to the Settlement Administrator with a post-mark date no later than the Exclusion/Objection Deadline, with a copy to Class Counsel and Wells Fargo's Counsel. The written statement must include all required information as specified in the Notice of Settlement, including but not limited to a description of all objections to the Settlement, the reasons for said objections, and any legal authority supporting the objections. Class Members who opt-out of the Settlement shall not have the right to object to the Settlement and shall not have standing to do so. Any award or payment of attorneys' fees made to the counsel of an objector to the Settlement shall be made only by Court order and upon a showing of a substantial benefit conferred to the Class. Any award of attorneys' fees by the Court will be conditioned on the objector and his or her attorney stating under penalty of perjury that no payments shall be made to the objector based on the objector's participation in the matter other than as ordered by the Court.

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

~~F.~~E. Termination~~.~~

Plaintiffs, through Class Counsel, and Wells Fargo shall have the right, but not the obligation, to terminate this Agreement if: (1) the Court rejects, modifies, or denies approval of any portion of this Agreement or the proposed Settlement that results in a substantial modification to a material term of the proposed Settlement; or (2) the Court, or any appellate court(s), does not enter or completely affirm, or alters, narrows, or expands, any portion of the Final Approval Order, that results in a substantial modification to a material term of the proposed Settlement~~; or (3) the number of Opt-Outs is more than five percent (5%) of Class Members.~~. Further, Wells Fargo shall have the right, but not the obligation, to terminate the Agreement if (1) the number of Opt-Outs meets the conditions set forth in the confidential supplemental letter agreement between the Settling Parties; or (2) the Court does not enter the Preliminary Approval Order within one hundred and eighty (180) days of Plaintiffs' filing the Motions for Preliminary Approval. or (3) the Court does not enter the Final Approval Order within one hundred and eighty (180) days of Plaintiffs' filing of the Motion for Final Approval. The terminating party must exercise the option to withdraw from and terminate this Agreement, as provided in this Section, by a signed writing served on the other Settling Parties no later than ten (10) Days after receiving notice of the event prompting the termination. If, but only if, this Agreement is terminated pursuant to this Section then:

1. The Settling Parties will be returned to their positions *status quo ante* and this Agreement shall be null and void and shall have no force or effect and all of its provisions, and all negotiations, statements, and proceedings relating to it shall be without prejudice to the rights of Plaintiffs, Wells Fargo, or any Class Member, all of whom shall be restored to their

respective positions existing immediately before the execution of this Agreement, except that the Settling Parties shall cooperate in requesting that the Court set a new scheduling order such that no Party's substantive or procedural rights are prejudiced by the settlement negotiations and proceedings; and

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

~~G.~~F. Other Orders~~.~~

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

IX. NO ADMISSION OF LIABILITY

A. Final and Complete Resolution~~.~~

The Settling Parties intend the Settlement as described herein to be a final and complete resolution of all disputes between them with respect to the ~~Action~~Actions, and to compromise claims that are contested, and it shall not be deemed an admission by any Settling Party as to the merits of any claim or defense or any allegation made in the ~~Action~~Actions.

B. Federal Rule of Evidence 408~~.~~

The Settling Parties agree that this Settlement Agreement, its terms, and the negotiations surrounding this Settlement Agreement shall be governed by Federal Rule of Evidence 408 and any state-law equivalents and shall not be admissible or offered or received into evidence in any

suit, action, or other proceeding, except upon the written agreement of the Settling Parties hereto, pursuant to an order of a court of competent jurisdiction, or as shall be necessary to give effect to, declare, or enforce the rights of the Settling Parties with respect to any provision of this Agreement.

C. Use of Agreement as Evidence~~.~~

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

X. REPRESENTATIONS AND WARRANTIES

A. This Agreement and the Settlement shall be subject to the ordinary and customary judicial approval procedures under Fed. R. Civ. P. 23. Until and unless this Agreement is dissolved or becomes null and void by its own terms, or unless otherwise ordered by the Court, or if Final

Approval is not achieved, Plaintiffs and Wells Fargo represent and warrant that they shall take all appropriate steps in the ~~Action~~Actions necessary to obtain the transfer as set forth in II. A (1), preserve the jurisdiction of the Court, use reasonable efforts to cause the Court to grant Preliminary and Final Approval of this Agreement as promptly as possible, and take or join in such other steps as may be necessary to implement this Agreement and to effectuate the Settlement. This includes the obligation to (a) oppose non-meritorious objections and to defend the Agreement and the Settlement before the Court and on appeal, if any; (b) seek approval of this Agreement and of the Settlement by the Court; (c) move for the entry of the orders required to effectuate Preliminary and Final Approval; and (d) join in the entry of such other orders as are necessary to effectuate this Agreement.

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

C. Plaintiffs represent and warrant that other than ~~Class~~Consolidated Plaintiffs' Counsel and *Echard* Counsel, as ~~that term is~~those terms are defined herein, there is no other ~~Person~~person having any interest in any award of attorneys' fees, expenses, or litigation costs in connection with the ~~Action~~Actions, Agreement, or Settlement.

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

by that Settling Party, entity, or other Person(s). The Plaintiffs and Wells Fargo represent and warrant that he, she, it, or they intend to be bound fully by the terms of this Agreement.

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

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

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

H. Wells Fargo and Plaintiffs and ~~Class~~Consolidated Plaintiffs' Counsel and *Echard* Counsel represent and warrant that they will comply with the Protective ~~Order~~Orders that ~~applies~~apply to ~~this Action~~the Actions and will not use or seek to use the fact or content of the Settlement in ~~this Action~~the Actions in connection with any other claim, action, or litigation against any Class Releasee (excepting only actions to enforce or construe this Agreement).

~~I. Class~~I. Consolidated Plaintiffs' Counsel and *Echard* Counsel represent and warrant to Wells Fargo that they have the authority to execute this Agreement on behalf of Plaintiffs, and

themselves, and thereby to bind Plaintiffs, to all terms and conditions of this Agreement, and, subject to Court approval, to bind all Class Members to the terms and conditions of this Agreement.

XI. MISCELLANEOUS PROVISIONS

A. Voluntary Settlement~~.~~

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

B. Reasonable Best Efforts to Effectuate ~~This~~this Settlement~~.~~

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

C. Subsequent Events Impacting Administration~~.~~

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

~~**D. Potentially Related Actions.**~~

~~Plaintiffs and Class Counsel retain sole discretion to allow one or more named plaintiffs in a Potentially Related Action, if an Eligible Class Member, to join this Settlement. In such event, the additional plaintiff would sign a joinder to this Settlement and agree to be bound by the Settlement, in a form acceptable to the Settling Parties, and the Settling Parties would notify the Court and take other procedural actions they deem appropriate to have such additional plaintiff(s) be considered additional named plaintiff(s) in this Action. Such joinder would have no impact on any provision in this Agreement, except that Plaintiffs' Service Award Application may seek a~~

~~Service Award for such additional plaintiff(s) (individual or married couple) subject to the limitations in Paragraph VII.E.~~

~~E.~~D. Claims in Connection with Administration~~.~~

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

~~F.~~E. Binding Effect~~.~~

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

~~G.~~F. Authorization to Enter Settlement Agreement~~.~~

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

~~H.~~G. Notices~~.~~

All notices and responses to notices under this Agreement shall be in writing. Each such notice or response shall be given either by email unless otherwise specified herein or in the notice to the Class; and, if directed to any Class Member, shall be addressed to ~~Plaintiffs'~~Class Counsel ~~at their email addresses~~. The emails for the potential Class Counsel are set forth below~~, and if~~. I f directed to Wells Fargo, notices and responses shall be addressed to Counsel for Wells Fargo at

the email addresses set forth below or such other email addresses as Class Counsel or Wells Fargo may designate, from time to time, by giving notice to all Settling Parties hereto in the manner described in this paragraph.

~~If directed to Plaintiffs or any Class Member, email address notice to:~~

The email addresses for potential Class Counsel are:

Derek Loeser, dloeser@kellerrohrback.com

Gretchen Freeman Cappio, gcappio@kellerrohrback.com

Zachary Waid Gussin, zgussin@kellerrohrback.com

Abbas Kazerounian, ak@kazlg.com

Jason Ibey, jason@kazlg.com

Thad Bartholow, thad@kblawtx.com

Karen Kellett, kkellett@kblawtx.com

Knoll Lowney, knoll@smithandlowney.com

Claire Tonry, claire@smithandlowney.com

Marc Zemel, marc@smithandlowney.com

Alyssa Koepfgen, alyssa@smithandlowney.com

If directed to Wells Fargo, email address notice to:

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

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

Andrew Atkins, andrew.atkins@troutman.com

~~I.~~H. No Party Deemed to Be the Drafter~~.~~

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

~~J.~~I. Choice of Law~~.~~

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

~~K.~~J. Amendment~~.~~

This Agreement shall not be modified in any respect except by a writing executed by Wells Fargo, or at Wells Fargo's election, Counsel for Wells Fargo, and Plaintiffs or Class Counsel, and the waiver of any rights conferred hereunder shall be effective only if made by written instrument of the waiving party. Should an amendment occur before Final Approval, the Settling Parties shall file a notice with the Court and notify the Class through a posting on the Settlement Website. If such amendments occur after Final Approval, further approval of the Court is not necessary provided that Wells Fargo and Class Counsel mutually determine that the changes are consistent with the Court's Final Approval Order and Final Judgment and do not materially alter the Settlement Agreement. Up until the deadline for Service Award Applications, Plaintiffs retain sole discretion to name one or more Eligible Class Members as additional or substitute Class Representatives, without amendment of this Agreement, subject to the approval of the Court at the Final Approval Hearing.

~~L.~~K. Waiver~~.~~

The waiver by any party of any breach of this Agreement shall not be deemed or construed as a waiver of any other breach, whether prior, subsequent, or contemporaneous, of this Agreement. Nothing in the Settlement Agreement (including the fact of Settlement) constitutes or

shall be construed as a waiver by Wells Fargo of whatever rights it may have under any arbitration agreement, including with respect to any claim, lawsuit, or judicial proceeding initiated by a member of the Class who has opted-out of the Settlement.

~~M.~~L. Execution in Counterparts~~.~~

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

~~N.~~M. Integrated Agreement~~.~~

This Agreement constitutes the entire agreement between the Settling Parties with respect to the Settlement. This Agreement supersedes all prior negotiations and agreements, including, but not limited, to the Term Sheet entered into by the Parties on or about February 12, 2024 and the settlement agreement entered into by Wells Fargo and the *Echard* Plaintiffs on or about September 8, 2022, and may not be modified or amended except by a writing signed by the Settling Parties and their respective counsel. The Settling Parties acknowledge, stipulate, and agree that no covenant, obligation, condition, representation, warranty, inducement, negotiation, or understanding concerning any part of the subject matter of this Agreement has been made or relied on except as expressly set forth in this Agreement. It is understood by the Settling Parties that, except for the matters expressly represented herein, the facts or law with respect to which this Agreement is entered into may turn out to be other than or different from the facts now known to each Settling Party or believed by such party to be true. Each Settling Party therefore expressly assumes the risk of the facts or law turning out to be different and agrees that this Agreement shall be in all respects effective and not subject to termination by reason of any such different facts or law.

~~O.~~N. Attorneys' Fees and Costs~~.~~

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

~~P.~~O. Return or Destruction of Confidential Materials~~.~~

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

~~Q.~~P. Intended Beneficiaries~~.~~

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

~~R.~~Q. Regular Course of Business~~.~~

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

~~S.~~R. Tax Consequences~~.~~

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

~~T.~~S. Qualified Settlement Fund~~.~~

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

~~U.~~T. Taxes for the Settlement Fund~~.~~

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

~~V.~~U. Bankruptcy Proceedings~~.~~

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

2. The Settling Parties agree that any dispute concerning the rights of the bankruptcy estate to the proceeds of any payment under the Settlement or Service Award shall be

adjudicated by the applicable Bankruptcy Court. The Settlement Administrator shall follow any direction of the Bankruptcy Court with respect to the proceeds of any payment or Service Award.

~~W.~~V. No Conflict Intended; Headings~~.~~

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

~~X.~~W. Class Member Obligations~~.~~

Under no circumstances shall the Settlement or Agreement or any release herein be deemed to alter, amend, or change the terms and conditions of any account or loan to which any Class Member is or was a party, or to provide a defense to any action to collect any such loan, nor shall the Agreement or any release herein be deemed to have any effect in any bankruptcy case, in any foreclosure proceeding, or in any other action involving a Class Member hereto, nor shall the Settlement or the Agreement create or be construed as evidence of any violation of law or contract. In the event this Agreement is so construed as to a particular Class Member, it can be declared by Wells Fargo to be null and void as to that Class Member only (and in such latter event, the release as to Class Released Claims as to that Class Member shall also be void).

~~Y.~~X. Press Release~~.~~

Plaintiffs, Consolidated Plaintiffs' Counsel, and ~~Class~~*Echard* Counsel shall not issue, or otherwise cause to be issued, any press release ~~or~~, advertisement, ~~concerning~~or response to media inquiry without first obtaining Wells Fargo's approval on the fairness and accuracy of the content of such press release, advertisement, or response with respect to the Action ~~and/or the facts and circumstances that were the subject of, or disclosed in discovery in the Action, excepting only such documents created and disbursed as part of the Class Notice. Plaintiffs and Class Counsel shall not seek media interviews concerning: (i) the Action; (ii) the facts and circumstances that were the subject of, or disclosed in discovery in the Action; and/or (iii) the Settlement of the Action,~~

~~excepting only that such statements may be made to individual Class Members in one-on-one communications or as part of the Class Notice.~~. Under no circumstance shall Plaintiffs ~~or Class~~, Consolidated Plaintiffs' Counsel, Wells Fargo, or *Echard* Counsel disclose to any third party (i) any confidentially designated discovery obtained ~~from Wells Fargo~~ in the Action and/or (ii) any non-public information regarding the Settling Parties' negotiation of this Settlement and/or this Agreement, except as may be otherwise permitted in this Agreement. ~~Specifically, this paragraph does not alter the scope of any confidentiality provisions or provisions regarding the use of non-public information set forth in this Agreement~~Nothing within this provision shall restrain Plaintiffs, Consolidated Plaintiffs Counsel, Echard Counsel or Class Counsel from discussing publicly available information regarding the Action in any court filings or in non-public communications within their law firms, or with their lawyers, family members, clients or prospective clients provided that any such statements shall not be defamatory to Wells Fargo.

~~Z.~~Y. Further Disputes~~.~~

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

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

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

PLAINTIFF LUIS CASTRO
By:

_____
Luis Castro

Date:_____, 2024

PLAINTIFF MARISOL CASTRO
By:

_____
Marisol Castro

Date:_____, 2024

PLAINTIFF PAMELA DELPAPA
By:

_____
Pamela Delpapa

Date:_____, 2024

PLAINTIFF JENNA DOCTOR
By:

_____
Jenna Doctor

Date:_____, 2024

PLAINTIFF BRIAN ECHARD
By:

_____
Brian Echard

Date:_____, ~~2021~~2024

PLAINTIFF PATRICIA FOLEY
By:

_____
Patricia Foley

Date:_____, 2024

PLAINTIFF SAMARA GREEN
By:

_____
Samara Green

Date:_____, 2024

PLAINTIFF PATRICK HEALY
By:

_____
Patrick Healy

Date:_____, 2024

PLAINTIFF BARBARA PRADO
By:

_____
Barbara Prado

Date:_____, 2024

PLAINTIFF RENRICK ROBINSON
By:

_____
Renrick Robinson

Date:_____, 2024

PLAINTIFF VIVIAN ROBINSON
By:

_____
Vivian Robinson

Date:_____, 2024

PLAINTIFF HEATHER SHIMP
By:

_____
Heather Shimp

Date:_____, ~~2021~~2024

~~PLAINTIFF STEPHEN SHIMP~~
~~By:~~

~~_____~~
~~Stephen Shimp~~

~~Date:_____,~~ ~~2021~~

DEFENDANT WELLS FARGO BANK, N.A.
By:

_____

Title: _____
Date:_____, ~~2021~~2024

~~Agreed as to form and content:~~

~~/s/ Nathan A. Hunter~~
~~Nathan A. Hunter (0096389)~~
~~Trial Attorney~~
~~Hunter & Hunter LLC~~
~~1491 Polaris Pkwy #21416~~
~~Columbus, OH 43240~~
~~Tel: (234) 738-4648~~
~~Email: nathan@hunterfirm.org~~

~~Knoll Lowney~~
~~Marc Zemel~~
~~Smith & Lowney, PLLC~~
~~2317 E. John Street~~
~~Seattle, WA 98112~~

~~Tel: (206) 860-2883~~
~~Email: knoll@smithandlowney.com~~

~~*Attorneys for Plaintiffs and the Proposed Class*~~

~~/s/ D. Jeffrey Ireland~~
~~D. Jeffrey Ireland (0010443)~~
~~Trial Attorney~~
~~Stephen A. Weigand (0083573)~~
~~FARUKI PLLC~~
~~110 North Main Street, Suite 1600~~
~~Dayton, OH 45402~~
~~Telephone: (937) 227-3710~~
~~Fax: (937) 227-3717~~
~~Email: djireland@ficlaw.com~~
~~sweigand@ficlaw.com~~

~~William C. Mayberry, Esq.~~
~~Amy Pritchard Williams, Esq.~~
~~Jason E. Manning, Esq.~~
~~Troutman Pepper Hamilton Sanders LLP~~
~~301 South College Street, Suite 3400~~
~~Charlotte, NC 28202~~

~~*Attorneys for Defendant Wells Fargo Bank N.A.*~~

EXHIBIT C

Phillips ADR

2101 East Coast Highway, Suite 250
Corona Del Mar, California 92625

TELEPHONE (949) 760-5288
WEBSITE: www.phillipsadr.com

July 27, 2023

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Zachery W. Gussin
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Semnar & Hartman LLP

D. Jeffrey Ireland
djireland@ficlaw.com
Faruki PLLC

Re: Wells Fargo Forbearance/Echard v. Wells Fargo Mediation

Dear Counsel:

This letter sets forth the terms upon which we will provide mediation services on behalf of the undersigned parties. It is your request that Phillips ADR Enterprises, P.C. ("PADRE") provide mediation services rendered under this agreement.

1. The mediation services have been scheduled for 9:00 a.m. ET on Tuesday, October 3, 2023 and Tuesday, October 24, 2023, at a location to be determined in New York, New York. Please let me know the specific location in New York where the parties have agreed to conduct the mediation. The mediation services have been scheduled for 9:00 a.m. PT on «Med_Date_1» and «Med_Date_2», at the offices of Phillips ADR, 2101 East Coast Highway, Suite 250, Corona del Mar, California 92625. Attire is business casual. We encourage the parties to meet and confer and advise us as soon as possible on the topics of mediation attendees (counsel, client representatives, carriers), whether there is a desire by any side for merits related opening statements or PowerPoint presentations, and any technical assistance the parties may need related to presentations or call-in participants.

2. Judge Phillips will review all documents, case citations and other materials you indicate as relevant. Judge Phillips' preferred schedule is that all briefs be filed with our office (briefs@phillipsadr.com) and exchanged among the parties via e-mail by **12:00 p.m. PT, on Friday, September 8, 2023** (simultaneous briefing), and shall be limited to 25 pages (double spaced, standard formatting, excluding exhibits). Reply briefs should be filed with Judge Phillips and exchanged by e-mail **by 12:00 p.m. (PT), on Tuesday, September 19, 2023**, and should be limited to 10 pages (double spaced, standard formatting, excluding exhibits). All ***exhibits*** *should be sent* ***via electronic delivery*** *and compiled in* ***a three-ring binder with a descriptive table of contents*** and sent by overnight mail for delivery on the following business day. Page limitations may be slightly modified by mutual agreement of counsel without the need for Judge Phillips' approval. To the extent there are any insurance issues and the insurance carriers and/or the parties wish to educate Judge Phillips and his staff on those issues, they should submit insurance issue related briefs by no later than the reply date, stated above, with the same page and formatting limitations.

3. We require a non-refundable flat fee of $150,000, pursuant to our cancelation policy outlined below, in order to undertake the above-described mediation. The flat fee includes all preparation time, and expenses, as well as time spent conducting the scheduled mediation. This flat fee amount does not include in-person follow-up sessions or follow-up work conducted after the date listed in paragraph 1. (See attached ADR Fee Schedule for explanation of fees.)[*] Therefore, depending on how you have decided to split the costs of this mediation, **please remit payment in the amount of $150,000 on or before Friday, September 1, 2023.** Please advise us by email (MLettington@phillipsadr.com) as to how the parties have agreed to share the costs.

---

[*] Generally, our fee structure presumes the mediation day, substantial preparation by Judge Phillips, with additional assistance from his staff, including various pre-mediation communications.

4. The payment of the retainer shall be divided in a manner agreed upon by the parties, and the check(s) made payable to **Phillips ADR, Enterprises P.C.** (Fed. Tax I.D. No. 47-1443680), **not** Judge Layn R. Phillips. Any follow-up work conducted after the mediation date listed in paragraph 1 will be billed at Judge Phillips' rate of $1,900 per hour, including but not limited to conference calls, review of submitted materials and related research, the issuance of any mediator recommendations, as well as any time devoted to the enforcement of any settlement arising out of the mediation. Any individuals affiliated with PADRE who are involved in follow-up work will bill their hourly rates for assisting Judge Phillips with these tasks.

5. PLEASE READ CAREFULLY. If the mediation is cancelled or rescheduled more than 30 days prior to the scheduled session, there is no cancellation charge, the full fee will be refunded. If the mediation is cancelled or rescheduled less than 30 calendar days prior to the scheduled session, however, the full fee will be charged to the parties, unless Judge Phillips is able to schedule a new mediation for the date that was cancelled or changed.

6. As a mediator, Judge Phillips agrees to keep all information received in connection with any mediation proceedings in confidence. At the conclusion of the mediation, Judge Phillips and any individuals affiliated with PADRE who are called upon to perform work relating to this matter shall destroy all materials provided to them during the course of the mediation, and shall destroy all other documents in their possession concerning the mediation with the exception of their personal notes.

7. Notwithstanding any other provision in this agreement, the parties agree that Judge Phillips, PADRE, and any other firm, attorney, or consultant who PADRE engages to perform work relating to this matter ("engaged third party"), will not be placed into any attorney/client or fiduciary relationship by virtue of this mediation, and that they are not represented by PADRE or any engaged third party. The parties further agree not to sue or make any claims arising out of this matter, or seek disqualification, against the mediator or PADRE or any engaged third party for any reason relating to this matter.

Please indicate your agreement to the foregoing by dating and signing this letter where indicated, and returning the signed original to me. **Please note that the mediation cannot commence until all parties have executed this agreement and the retainer has been paid in full.**

We appreciate your bringing this interesting matter to us, and we look forward to working with you on it.

Sincerely,

Meghan Lettington
ADR Case Manager
mlettington@phillipsadr.com
Direct Dial (949) 760-5280

cc: Amanda Saunders (asaunders@phillipsadr.com)
Finance & Business Manager
Direct Dial (949) 718-4547

SIGNATURE PAGE

WE HAVE READ THE ATTACHED RETENTION LETTER AND WE UNDERSTAND AND AGREE TO ITS TERMS

Dated:_____

_____
Name:_____
Representing:
Luis and Marisol Castro
Pamela Delpapa
Jenna Doctor
Gerald Forsburg
Samara Green
Patrick Healy
Brett Jacob
Charles Johnson
Barbara Prado
Renrick and Vivian Robinson

Dated:_____

_____
Name:_____
Representing:
Brian Echard
Heather Shimp
Patricia Foley

Dated:_____

_____
Name:_____
Representing: Wells Fargo Bank, N.A., Wells Fargo & Company

Phillips ADR

2101 East Coast Highway, Suite 250
Corona Del Mar, California 92625

TELEPHONE (949) 760-5288
WEBSITE: www.phillipsadr.com

ADR FEE SCHEDULE

Mediator/Arbitrator	Fees	
Former United States District Judge Layn R. Phillips	Virtual Flat Fee Per Day	$55,000
	Orange County, CA Flat Fee Per Day	$55,000
	San Francisco, CA Flat Fee Per Day	$60,000
	Travel Required Flat Fee Per Day	$75,000
	Hourly Follow-Up Rate	$ 1,900

Advance payment is required before any in-person mediation or arbitration sessions can begin.

Cancel/Reschedule: Once mediation/arbitration session(s) are scheduled, if it is cancelled or rescheduled 30 days or more prior to the scheduled date, there is no cancellation charge, and the full fee will be refunded. If the session(s) are cancelled or rescheduled less than 30 days prior to the date, however, the full fee will be charged to the parties, unless Judge Phillips is able to reschedule a new ADR matter for the date(s) that was cancelled or changed.

The Flat Fee includes all travel time and expenses, if applicable, but does not include any follow up work after the initial scheduled mediation date(s). All telephonic and email follow-up work will be billed at the current hourly rate. All in-person follow-up mediation sessions will be billed at the applicable subsequent day rate. Weekend mediation sessions are different and will be determined on a case-by-case basis.

EXHIBIT D

Phillips ADR Enterprises (PADRE)

MEDIATION CONFIDENTIALITY AGREEMENT

The parties have agreed to mediate the *In re: Wells Fargo Forbearance Litigation* and *Echard v. Wells Fargo Bank, N.A.* matters, and hereby enter into the following agreement with regard to confidentiality:

The parties hereby agree that all statements of the parties, counsel, and mediator, as well as the materials generated solely for purposes of the mediation shall constitute conduct or statements made in compromise negotiations and, shall therefore, not be admissible pursuant to Rule 408 of the Federal Rules of Evidence, and shall not be disseminated or published in any way. In short, no statement made during the course of the mediation or any materials generated for the purpose of the mediation may be offered into evidence, disseminated, published in any way, or otherwise publicly disclosed. No one other than those listed on the sign-in sheet and who have executed this confidentiality agreement may attend or appear in person, by video, or phone without the permission of the parties. In the event of a virtual mediation, all participants confirm that they will be in a private location and will disclose if anyone outside of the mediation process enters their private location. No participant shall record any part of the mediation session by any electronic means, including any sessions or communications prior to and following the mediation session. All participants agree that they will only use a secure Wi-Fi or Ethernet connection for all conduct related to the mediation session.

Date: 10/3/23

Alyssa Koepfger

Name: Alyssa Koepfger
Representing: Echard Plaintiffs

Date: 10/3/23

Name: Marc Zemel
Representing: Echard Plaintiffs

Date: 10/3/23

Name: CLAIRE TONRY
Representing: Echard Plaintiffs

Date: _____

Name:
Representing:

Date: _____

Name:
Representing:

Phillips ADR
Enterprises (PADRE)

October 3, 2023 before Judge Layn R. Phillips
In re: Wells Fargo Forbearance Litigation* and *Echard v. Wells Fargo Bank, N.A.
Mediation Sign-In Sheet

Name	Representing/Role	E-mail	Work Phone / Cell Phone
CLAIRE TONRY MARC ZEMEL ALYSSA KOEPFGEN	ECHARD PLAINTIFFS COUNSEL	claire@smithmcdlaw.com	[redacted]

Phillips ADR Enterprises (PADRE)

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Date: 10/03/23

Name: ABBAS KAZEROUNIAN
Representing: CONSOLIDATED CA PLAINTIFFS

Date: 10/03/23

Name: Derek Loeser
Representing: Consolidated Plaintiffs

Date:

Name:
Representing:

Date: 10/3/23

Name: Gretchen Cappio
Representing: Consolidated Plaintiffs

Date: 10/3/23

Name: Karen Killett
Representing: Consolidated Plaintiffs
Third Bartholow (by KLK) → remote

Phillips ADR Enterprises (PADRE)

MEDIATION CONFIDENTIALITY AGREEMENT

The parties have agreed to mediate the *In re: Wells Fargo Forbearance Litigation* and *Echard v. Wells Fargo Bank, N.A.* matters, and hereby enter into the following agreement with regard to confidentiality:

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Date: _____

William C. Mayberry

Name: William C. Mayberry — "Bill"
Representing: Wells Fargo

Date: 10/3/23

Amy P. Williams

Name: Amy P. Williams
Representing: Wells Fargo

Date: 10/3/23

Name: Andrew Stevens
Representing: Wells Fargo

Date: 10/3/23

Name: Brenden Cullen
Representing: Wells Fargo

Date: _____

Name:
Representing:

Phillips ADR Enterprises (PADRE)

October 3, 2023 before Judge Layn R. Phillips

In re: Wells Fargo Forbearance Litigation* and *Echard v. Wells Fargo Bank, N.A.

Mediation Sign-In Sheet

Name	Representing/Role	E-mail	Work Phone / Cell Phone
William Mayberry	Wells Fargo	~~Bill.Troutman~~ Bill.Mayberry @ troutman.com	[redacted]
Amy P. Williams	WellsFargo	amy.williams @ troutman.com	[redacted]
Andrew Atkins	Wells Fargo	andrew.atkins @ troutman.com	[redacted]

Phillips ADR
Enterprises (PADRE)

MEDIATION CONFIDENTIALITY AGREEMENT

The parties have agreed to mediate the *In re: Wells Fargo Forbearance Litigation* and *Echard v. Wells Fargo Bank, N.A.* matters, and hereby enter into the following agreement with regard to confidentiality:

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Date: 10/3/23

Name: Christopher M Viapiano
Representing: Wells Fargo Co. (S+C)

Date: Oct 3, 2023

[redacted]
Representing: Wellsfargo

Date: _____

[redacted]
Representing: Wellsfargo

Date: _____

Name:
Representing:

Date: _____

Name:
Representing:

Phillips ADR
Enterprises (PADRE)

October 3, 2023 before Judge Layn R. Phillips
In re: Wells Fargo Forbearance Litigation* and *Echard v. Wells Fargo Bank, N.A.
Mediation Sign-In Sheet

Name	Representing/Role	E-mail	Work Phone / Cell Phone
Christopher M Viapiano	Wells Fargo Co.	viapianoc@sullcrom.com	[redacted]
[redacted]	WellsFargo	[redacted]	[redacted]
	Wells Fargo		[redacted]

EXHIBIT E

FRE 408 Settlement Communication

Confidential Term Sheet

Echard v. Wells Fargo, No. 2:21-cv-05080-MHW-KAJ (S.D. Ohio) ("*Echard*")
In re Wells Fargo Forbearance Lit., No. 3:20-cv-06009-JD (N.D. Cal.) ("Consolidated Litigation", and with *Echard*, the "Actions")

I. Parties:

The Parties to this Term Sheet ("Term Sheet") are: Brian Echard, Heather Shimp, and Patricia Foley ("*Echard* Plaintiffs"), Luis Castro, Marisol Castro, Pamela Delpapa, Jenna Doctor, Gerald Forsburg, Samara Green, Patrick Healy, Brett Jacob, Charles Johnson, Barbara Prado, Renrick Robinson, Vivian Robinson ("Consolidated Plaintiffs"), (the *Echard* Plaintiffs and Consolidated Plaintiffs are referred to herein collectively as, "Plaintiffs"); and Wells Fargo Bank, N.A. and Wells Fargo & Co. ("Wells Fargo" or "Defendants").[1]

[redacted]

[1] Plaintiffs understand and acknowledge that certain named plaintiffs do not meet the Class Definition set forth in Section II of this Term Sheet and therefore are not in the Settlement Population. Plaintiffs agree to engage in separate good faith settlement discussions with Wells Fargo regarding these individuals' claims.

[redacted]

[redacted]

[redacted]

[redacted]

Dated: _____

COUNSEL FOR PLAINTIFFS

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Gretchen Freeman Cappio
Zachary W. Gussin
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Theodore O. Bartholow III ("Thad")

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Attorneys for Defendants

Dated: _____

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Gretchen Freeman Cappio
Zachary W. Gussin
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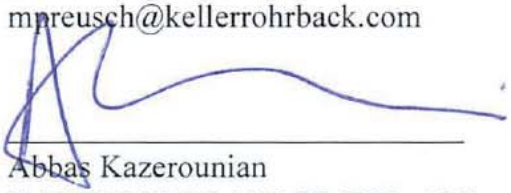

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_____
Theodore O. Bartholow III ("Thad")

TROUTMAN PEPPER
HAMILTON SANDERS LLP

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Washington, DC 20006
Telephone: 202.956.7500
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Attorneys for Defendants

Dated: _____

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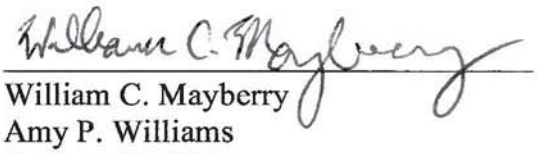

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CERTIFICATE OF SERVICE

This is to certify that a true and exact copy of the foregoing was filed electronically on the 28th day of October, 2024, via the Court's electronic filing system and notice of this filing will be sent to all Parties by operation of the Court's electronic filing system.

/s/ Alyssa Koepfgen
Alyssa Koepfgen
Attorney for Echard Plaintiffs

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

In re: WELLS FARGO COVID FORBEARANCE SETTLEMENT LITIGATION	Case No.: 2:24-cv-01026-MHW-EPD Judge Michael H. Watson Magistrate Judge Elizabeth A. Preston Deavers DECLARATION OF ALVIN MATHEWS, JR.

1. My name is Alvin E. Mathews, Jr., a partner at UB Greensfelder LLP in Columbus, Ohio, where I concentrate my practice on legal ethics and professional responsibility matters, after decades of focusing on such matters. I declare the following truthfully and on the basis of my personal knowledge and experience, to which I am competent to testify.

2. I am a former Assistant Disciplinary Counsel, employed with the Office of Disciplinary Counsel from 1991 through 1997. As an Assistant Disciplinary Counsel, I investigated and prosecuted lawyers and judges for violations of ethical rules governing their conduct.

3. After leaving my employment with the Office of Disciplinary Counsel, I began representing lawyers, and occasionally judges, regarding their professional obligations, including providing advice and representation regarding obligations such as competence, diligence, and communication responsibilities, maintaining confidentiality, avoiding conflicts of interest, charging reasonable fees, and obligations to tribunals, to name a few.

4. Because of my considerable experience and knowledge, I have been asked to provide representation on hundreds of ethics advisory opinions and grievance investigations

before the Ohio Board of Professional Conduct, including nearly 100 lawyer discipline trials and more than 20 oral arguments before the Supreme Court of Ohio. I have also represented many government employees and officials on matters involving Ohio Ethics Laws.

5. I have also provided expert testimony in numerous court actions, through affidavits, and depositions and in federal and state court proceedings, providing in-court testimony in the past four years in the cases reflected in Appendix B. I have authored publications in the last ten years also reflected in Appendix B. In addition, because of my substantial expertise in the field, I am often asked to give presentations on professional conduct and ethical standards at conferences and for the Ohio State Bar Association, a selection of which are also provided in Appendix A hereto.

6. For work preparing this declaration, I am being compensated at my normal expert witness rate of $565 per hour.

My Expert Opinions:

7. Plaintiffs' counsel in *Echard v. Wells Fargo*, which was consolidated with other related actions that were transferred to this district for settlement purposes under the instant caption, have asked me to provide my opinions on the ethical issues at play in this matter due to accusations lodged against them by counsel for the related putative class actions (hereafter "California counsel"). All of my opinions provided herein are given to a reasonable degree of legal probability and/or certainty. In short, based on my substantial ethics and professional responsibility experience, including as a former Assistant Disciplinary Counsel, primarily advising and representing lawyers on ethical matters after moving to the private sector, and careful review of the record, it is my opinion that *Echard* counsel acted ethically at each phase of this case, with appropriate attention to their ethical duties, including duties of diligence, and preventing conflicts

of interest, obligations to tribunals and to the system of justice, among other standards discussed further below. I have in particular found that *Echard* counsel acted ethically when they offered to collaborate with California counsel, continued to pursue their case independently when efforts to collaborate failed; moved their case to Mr. Echard's home district and pursued mediation with Wells Fargo in 2021, and then encouraged the parties to global mediation in 2023 to resolve California counsel's objections to the *Echard* settlement.

8. To formulate my opinions, I have reviewed a timeline of all key case filings, and have reviewed the content of those most relevant to this opinion, including the Court's order denying the Motion to Intervene and to Transfer or Stay (*Echard* ECF no. 71), the declaration of Judge Andrew Guilford (ret.) (*Echard* ECF no. 109), and Plaintiff's Motion for Reconsideration, to Lift the Stay, or Interrogatory Appeal and related filings (*Echard* ECF no. 157), as well as the executed global settlement term sheet that resulted from the parties' mediation with Judge Layn Phillips (ret.), the declaration of Professor Sarah Rudolph Cole related to this matter, and the executed settlement agreement (ECF no. 240-1), and the Court's order preliminarily approving the settlement (ECF no. 243). In addition, I have reviewed some correspondence between *Echard* Counsel and California Counsel, and had several conversations with *Echard* counsel.

9. Whenever one examines a counsel's conduct under the Ohio Rules of Professional Conduct, it is important to evaluate the counsel's decisions and conduct in the temporal context in which they were made. Even skilled lawyers cannot see the future, so they are judged on the information in their possession or reasonably available to them at each point in time. Accordingly, I organize this declaration by time-period and address the relevant factors I considered in those contexts.

***Echard* counsel ethically fulfilled their duties to their clients and the putative class in filing the *Echard* complaint, choosing venue, and negotiating the $94 million *Echard* settlement.**

10. For the reasons stated below, it is my opinion to a reasonable degree of legal probability and/or certainty that *Echard* counsel acted ethically when they (1) filed a putative class action on behalf of their client, (2) moved their case forward with a transfer to the Southern District of Ohio, (3) pursued mediation with Wells Fargo in 2021, and (4) accepted the mediator's proposal for settlement. *Echard* counsel acted ethically in attempting to coordinate with California counsel quickly after the *Echard* complaint was filed, and in continuing to attempt cooperation with those related cases, even though those attempts proved unsuccessful. Once those efforts to coordinate failed, *Echard* counsel was compelled to proceed with their case in the best way for their clients and the putative class, and they acted ethically in doing so.

11. A preeminent rule of professional conduct, both as adopted in the Ohio Rules and around the country is counsel's duty of diligence to their clients. Ohio Rule 1.3 provides:

"A lawyer shall act with reasonable diligence and promptness in representing a client."

This Ohio rule also provides comments relevant to this matter:

> Comment [1]: "A lawyer should pursue a matter on behalf of a client despite opposition, obstruction, or personal inconvenience to the lawyer. A lawyer also must act with commitment and dedication to the interest of the client.
>
> Comment [3]: "Delay and neglect are inconsistent with a lawyer's duty of diligence, undermine public confidence, and may prejudice a client's cause. Reasonable diligence and promptness are expected of a lawyer in handling all client matters and will be evaluated in light of all relevant circumstances. The lawyer disciplinary process is particularly concerned with lawyers who consistently fail to carry out obligations to clients or consciously disregard a duty owed to a client.
>
> Comment [4]: "A lawyer should carry through to conclusion all matters undertaken for a client, unless the client-lawyer relationship is terminated as provided in Rule 1.16 . . .

See Prof.Cond.R. 1.3, Comments [1], [3], and [4].

12. Here, *Echard* counsel faithfully complied with both the letter and spirit of this rule. I understand that *Echard* counsel approached California counsel about cooperating and working together on their related putative class claims immediately after the *Echard* complaint was filed in late January 2021, because *Echard* counsel reasonably believed cooperation would serve their clients' and the putative class's interest in achieving fair, prompt relief. Although this initial attempt at cooperation apparently failed, *Echard* counsel continued to make overtures to California counsel to work together. *Echard* counsel did so without pausing their own case, as required by Rule 1.3.

13. For example, after filing, *Echard* counsel fended off dispositive motions from Wells Fargo, and in the process reasonably determined that the Southern District of Ohio, where Plaintiff Brian Echard resides, was the best venue for their clients, in part because of the Court's indisputable personal jurisdiction (the subject of a dispositive motion), and because of the opportunity a transfer provided for negotiating with Wells Fargo over relief for their clients and the putative class. This Court appears to have concurred with this view that *Echard* counsel acted reasonably to transfer to this Court and pursue mediation with Wells Fargo, with the Court denying the California plaintiffs' Motion to Intervene and Transfer, and encouraging the *Echard* parties to pursue a negotiated class settlement (*Echard* ECF no. 106 ("Plaintiff Echard and Wells Fargo have shown the Court a genuine desire to resolve the matter. They deserve the opportunity")). I also find the Court's use of the word "commandeer" to describe the conduct of the California counsel to speak volumes, and as discussed further below, to be prescient. *See Echard* ECF no. 106 at 9. Certainly, after the Court issued this ruling, it was manifest that *Echard* counsel acted ethically to pursue the best outcome for their clients and the class through the court-approved negotiation, while reserving judgment as to the acceptability of any final offer from Wells Fargo.

14. Although I have no firsthand knowledge of what occurred during the confidential mediation between *Echard* plaintiffs and Wells Fargo with Judge Guilford, the declaration of Judge Guilford (*Echard* ECF no. 109) describing the behavior of the parties in that case, the arm's length nature of the negotiations over four full days, and the use of a mediator's proposal, is sufficient for me to conclude that *Echard* counsel acted ethically during the mediation proceeding, consistent with their duties of loyalty (Prof. Cond. R. 1.7(a)), diligence (Prof. Cond. R. 1.3), and others owed to their clients and the putative class. I am also persuaded by the declaration of Professor Cole. In addition, I understand that *Echard* counsel conditioned their participation in mediation with Wells Fargo on Wells Fargo's commitment to provide sufficient informal discovery for *Echard* counsel to evaluate its claims and quantify damages, which Wells Fargo did provide, further alleviating any ethical concerns I would have about *Echard* counsels' decision to participate in the mediation and the decision to ultimately accept the mediator's proposal for the settlement fund.

15. While a lawyer accepting a settlement can consider all range of information, it is important here that Echard counsel took numerous steps to ensure that they had sufficient information to value the settlement, including engaging several experts. With that information prepared and presented to the parties and Judge Guilford, the parties could reasonably trust the mediator's proposal as representing a fair and impartial resolution of the claims.

16. Following execution of the $94 million *Echard* settlement and immediately after *Echard* filed its motion for preliminary approval of the settlement, *Echard* counsel again reached out to the California counsel, asked them to join the settlement and invited California counsel to mediation to try to address any concerns California counsel might have with the settlement and to work out a co-counsel agreement so the plaintiffs' counsel could work together. I have seen *Echard*

counsel's September 9, 2022 email to California counsel making this invitation, and this overture was entirely appropriate and ethical. Indeed, *Echard* counsel was consistent in their communications that the putative class had a strong interest in receiving the settlement funds promptly, without years of litigation, and that *Echard* counsel were attempting to avoid delays for the benefit of their clients and the putative class.

17. It is my opinion to a reasonable degree of legal probability and/or certainty that once the *Echard* settlement was executed, *Echard* counsel had an ethical and fiduciary duty to the class to fight for preliminary and final approval of the settlement, and to get money into the hands of the class as soon as possible. They also had a contractual duty under the *Echard* settlement.

18. I have evaluated the major actions *Echard* counsel took after executing the settlement and believe that they were consistent with their ethical, fiduciary, and contractual duties, including the following:

- They built into the *Echard* settlement an avenue for California plaintiffs to join the settlement, which they hoped would lead to the promptest recovery for the Class.
- After executing the settlement, *Echard* counsel immediately invited California counsel into mediation to get all parties working together to obtain settlement approval.
- When California counsel conditioned mediation on delay of the preliminary approval motion (by e-mail to *Echard* counsel on September 19, 2022), *Echard* counsel refused because it would delay the deposit of settlement funds into an interest-bearing account that would benefit the Class. *See Echard* ECF No. 108-1, pp. 7, 27.

- When the court stayed the *Echard* case, *Echard* counsel still did not give up and instead moved to lift the stay and over months cajoled the parties into global mediation.
- Authorizing Wells Fargo to attend global mediation to negotiate improvements to the settlement, which was necessary to achieve global resolution because Wells Fargo was contractually bound to the *Echard* settlement.
- Participating in global mediation and then executing a global term sheet, followed by a global settlement agreement.

Echard counsel acted ethically after the Court stayed the Motion for Preliminary Approval.

19. My review of counsel's conduct, the procedural posture of the cases, and the timeline of events, convinces me that after the Court's stay order, *Echard* counsel continued to act ethically, keeping the best interest of their clients and the putative class at the forefront, despite continued hostility from the California counsel. I understand that even after the Court stayed the Motion for Preliminary Approval in *Echard* (*Echard* ECF no. 154), *Echard* counsel continued their attempts to engage with the California counsel to resolve their objections to the *Echard* settlement, ultimately leading to the global mediation proceedings in 2023 with retired Judge Layn Phillips, which resulted in the $185 million global settlement preliminarily approved by the Court (hereafter "Global Mediation"). I understand that shortly after *Echard* counsel declined to voluntarily delay preliminary approval, California counsel again indicated by email that they would participate in mediation, but this time, only if Wells Fargo would participate. *Echard* counsel then turned their attention to Wells Fargo, encouraging them to attend a global mediation

to address the California counsel's objections to the settlement. The effort to bring the parties to global mediation eventually bore fruit, resulting in the Global Mediation

20. As the Court is aware, California counsel moved to intervene to oppose the *Echard* settlement, while making serious allegations of ethical breaches by *Echard* counsel, although the Court had previously found no evidence to support those allegations. *Echard* ECF nos. 106 and 123. The Court did not approve or reject the *Echard* settlement, but stayed the case, in part pending the outcome of a dispositive motion in the case in the Northern District of California. *Echard* ECF no. 154. It is my understanding that Wells Fargo subsequently succeeded in dismissing several of the California counsel's claims in California (some without prejudice), and that Wells Fargo subsequently agreed to participate in a global mediation to address the California counsel's objections to the *Echard* settlement. However, even then, the California counsel declined by e-mail on May 17, 2023, to join *Echard* counsel and Wells Fargo in a global mediation.

21. This presented a difficult situation for any counsel, but it appears that *Echard* counsel were undeterred, and *Echard* counsel continued their attempts to engage with the California counsel to address their objections and get relief to the putative class as promptly as possible. Simultaneously, *Echard* counsel continued their efforts to get the *Echard* settlement preliminarily approved, so interest on the settlement fund could begin to accrue for the class, and attempting to move the process forward for final approval and payments to the class. *See Echard* ECF no. 157. Eventually, the consolidated counsel agreed to the Global Mediation process proposed by *Echard* counsel.

22. *Echard* counsel's efforts to amicably work with the California counsel to resolve objections and ensure speedy relief to the putative class—despite repeatedly being rebuffed and

maligned by consolidated counsel—showed diligence on behalf of the putative class which is consistent with their ethical and fiduciary duties.

***Echard* counsel acted ethically during the Global Mediation proceedings.**

23. I am not privy to the details of the confidential Global Mediation proceedings, but the global settlement shows that *Echard* counsel protected the interest of the original settlement class, as ethically required. For example, the global settlement agreement requires that the ultimate plan of allocation "will not be dilutive of the recovery that Eligible Class Members would have received under the *Echard* settlement" and that it will "compensate for the forms of damages compensable under the *Echard* settlement." These are important provisions to ensure that the members of the *Echard* settlement class are not worse off under the global settlement, assurances which appear to be the result of *Echard* counsel's advocacy. In addition, the $69 million in automatic payments provided for under the global settlement appears to be determined to avoid harm to the *Echard* settlement class. This automatic payment amount appears to have increased at least proportionally to the increase in class size between the two settlement agreements, another apparent result of *Echard* counsel's advocacy. Moreover, it is apparent from all their efforts to facilitate the Global Mediation proceedings that *Echard* counsel's actions helped maximize relief to the putative class, consistent with their ethical duties of diligence and loyalty.

24. *Echard* counsel assiduously avoided conflicts of interest during the Global Mediation. The interests of the *Echard* settlement class and the class members added with the global settlement were always aligned: they both had an interest in maximizing recovery from defendant Wells Fargo, and improving upon the *Echard* settlement in exchange for a global release of all pending class action claims. *Echard* counsel did not face a zero-sum situation where the amendments to the settlement in any way disadvantaged the *Echard* plaintiffs or the proposed

Echard settlement class. In fact, it appears that by standing by their ethical duties of preventing dilution, *Echard* counsel effectively set a per-account recovery floor for the expanded settlement class.

25. Based on the foregoing, no conflicts would prevent *Echard* counsel from ethically acting as class counsel for this matter on behalf of the entire global settlement class, consistent with their fiduciary duties to the class as a whole. Indeed, this Court appointed *Echard* counsel as interim class counsel for settlement.

Consolidated Counsel conduct after the Global Mediation

26. Just as I have opined that Echard counsel had a duty to act diligently to resolve the case and obtain a prompt recovery for their client and the putative class, California counsel also had that duty. Based upon my review, I question whether California counsel have abided by their ethical duties since the Global Mediation proceedings concluded. In particular, California counsel appear to be acting in a way that continues to be hostile to working cooperatively with *Echard* counsel, even after settlement, when cooperation would reduce duplication of work, and likely expedite approval of the global settlement, with faster delivery of relief to the class. This hostility appears to have even continued after the Court jointly appointed *Echard* counsel and California counsel as interim class counsel for settlement

27. For example, when the California action was transferred to the Southern District of Ohio, California counsel should have pursued a course of action that obtained the promptest recovery for the settlement class through efficient coordination with *Echard* counsel. While the relationship among plaintiffs' counsel has been acrimonious, lawyers should put the interest of their clients above their personal feelings. This is true both before and after the Court ordered all plaintiffs' counsel to work together as joint interim class counsel. California counsel's refusal to

work cooperatively with *Echard* counsel posed risks to the settlement and made litigation, and ultimately settlement administration, inefficient, more expensive, and threatened delays to the class, which is inconsistent with ethical duties.

***Echard* counsel's ethics lawyer is well-respected:**

28. Lastly, I understand that during the course of this litigation and discussions with the California counsel, *Echard* counsel consulted with attorney George Jonson on ethical issues out of an abundance of caution to ensure they were proceeding ethically. I was not privy to those confidential consultations, but I know George Jonson well, and I know him to be an excellent, highly competent legal ethics expert, and that he has an excellent reputation within the Ohio legal community.

Executed this 14th day of October, 2024 in Columbus, Ohio,

Alvin E. Mathews, Jr., 0038660

APPENDIX A

APPENDIX A

ALVIN E. MATHEWS, JR.

UB Greensfelder, LLP • 65 East State Street, Ste. 1100 • Columbus, OH 43215

As a former Assistant Disciplinary Counsel in the Office of Disciplinary Counsel, I represent solo practitioners, in-house counsel, government lawyers, and law firms on a variety of ethics and professional liability matters. Because of my considerable experience and knowledge, I have been asked to provide representation on hundreds of ethics advisory opinions and grievance investigations, including nearly 100 lawyer discipline trials and more than 20 oral arguments before the Supreme Court of Ohio.

I also represent government employees and officials on matters involving Ohio Ethics Laws, litigate complex business matters and serve as an expert witness on lawyer conduct questions.

Education

- Miami University (A.B., 1984); Ohio Northern University Pettit College of Law (J.D., 1987) National Privacy Law Team; American Jurisprudence Award, Trial Practice

Experience

- I provide confidential advisory opinions on a wide variety of ethics and professional liability topics, including client-lawyer confidentiality, lawyer advertising, social networking and websites, conflicts of interest, Interest on Lawyer Trust Account (IOLTA) management, fee disputes, multi-jurisdictional practice, sale and purchase of law firm practices, and ex-parte contact with employees. I offer the following:

- representation of lawyers in disciplinary proceeding, including cases before the Supreme Court of Ohio;

- bar admissions advice and representation for law students and graduates;

- expert witness testimony on legal ethics and liability issues; and

- counsel in complex business litigation matters, including defense of legal malpractice cases.

Select Presentations

- "Elevating Your Law School and Leadership Experiences," The Midwest Region of the National Black Law Students Association Academic and Leadership Retreat (September 2023)

- "Keeping It Professional: Professional Conduct," Ulmer Webinar (December 2022)

- "Anatomy of a Disciplinary Case," Miller-Becker, Ohio State Bar Association (October 2022)

- "Legal Ethics: Meeting Professional Obligations in the Midst and Aftermath of the COVID-19 Pandemic," Ulmer Webinar (April 2020)

- "What Every Competent Real Estate Professional Needs to Know About Ethics," Columbus Bar Association Real Property Law Institute (February 2020)

Employment History

- Partner and Chief Diversity Officer at UB Greensfelder LLP (FKA Ulmer & Berne LLP), 2019-present; Partner at James E. Arnold & Associates LPA, 2012-2019; Counsel at Bricker & Eckler, 2007-2012; Partner at Lane, Alton & Horst, 1997-2007; Assistant Ohio Disciplinary Counsel, 1991-1997; Assistant Ohio Attorney General, 1989-1991; Assistant Montgomery County Prosecuting Attorney, 1987-1989.

Involvement Professional & Community

- Columbus Bar Foundation (Fellow); Ohio State Bar Foundation (Fellow); Leadership Council on Legal Diversity (Fellow); Ohio State Bar Association (Former Council of Delegates Member); Chief Justice Thomas J. Moyer Inn of Court (Former Member); Miami University Alumni Association Board (2005-2009); Habitat for Humanity (Former Board Member).

Honors & Distinctions

- Listed in Ohio Super Lawyers List (2011-2024), Columbus Top 50 List (2016-2018); Best Lawyers in America, Administrative & Regulatory Law (2016-2024), Columbus Lawyer of the Year (2022); Martindale-Hubbell - AV Preeminent Peer Review Rated.

Bar Admissions

- State of Ohio; U.S. Court of Appeals, Sixth Circuit; U.S. District Court, Southern District of Ohio.

APPENDIX B

APPENDIX B

Publications

My publications during the past ten years include:

- "As Cyber Risks Surge, Remember Attorneys' Ethical Duties," Law360 (April 2022).
- "Ethics Encore: Ethical Obligations Related to Cybersecurity," Cleveland Metropolitan Bar Journal (November 2021).
- Ulmer's Ethics and Professional Liability Bulletin:
    - "Lawyers are Responsible for Ensuring Effective Communication with Clients when Faced with Language or Other Communication Barriers" (Aug. 2, 2022)
    - "Ohio Board of Professional Conduct Advises on Conflicts Involving Part-Time Prosecutors and Judges" (April 19, 2022)
    - "Ohio Board of Professional Conduct Advises Judges May Provide Letters of Recommendation Under Certain Circumstances" (Feb. 4, 2022)
    - "New Opinion Warns Against Practicing Law Under Nationally Franchised Common Trade Name Owned by Non-Lawyers" (Nov. 10, 2021)
    - "Ohio Lawyers May Only Say They Are Specialists in Fields of Law Designated By the State Supreme Court" (Aug. 23, 2021)
    - "New Attorney Unclaimed Funds Law Takes Effect in Ohio" (July 7, 2021)
    - "Lawyers Who Are Sole Shareholders of Corporations May Represent Those Entities and Testify as Necessary Witnesses in Private Arbitration" (June 2, 2021)
    - "Ohio Lawyers and Their Firms Have Mutual Ethical Obligations to Clients When Lawyers Depart" (May 4, 2021)
    - "Ohio Adopts Four-Year Statute of Repose for Legal Malpractice Cases" (April 5, 2021)

Testimony

My court and deposition testimony within the past four years as an expert witness includes:

- *Householder v. Honor and Principles Political Action Committee, et al.*, Perry County Court of Common Pleas, Case No. 18 CV 00097.
- *Ragouzis, et al.*, v. The Madison House Condominium Assoc., et al., Hamilton County Court of Common Pleas, Case No. 22042836.

CERTIFICATE OF SERVICE

This is to certify that a true and exact copy of the foregoing was filed electronically on the 28th day of October, 2024, via the Court's electronic filing system and notice of this filing will be sent to all Parties by operation of the Court's electronic filing system.

/s/ Alyssa Koepfgen
Alyssa Koepfgen
Attorney for Echard Plaintiffs

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

In re: WELLS FARGO FORBEARANCE SETTLEMENT LITIGATION	**Case No. 2:24-CV-01026-MHW-EPD** **DECLARATION OF** **JONATHAN S. SHEFFTZ**

DECLARATION OF JONATHAN S. SHEFFTZ

NOW COMES the undersigned, Jonathan S. Shefftz, first being duly sworn, deposes and says of his personal knowledge as follows:

1. I am over the age of eighteen (18) years of age and am competent to provide the opinions given in this Declaration. The information set forth in this Declaration is true and correct to the best of my knowledge. I would competently testify thereto if called upon.

2. I have been retained on behalf of Plaintiffs in this matter to prepare this Declaration for my opinions as an expert economist.

Background and Qualifications

3. My qualifications are based broadly on my expertise in financial economic analysis, as further detailed in my updated Curriculum Vitae included as Exhibit A to this disclosure. I hold a B.A. *magna cum laude* and *Phi Beta Kappa* in Economics and Political Economy from Amherst College, and an M.P.P. degree, with concentrations in Government & Business and Energy &

Environmental Policy, from the John F. Kennedy School of Government at Harvard University. I have been qualified numerous times as an expert witness on various economics matters by U.S. District Courts, the U.S. Environmental Protection Agency's Administrative Court, and multiple state courts. My Curriculum Vitae at Exhibit A also provides a list of my publications authored in at least the previous ten years and a list of cases in which, during at least the previous four years, I testified as an expert at trial or by deposition. I am being compensated at my normal hourly rate for this type of work at $270 for my activities related to preparing this declaration.

4. The focus of my consulting practice has been the application of financial economics to the analysis of businesses, individuals, and municipalities. A major component of this work has been in the litigation context, while other work has entailed the assessment of regulatory impacts and the evaluation of public policy alternatives (including the calculation of financial assurance and trust funds for future liabilities).

5. Among other activities, I have served as the Eastern Vice President for the National Association of Forensic Economics ("NAFE"), charged with – among other duties – organizing the four NAFE paper and/or panel sessions at the annual meeting of the Eastern Economic Association. I have also peer reviewed articles for NAFE's publication, the *Journal of Forensic Economics*, and have published a peer-reviewed article on economic damages in one of NAFE's journals.

Opinions

6. I have reviewed various filings in this matter, which relates to accusations that Wells Fargo placed mortgages into forbearance under the CARES Act without consent. I paid special attention to the filings with regard to allegations by the essentially competing plaintiffs, whose cases were recently transferred from the Northern District of California to the Southern

District of Ohio and consolidated with the *Echard* matter in this court, hereafter the "California Plaintiffs." Those filings alleged that counsel for *Echard* have engaged in an inappropriate reverse auction with Wells Fargo. This alleged reverse auction was for the $94 million settlement of a class that included approximately 186,781 loans, out of the approximately one million loans that Wells Fargo put in forbearance under the CARES Act. As this Court is no doubt aware, a reverse auction is when a defendant in a series of class actions takes a settlement offer to the effectively lowest bidder with collusion between the defendant and the plaintiff to undervalue a settlement.

7. The Court instead found in its "Opinion and Order" (filed April 25, 2002) that, "There is no concrete evidence here. At best, Movants offer facts implying collusion after the mediation in the Northern District of California failed, and Plaintiff Echard was excluded from participating. [...] This is insufficient for reverse auction." Subsequently to that filing by the Court, Plaintiff Brian Echard (on behalf of himself and all others similarly situated) reached the above-referenced $94 million settlement and filed a "Motion for Preliminary Approval of Settlement" (on September 9, 2022). This was supported by a Declaration from the Honorable Andrew Guilford (retired) (also filed on September 9, 2022) in which he summarizes, "The Settlement Agreement reflects a fair resolution of the case. As I explained to the parties, a fair settlement is one that balances the risks and interests that both parties face in the litigation, as well as other interests. Continued litigation would eventually favor one party or another, but I believe the parties' vigorous mediation negotiations helped establish a fair present value of the case."

8. In response, the California Plaintiffs filed a "Renewed Motion to Intervene" (on October 4, 2022), with a heading of "There Are Red Flags of Collusion and Reverse Auction" and contained numerous points. Defendant Wells Fargo filed a "Response in Opposition to Renewed Motion to Intervene" (on October 25, 2022), stating, in part, "The settlement is not the result of

fraud or collusion. As shown above, Movants fail to put forth any evidence of collusion warranting this Court's finding of a "reverse auction." [...] Movants and Plaintiffs' inability to work with each other is not evidence of a 'reverse auction.'" And *Echard* Plaintiffs vehemently deny the accusations.

9. As an economist, I am not opining on legal matters. Nor do I intend my three previous paragraphs to provide anywhere near a comprehensive summary of the entire case history to date, or of the various positions of the various parties. Instead, in this Declaration I offer opinions on the economics aspects of the reverse auction allegations. Much of my formal training as an economist (dating back to 1985) and my professional employment as an economist (dating back to 1992) has been focused on incentives and how such incentives affect decision-making behavior. Therefore, I am opining here on some of the incentives that may have influenced the decision Wells Fargo reached in agreeing to the settlement terms in 2022, including the potential value of the settlement and the risks of not reaching that settlement.

10. As I previously noted, counsel for *Echard* negotiated with Defendant Wells Fargo a $94 million settlement for a class that included approximately 186,781 loans out of the approximately one million loans that Wells Fargo put into forbearance under the CARES Act. This works out to a per-loan amount of about $503.26 at that time. I have not been involved in any of the inter-party negotiations in this or related cases. But my understanding is that *Echard* Plaintiffs, the California Plaintiffs, and Wells Fargo collectively engaged in subsequent mediation to reach a global resolution that addresses objections to the *Echard* settlement from the California Plaintiffs. The parties then reached an agreement that would resolve all the putative class actions against Wells Fargo on the issue of loan forbearance. I understand that these additional

negotiations resulted in the tentative amount of $185 million for a class size of approximately 273,043 loans, which works out to a per-loan amount of $677.55.

11. From an economics perspective, I see many possible explanations for the addition of money to the *Echard* settlement – especially in its value to Wells Fargo as a global settlement – despite the allegations that it constitutes evidence of a reverse auction for the earlier and smaller settlement of 2022.

12. I am of course not privy to the inner decision-making process of negotiators and other key personnel at Defendant Wells Fargo. But clearly a global settlement has important potential benefits from a risk-averse perspective. Even if a lower per-loan amount could have been achieved via a settlement that covered 186,781 loans, that still would have left significant litigation exposure from California Plaintiffs continuing litigation on behalf of approximately 800,000 loans placed into forbearance by Wells Fargo. I understand that the now-revised settlement will resolve all putative class actions against Wells Fargo related to its CARES Act forbearance practices. That resolution clearly represents some financial value to Wells Fargo. I do not know how Wells Fargo valued such resolution, or even if Wells Fargo assigned a specific monetary value (or a range of values). But the elimination of litigation exposure could be worth at least – and potentially even far more – the $91 million that Wells Fargo agreed to in the higher settlement amount.

13. Another factor in the higher settlement amount is the passage of time, simply adjusting for inflation. The per-loan amount for the original *Echard* settlement was $503.26 in 2022 dollars. At the time the *Echard* settlement term sheet was executed on July 22, 2022, the national Consumer Price Index monthly value was 296.276 and then increased to 310.326 as of February 12, 2024, the date the term sheet for the global settlement was executed. Adjusting for that ratio leads to an inflation-adjusted per-loan amount of $527.13 for the original *Echard*

settlement. This amount is approximately 22.2-percent lower than the revised settlement's per-loan amount of $677.55. But even that comparison to the inflation-adjustment amount fails to capture the additional value from resolving the potential litigation exposure risk from the other cases that would have proceeded even with the *Echard* settlement approved.

14. In addition, under the terms of the original 2022 *Echard* settlement, Wells Fargo was to transfer the $94 million settlement fund into an interest-bearing escrow account within 60 days after preliminary approval of the settlement, which would have started accruing interest for the benefit of the settlement class at that time (Para. VIII.B). Based on a fund transfer date of December 17, 2022, I calculate that the $94 million settlement fund would have accrued over $7 million in interest projected out to June 16, 2024 based on U.S. Treasury four-week bills. I apply the interest rate on such Treasury securities as a proxy for the risk-free rate, both default risk and interest rate risk, given the default-free record of the U.S. federal government and the short maturity term of four-week bills, respectively. Although other investments can on average earn higher returns, such investments entail higher risk, which is contrary to the purpose of an escrow account. In my opinion, the interest rate on U.S. Treasury four-week bills is a reasonable proxy for the conceptual risk-free rate that is appropriate for such an account, and in my experience is a commonly used proxy for the risk-free rate among economists.

15. Turning to the specifics of my calculation, I derived the result of over $7 million in interest by calculating the average of the monthly interest rates on such U.S. Treasury four-week bills from December 2022 through March 2024. I then raised the sum of one plus the 4.92-percent average interest rate to the fractional number of years from December 17, 2022 to June 16, 2024, rounded off to a 1.50 value. Finally, I multiplied that result by the $94 million settlement fund value.

16. Furthermore, the additional approximately 83,219 loans that are added to the settlement class with the revised settlement could have characteristics on average that would compel a higher settlement value, meaning the per-loan value of the 186,781 loans being settled in 2022 would have held a lower value than the per-loan value of the 83,219 being settled with the revised settlement. I am not speculating as to whether or not this is actually the situation. But I am opining as an economist that this is a potential factor that explains some portion of the per-loan amount differential (i.e., as opposed to the contention of the Intervenors that differentials are evidence of an inappropriate reverse auction).

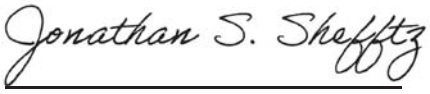
17. Defendant Wells Fargo is also in a rare position as a major financial institution for being subject to a $1.95 billion asset cap. Bloomberg reported relatively recently (on November 8, 2023) that this asset cap is not expected by Wells Fargo to be lifted until the first quarter of 2025 at the earliest. This could also explain Wells Fargo's willingness to add money to the original *Echard* settlement to obtain a global settlement of all CARES Act putative class actions against it. This asset cap restriction is referenced in the Wells Fargo 2022 annual report in the introductory message by the CEO Charles W. Scharf as follows: "So as I look at our situation today, the failure of Wells Fargo to complete its work appropriately has resulted in multiple consent orders, fines, and an asset cap. But I can say confidently that we have taken significant actions including focusing and simplifying the company, refreshing the board, replacing most of the senior management team, and are now moving forward to correct past deficiencies. We have the willingness and the ability to complete the work." (p. v) Under the annual report section heading "Risk Factors" the asset cap is referenced multiple times, as follows: "Changes in either our net interest margin or the amount or mix of earning assets we hold, including as a result of the asset cap under the February 2018 consent order with the FRB, could affect our net interest income and

our earnings." (p. 70) "In addition, we may continue to reduce certain deposit balances in order to manage under the asset cap." (p. 72) Once again, I am not privy to the inner decision-making among key Wells Fargo personnel, but this does demonstrate that Wells Fargo is operating under an unusual situation for a major financial situation, and hence the full resolution of legal liabilities for past actions could hold a higher monetary value for Defendant.

18. Stepping back from the details of the two settlements, the assertion of a reverse auction is amenable to what in economics (and related social sciences) is called game theory. If the threat of invalidating an otherwise valid settlement via a reverse auction assertion has a significant chance of prevailing, then – from a modeling perspective – any plaintiff class subset can effectively block any other plaintiff class subset from proceeding with a settlement that another plaintiff class subset views as suboptimal from its own perspective. As an economist, I do recognize the potential for collusion between a defendant and an undercutting plaintiff class. However, a settlement that seems reasonable for one plaintiff class subset, but that another plaintiff class subset thinks it can better, does not in and of itself render that settlement the outcome of a reverse auction. I have been involved as an expert witness in many types of litigation in which the client on whose behalf I was ultimately retained (whether defendant or plaintiff) faced difficult decisions on whether to settle under certain conditions or continue with litigation in the hope of reaching better conditions. Settling at any single point in time would entail second-guessing whether holding out would have obtained a better outcome. But in hindsight, the decision to settle on terms that might have been bettered at a later point in time did not present evidence of collusion between the opposing parties. I understand that courts therefore require evidence for any finding of a reverse auction, evidence that may involve elements beyond my scope of expertise as an

economist. However, from my perspective as an economist, I see many reasons for how a negotiated settlement can be reopened and enlarged other than reverse auction.

Respectfully submitted, this the 15th day of October, 2024.



Jonathan S. Shefftz

Attachment A: Curriculum Vitae

JONATHAN S. SHEFFTZ

d/b/a JShefftz Consulting
14 Moody Field Road
Amherst MA 01002

Mr. Shefftz is an independent consultant who specializes in the application of financial economics to litigation disputes, regulatory enforcement, and public policy decisions. Previously he was a consultant with Industrial Economics, Incorporated ("IEc") from 1992 until 2006 when he moved to western Massachusetts. Mr. Shefftz has extensive experience in settlement and litigation support, and has been qualified as an expert witness in U.S. District Court, a federal agency's Administrative Court, and state courts.

Mr. Shefftz's recent experience includes work in the following areas.

- Calculating the economic damages suffered by companies and individuals from alleged wrongful actions.
- Applying financial economics to civil penalty factors in regulatory enforcement actions.
- Analyzing financial economic issues related to public policy decisions.

Mr. Shefftz has performed this work in a variety of contexts, including expert witness testimony, computer model development, training course delivery, and regulatory review. He has supervised project teams comprising economists, accountants, paralegals, and software developers, as well as worked in parallel with engineers, scientists, lawyers, and lobbyists. His clients have included federal and state governmental agencies, private litigators, and other private-sector entities.

Mr. Shefftz holds a B.A. *magna cum laude* and *Phi Beta Kappa* in Economics and Political Economy from Amherst College, and an M.P.P. degree, with concentrations in Government & Business and Energy & Environmental Policy, from the John F. Kennedy School of Government at Harvard University.

Mr. Shefftz's positions have included Eastern Vice President for the National Association of Forensic Economics, Chair for the Town of Amherst Planning Board, referee for the *Journal of Forensic Economics*, Course Liaison for the "Engineering Economic Decision Making" course at the University of Massachusetts Amherst, and Treasurer for the Jewish Community of Amherst, American Avalanche Association, Moody Field Homeowner Association, and U.S. Ski Mountaineering Association. He is also a member of the Government Finance Officers Association, American Academy of Economic and Financial Experts, and Amherst Area Chamber of Commerce.

JONATHAN S. SHEFFTZ

Economic Damages and Unjust Enrichment

Mr. Shefftz has experience with the following work on economic damages and unjust enrichment, including expert witness testimony both in deposition and at trial. He has also applied his expertise in unjust enrichment calculation, financial statement analysis, municipal financial assessment, and corporate control / ownership issues in the context of environmental regulatory enforcement cases, as described in a separate section on a successive page.

Business Damages and Unjust Enrichment

Mr. Shefftz has modeled companies' cash flows under hypothetical "but-for" states of the world versus actual states of the world to calculate business damages in numerous cases. Sample contexts include allegations by: an engineering firm that lost business to a spin-off competitor, timber companies whose contracts were breached via implementation of Congressional legislation, a furniture company whose joint venture was interfered with by a key customer, a fixed base operator prohibited from selling jet fuel by a municipal airport commission, a brownfields remediation firm whose key principal became incapacitated, a state-chartered joint underwriting association whose servicing carrier incorrectly determined premiums, a transportation company that received contaminated fuel, a social networking website imperiled by a developer's nondelivery, an entrepreneur whose computer code was discarded by a demolition crew, an industrial facility whose environmental control facility was undersized by an engineering consultant, a data center operator whose contracting officer received kickbacks, a whistleblower who reported environmental violations under the New York False Claims Act, a whistleblower who reported prescribing practices by a specialty pharmacy, a sports organization whose apparel licensee breached a contract, a food processor whose operations were interrupted by an industrial boiler's natural gas explosion, a solar power panel installation company whose supplier provided defective equipment, a commercial real estate owner subjected to default interest, and an IT company that suffered tortious interference upon losing an exclusive distributorship.

Personal Damages / Losses

Mr. Shefftz has assessed lost earnings and household services along with incurred and anticipated medical costs in numerous cases involving wrongful death, personal injury, wrongful termination, estate disputes, credit card interest overcharges, divorce, child neglect, and inhumane treatment. Sample contexts include allegations of employment discrimination, medical malpractice, workplace injuries, vehicular accidents, physical assault, retail store accidents, outdoor recreation, below-market earnings, lead poisoning, professional license revocation, violations of the Servicemembers Civil Relief Act, an arrest instigated by a former spouse, inadequate child welfare supervision, judicial incarceration, delayed payments under Massachusetts Chapter 93A, and incorrect solar net metering program qualification.

Economic Damages and Unjust Enrichment (continued)

FIFRA Pesticide Data Compensation

Mr. Shefftz assessed the data compensation amounts owed by a follow-on registrant to the original product registrant under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA).

Class Actions

Mr. Shefftz's work here has included: analyzing whether the minimum damages threshold had been established to certify the class, creating a streamlined model to calculate pecuniary damages across class members, and assessing the economic factors for the presence of a reverse auction.

Present Value of Life Care Plans

Mr. Shefftz has calculated the present value of life care plan projections in numerous cases, both on their own and in connection with personal damages and losses. He has extensive experience in efficiently adjusting the varying periodicities of life care plans into a standardized format.

Water Contamination

For a real estate development, Mr. Shefftz analyzed the diminution in value by projecting the groundwater contamination-induced delayed schedule versus the original schedule. On a claim to have developed groundwater assets but for contamination, he testified on the municipality's impaired financial condition at the time. On a class action lawsuit by property owners, he evaluated the defense economist's statistical analysis of property values. On other water contamination lawsuits, he has calculated the damages from the need to switch to alternative sources of water, including a desalination plant, whole-house drinking water systems, and a neighboring utility.

Intellectual Property

For defense counsel in a copyright infringement lawsuit, Mr. Shefftz assessed declarations from the plaintiff's expert economist who asserted that a "companion" book would damage the author of the original series of novels. He also assisted counsel with preparation for trial cross examination.

Computer Model Development

For the U.S. Department of Justice Commercial Litigation Branch, Mr. Shefftz developed a standalone computer model for statutorily determined interest under the Contract Disputes Act.

JONATHAN S. SHEFFTZ

Financial Factors in Environmental Regulatory Enforcement

Mr. Shefftz is experienced with the following work on environmental regulatory enforcement actions brought under the Asbestos Hazard Emergency Response Act (AHERA), Clean Air Act (CAA), Clean Water Act (CWA), Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), Emergency Planning and Community Right-to-Know Act (EPCRA), False Claims Act (FSA), Federal Insecticide, Fungicide and Rodenticide Act (FIFRA), Oil Pollution Act (OPA), Resource Conservation and Recovery Act (RCRA), Safe Drinking Water Act (SDWA), Spill Prevention, Control and Countermeasure (SPCC) rule, Toxic Substances Control Act (TSCA), Underground Storage Tank (UST) program, as well as various state statutes. Mr. Shefftz has been qualified as an expert witness on numerous occasions in federal, administrative, and state courts. His clients for this work have included the U.S. Environmental Protection Agency (EPA), U.S. Department of Justice (DOJ), private litigators, state Attorneys General, and defense counsel.

Financial Statement Analysis / Ability-to-Pay / Economic Impact / Corporate Control & Ownership

Mr. Shefftz has examined the tax returns, financial statements, and other financial documentation for individuals, businesses, not-for-profits, municipalities, and all four unincorporated organized U.S. territories, to assess the ability to pay for – and/or economic impact of – sought environmental expenditures, e.g., compliance costs, penalty demands, and cleanup/remediation costs. He has reviewed discovery documents and conducted research in many cases to assess the extent to which subsidiaries can rely on their corporate parents for financial support and the extent to which corporate control of subsidiaries goes beyond that exercised by mere ownership.

Financial Gain / Economic Benefit / Unjust Enrichment

Mr. Shefftz has modeled companies' and municipalities' cash flows under hypothetical full and timely compliance states of the world versus actual delayed compliance states of the world to calculate the economic benefit (i.e., financial gain or unjust enrichment) on numerous enforcement actions. Such modeling has focused both on incremental compliance costs that were delayed and/or avoided as well as compliance scenarios that would have entailed impacts on a company's revenues (i.e., so-called illegal profits, competitive advantage, or Beyond BEN Benefit). As part of this work, he has estimated the weighted-average cost of capital for a wide variety of companies and industries.

Financial Factors in Environmental Regulatory Enforcement (continued)

Other Financial Factors in Environmental Regulatory Enforcement Actions

Mr. Shefftz has performed work on other financial factors in regulatory enforcement actions: the "size of violator" penalty element; the potential impact on the penalty calculation from alternative inputs for other "gravity" factors; the relative weight of different financial indicators for establishing deterrence; and, the adequacy of financing plans to ensure environmental compliance.

Computer Model Development, Training, and Support

Mr. Shefftz has managed the development of the Windows operating system versions of the BEN, PROJECT, ABEL, INDIPAY, and MUNIPAY computer models that U.S. EPA's Office of Enforcement and Compliance Assurance applies to financial economics issues in enforcement actions. He has prepared the models' help systems and training materials, as well as presented training courses and provided related support for federal and state enforcement staff. Mr. Shefftz has also assisted in several U.S. EPA academic peer reviews and public comment processes for the BEN computer model and related economic benefit recapture issues. And he has created versions of the models for other nations: Canada (BEN), Chile (BEN and ABEL), and El Salvador (BEN).

JONATHAN S. SHEFFTZ

Public Policy

Cost of Capital Estimation

For the U.S. EPA Office of Ground Water and Drinking Water, Mr. Shefftz assessed peer reviewer comments and then revised a draft report on cost of capital estimation for water systems. His work included applying the capital asset pricing model to the commercial drinking water industry and correcting for the earlier draft's assumptions regarding capital structure and industry-level business risk.

Financial Assurance

For a state agency, Mr. Shefftz proposed appropriate inflation forecasts and discount rates, drafted a guidance document, and then developed a stand-alone computer model to calculate the net present value of future remediation costs. For EPA's Office of Solid Waste, he provided recommendations on discounting future cleanup costs; for the Office of Site Remediation and Enforcement, he created a computer model to assess the combined affordability of financial assurance and cleanup costs; for another EPA office, he created a spreadsheet model to calculate the insurance and/or trust fund amounts necessary to provide for post-closure care. For the U.S. Department of the Interior's Office of Surface Mining Reclamation and Enforcement, he reviewed other agencies' approaches and developed a spreadsheet model to calculate initial trust fund amounts and then recalculate subsequent years' annual rebalancings to reflect actual returns and additional future costs. For a not-for-profit, he reviewed draft reports on the potential role of financial assurance in the regulation of hydraulic fracturing (i.e., "fracking").

Proposed Legislation and Regulations

For an industry association, Mr. Shefftz designed and implemented a survey and analyzed its results to predict the impacts of a proposed national lead tax upon lead consumption and dependent industrial sectors. For a national waste management firm, he analyzed the financial impacts of a proposed state tax on hazardous waste land disposal. For a citizen group, Mr. Shefftz assessed the economic efficiency of proposed state regulations for municipal water treatment intended to mitigate degradation of coastal waters. For another citizen group, Mr. Shefftz assessed EPA's proposed new regulations for restricting water pollution from meat processing facilities.

Public Policy (continued)

Joint Cost Allocation

For a study of Bureau of Reclamation rate setting for California's Central Valley Project, Mr. Shefftz researched economically efficient methods for allocating water project costs to user classes.

Superfund Impacts

Mr. Shefftz examined the Department of Energy SURE model's predictions of economic impacts from Superfund liability and cost allocation reform. At a Superfund site, he critiqued a small city's claims that a proposed contaminated soil cleanup would lead to widespread economic disruptions.

Legislative and Regulatory Review

For the 1990 Clean Air Act amendments, Mr. Shefftz investigated the potential of fuel oxygenation requirements to cause petroleum refinery closures. For the Safe Drinking Water Act, he reviewed EPA's national-level drinking water affordability criteria, assessed their implications for small water systems' finances, proposed alternative criteria, created databases to predict how many systems would be judged unable to afford drinking water rules, evaluated public comments, drafted text of a report in response to a Congressional charge, and provided additional support to U.S. EPA Office of Ground Water and Drinking Water staff t stakeholder meetings. For a coalition of citizen groups, Mr. Shefftz assessed the incentive structures and market impacts from California's Low Carbon Fuel Standard.

Permit Applications

For a citizen group, Mr. Shefftz assessed the economic analysis report accompanying a permit application for a crude oil export terminal with regard to the criteria specified in the state constitution. For another citizen group, he assessed an engineering report and its companion economic and fiscal impact report accompanying a permit application for a wastewater treatment plant with regard to the social and economic factors specified in the state antidegradation regulations.

JONATHAN S. SHEFFTZ

Representative Clients

Mr. Shefftz has been retained by the following clients, whether directly as an independent consultant, during his prior employment at Industrial Economics, Incorporated ("IEc"), and/or as an independent consultant via subcontract with IEc.

State and Local Agencies:

California
Connecticut
Illinois
Indiana
Massachusetts
Michigan
New Hampshire
New Mexico
Ohio
Pennsylvania
Texas
Virginia
Washington
Wisconsin
Allegheny County Health Department (PA)

Federal / National Agencies:

U.S. Department of Justice (Civil Division – Commercial Litigation Branch; Environment and Natural Resources Division – Environmental Enforcement Section, Environmental Defense Section)

U.S. Environmental Protection Agency (various Headquarters Offices and Regional Counsels)

U.S. Fish and Wildlife Service (within U.S. Department of Interior)

National Oceanic and Atmospheric Administration (within U.S. Department of Commerce)

Office of Surface Mining Reclamation and Enforcement (within U.S. Department of Interior)

Superintendecia del Medio Ambiente (Chile)

Ministerio de Medio Ambiente y Recursos Naturales (El Salvador)

Representative Clients (continued)

Industry:

Bouncing Cranberries LLC
Circle Environmental, Inc.
Country Villa Bay Vista Healthcare Center
CWM Chemical Services, Incorporated
ERL Medical Corporation
Fortune 500 automobile parts distributor [identity kept confidential per counsel request]
Fortune 500 manufacturing company [identity kept confidential per counsel request]
Fortune 500 manufacturing & technology company [identity kept confidential per counsel request]
Fortune Global 500 chemicals company [identity kept confidential as per counsel request]
Frasco Fuel Oil
French Heritage, Inc.
Infinity Fluids Corporation
Kinder Morgan
Kroger Specialty Pharmacy
Manassas NCP FF, LLC
National Coating Corporation
Lead Industries Association
MedMal Joint Underwriting Ass'n of RI
Musco Family Olive
NSIPI Administrative Manager
Privately held automobile parts manufacturer [identity kept confidential per counsel request]
Privately held diesel parts wholesale distributor [identity kept confidential per counsel request]
Pro AV Systems
Professional Contract Sterilization, Inc.
Prolerized New England Co., Inc.
Rectrix Aerodome Centers, Inc.
Schnitzer Steel Industries, Inc. dba Radius Recycling
Stebbins-Duffy, Inc.
Sterling NCP FF, LLC
Taotao USA, Inc.
Valley Solar
WDC Holdings LLC d/b/a Northstar Commercial Partners

In addition to the industry clients listed above, Mr. Shefftz has also performed work on behalf of numerous other industry clients and their insurers on economic damages cases, but without any direct interaction with such parties and their insurers or any analytical focus on them.

JONATHAN S. SHEFFTZ

Representative Clients (continued)

Citizen Groups:

Advance Etowah
Alabama Environmental Council
Appalachian Mountain Advocates
Biodiversity Conservation Alliance
Blue Water Baltimore, Inc.
Center for Biological Diversity
Center for Justice
Citizens Against Ruining the Environment
Communities for a Healthy Bay
Coosa Riverkeeper
Earthrise Law Center
Environment America Research & Policy
Environment Ohio
Environmental Defense Center
Environmental Law and Policy Center
Food & Water Watch
Friends of Lick Creek
Frontier Group
Gulf Restoration Network
Hoosier Environmental Council
Idaho Conservation League
Inst. Governance & Sustainable Development
Leadership Counsel Justice & Accountability
Louisiana Environmental Action Network
National Environmental Law Center
Natural Resources Defense Council
Northwest Environmental Defense Center
Okanogan Highlands Alliance
Orange County Coastkeeper
Our Children's Earth Foundation
Advocates for the West
Animal Legal Defense Fund
Appalachian Voices
Black Warrior Riverkeeper
California Coastkeeper Alliance
Center for Comm. Action & Environ. Justice
Chesapeake Legal Alliance
Clean Air Council
Conservation Law Foundation
Earthjustice
Ecological Rights Foundation
Environment California
Environmental Advocates of New York
Environmental Integrity Project
Environment Texas Citizen Lobby, Inc.
Friends of Hurricane Creek
Friends of the Lower Keys
Grand Canyon Trust
High Country Conservation Advocates
Hurricane Creekkeeper
Inland Empire Waterkeeper
Lake Erie Waterkeeper
Louisiana Bucket Brigade
Lower Susquehanna Riverkeeper Association
National Parks Conservation Association
Newark Education Workers Caucus
Ohio Valley Environmental Coalition
Olympic Forest Coalition
Oregon Public Interest Research Group
Pacific Environmental Advocacy Center

JONATHAN S. SHEFFTZ

Representative Clients (continued)

Citizen Groups (continued):

Pacific Legal Foundation
Potomac Riverkeeper
Public Justice
Raritan (NY/NJ) Baykeeper
Respiratory Health Association
St. Bernard Citizens for Environ. Quality
San Francisco Baykeeper
Sierra Club
Southern Environmental Law Center
Suncoast Waterkeeper
Texas Rio Grande Legal Aid, Inc.
Tulane Environmental Law Clinic
Univ. of Denver Environmental Law Clinic
West Virginia Highlands Conservancy
WildEarth Guardians
PennEnvironment
Prairie Rivers Network
Puget Soundkeeper Alliance
RE Sources for Sustainable Communities
Riverkeeper
San Antonio Bay Estuarine Waterkeeper
Save the Sound
South River Watershed Alliance, Inc.
Spokane Riverkeeper
Tampa Bay Waterkeeper
Toxics Action Center, Inc.
United States Public Interest Research Group
Waste Action Project
Wild Fish Conservancy
Willamette Riverkeeper

JONATHAN S. SHEFFTZ

Representative Clients (continued)

Law Firms:

Adler, Cohen, Harvey, Wakeman & Guekguezian
Law Office of Jacqueline L. Allen
Aqua Terra Aeris Law Group
Baker, Braverman & Barbadoro P.C.
Bayh, Connaughton and Malone
Bricklin & Newman, LLP
Brownstein Hyatt Farber Schreck, LLP
Cain, Sherry, Geller & Vachereau
ChasenBoscolo
The Law Offices of William Chu
Colla & Ray LLP
Cooper & Lewand-Martin, Inc.
DarrowEverett LLP
DeCotiis, FitzPatrick & Cole, LLP
DLA Piper
Donovan Hatem LLP
Dreyer Boyajian LLP
Law Office of Austin J. Freeley
Gallant & Ervin, LLC
Garnett Powell Maximon Barlow
Gordon Rees Scully Mansukhani, LLP
Hanson Curran LLP
Henrichsen Siegel Moore, PLLC
Hogan Lovells US LLP
Kampmeier & Knutsen PLLC
Kasowitz, Benson, Torres & Friedman LLP
Law Office of David E. Keller
Kirby McInerney LLP
Law Office of Amy Kropke
Kenneth Lieberman, Esq.
Lexington Law Group
Akin
Allyn & Ball, P.C.
Arnold & Porter LLP
Barton Gilman LLP
Beveridge & Diamond PC
Brown Legal PLLC
Butler Snow LLP
Calderón & Williams
Chihak & Martel
Clinton & Muzyka, P.C.
The Collins Law Firm, P.C.
D'Ambrosio Law Offices
Davison Law, LLC
Law Offices of John K. Dema, P.C.
Doherty, Wallace, Pillsbury & Murphy
Downey Brand LLP
Frederick, Perales, Allmon & Rockwell, PC
Gallagher & Cavanaugh LLP
The Garcia Law Firm
German Rubenstein LLP
David S. Hammer, Esq.
George E. Hays, Esq.
Hoffner PLLC
Hunsucker Goodstein PC
Kaplan, Massamillo & Andrews, LLC
Keches Law Group
Keller Rohrback L.L.P.
James E. Kolenich, Esq.
Meryl A. Kukura, Esq.
Lawson & Weitzen, LLP
Lozeau Drury LLP

JONATHAN S. SHEFFTZ

Representative Clients (continued)

Law Firms (continued):

Lucentini & Lucentini LLP
Manson Bolves Donaldson Varn
Marr Law Offices
Meyers Nave
MFI Law Group PLLC
Morrison & Foerster LLP
Motley Rice LLC
Nelson Mullins Riley & Scarborough LLP
Law Office of Michael D. Parker
Pierce Atwood LLP
Edward M. Pikula, Esq.
Plaza Law Group
Ransmeier & Spellman P.C.
Reardon Law Office LLC
Rubin and Rudman LLP
Ryan & Kuehler PLLC
Ryan Whaley Coldiron Shandy PLLC
Sasson, Turnbull, Ryan & Hoose
The Schreiber Law Firm
Richard Schwartz & Associates, P.A.
Silverstein, Silverstein & Silverstein P.A.
Smith & Lowney, PLLC
Stoel Rives LLP
Todd & Weld LLP
Vorys, Sater, Seymour and Pease LLP
Waltzer Wiygul & Garside LLC
Reed Zars, Esq.
Mackie Shea O'Brien, PC
Mark, Migdal & Hayden LLC
McCarter & English, LLP
Meyner and Landis LLP
Law Offices of Keith A. Minoff, P.C.
Morrison Mahoney LLP
Law Office of Jennifer F. Novak
Oliver Law Group
Patton Boggs LLC
The Pike Law Firm
Pillsbury Winthrop Shaw Pittman LLP
Powell Environmental Law
Raymond Law Group LLC
Reed Smith LLP
Law Offices of Russo & Minchoff
Ryan, Ryan, Johnson & Deluca, LLP
Sartini Law, PC
Saul Ewing LLP
Jon L. Schwartz, Attorney at Law, P.C.
Sheff & Cook, LLC
Simonds, Winslow, Willis & Abbott
Steve Harvey Law LLC
Sycamore Law
Van Ness Feldman LLP
Law Offices of Charles G. Walker
Wilson Elser Moskowitz Edelman & Dicker
Zaytoun Ballew & Taylor, PLLC

JONATHAN S. SHEFFTZ

Publications and Presentations

Structural Changes in Interest Rates, paper discussant at Western Economic Association International Conference (on-line), 7/1/22.

Cause and Effect: The Asymmetry in Deducing Effect and Inferring Cause, paper discussant at National Association of Forensic Economics Eastern Meeting (on-line), 2/25/22.

How Good Is My Degree? Economic Damages from False Claims by Colleges, paper discussant at Western Economic Association International Annual Conference (on-line), 6/27/21.

Social Security Losses in Personal Injury, paper discussant at Western Economic Association International Annual Conference (Portland OR), 7/1/16.

The "Loss of Chance" Rule in the Various States, paper discussant at Allied Social Sciences Association Annual Conference (Philadelphia PA), 1/4/14.

Foreign Net Discount Rates: The Case of Undocumented Mexican Workers, paper discussant at Western Economic Association International Annual Conference (Seattle WA), 6/30/13.

Evolving Transition Probabilities and Worklives, paper discussant at Allied Social Sciences Association Annual Conference (San Diego CA), 1/5/13.

Commercial Damages Calculations, panelist at Eastern Economic Association Annual Conference (Boston MA), 3/10/12.

Medical Net Discount Rates: 1980 - 2011, paper discussant at Eastern Economic Association Annual Conference (Boston MA), 3/10/12.

The Value of Future Earnings in Perfect Foresight Equilibrium, paper discussant at Allied Social Sciences Association Annual Conference (Denver CO), 1/8/11.

The Role of the Economic Expert in Litigation Directed at Piercing the Corporate Veil, presentation at Fall Forensic Economics Workshop (Durango CO), 10/8/10.

Alternative Perspectives for Breach-Nonbreach Scenario Specifications in Commercial Litigation, paper presentation at Western Economic Association International Annual Conference (Portland OR), 7/1/10.

Sampling Issues in Commercial Damages Cases, paper discussant at Western Economic Association International Annual Conference (Vancouver BC), 7/1/09.

Net Discount Rates: Does Duration Matter?, paper discussant at Eastern Economic Association Annual Conference (Boston MA), 3/7/08.

Publications and Presentations (continued)

Enforcement Economics: Deterrence, Economic Benefit, & Ability to Pay, presentation at California Environmental Protection Agency State Water Resources Control Board "Enforcenomics" Workshop (Berkeley CA), 1/11/08.

Alternative Focuses for "But-For" Scenario Specification in Commercial Litigation, paper presentation at Western Economic Association International Annual Conference (Seattle WA), 6/30/07.

Expert Witness Role Play, presentation at U.S. EPA 9th Financial Analyst Workshop (Atlanta GA), 5/3/07.

Working with Experts in Environmental Cases: An Expert Economist's Perspective on Expert Testimony, presentation at Public Interest Environmental Law Conference (Eugene OR), 3/2/07.

Alternative Measures and Focuses for Economic Damages Calculations, paper presentation at Eastern Economic Association Annual Conference (New York NY), 2/23/07.

Lost Profit as a Measure of Lost Earning Capacity, panelist at Western Economic Association International Annual Conference (San Francisco CA), 7/7/05

"EPA's Economic Benefit Analysis Policy and Practice," *Natural Resources and Environment*, Fall 2004.

"Taxation Considerations in Economic Damages Calculations," *Litigation Economics Review*, Summer 2004.

Economic Benefit and Wrongful Profits in the Calculation of Penalties for Environmental Violations, presentation to Boston Bar Association Environmental Litigation Committee, 9/23/04.

Business Valuation / Commercial Damages, panelist at Western Economic Association International Annual Conference (Vancouver BC), 7/1/04.

"Wrongful Profits: Setting the Record, and the Concept, Straight," *Environment Reporter*, 1/2/04.

Present Value Sensitivity to Ex Ante vs. Ex Post Perspective, paper presentation at Western Economic Association International Annual Conference (Denver CO), 7/12/03.

Taxation Considerations in Economic Damages Calculations, paper presentation at Eastern Economic Association Annual Conference (New York NY), 2/22/03.

Publications and Presentations (continued)

Economic Benefit from Illegal Competitive Advantage and *Complex Economic Benefit Scenarios*, presentation at U.S. EPA 5th Financial Analyst Workshop (Boston MA), 7/26/00.

Economic Benefit in Wetlands Cases: Financial Analysis Issues, presentation at U.S. EPA Wetlands Enforcement Conference (Alexandria VA), 3/22/00.

Economic Benefit, presentation at U.S. EPA 4th Analyst Workshop (Denver CO), 3/10/99.

Calculating Externalities from Damages in Occupational Health and Safety (technical paper with Dallas Burtraw in "Fuel Cycle Externalities: Analytical Methods and Issues" published by Oak Ridge National Laboratory and Resources for the Future as part of a study by the U.S. Department of Energy and the Commission of the European Communities), 7/94.

In addition to the publications and presentations listed above, Mr. Shefftz has published and presented extensively on topics unrelated to his economics consulting practice, mainly in the area of avalanche safety. He also holds various memberships and certifications in that field.

JONATHAN S. SHEFFTZ

Testimony History

Lower Susquehanna Riverkeeper Association v. Republic Services of Pennsylvania LLC (USDC MD Penn.), deposition 8/12/24.

California Coastkeeper Alliance v. Cosumnes Corporation dba Murieta Equestrian Center (USDC ED Calif.), deposition 3/26/24.

Paula Appleton a/k/a Paula Sweet v. National Union Fire Insurance Company of Pittsburgh, PA, and AIG Claims, Inc. (USDC Mass), deposition 10/30/23.

Sierra Club et al. v. Midwest Generation, LLC (Illinois Pollution Control Board), deposition 10/28/21 and hearing testimony 5/16&17/23.

The State of New York, et al. v. Covanta Hempstead Company and Covanta Holding Corporation (NY Supreme Court), affidavit 5/04/23.

James F. Riley, Jr. and Pamela B. Bankert v. Timothy S. Martinez, D.M.D. et al. (Mass. Superior Court), courtroom testimony 03/20/23.

Amazon.com, Inc. and Amazon Data Services, Inc. v. WDC Holdings LLC dba Northstar Commercial Partners et al. (USDC ED Va), deposition 12/21/22.

Sierra Club, Inc. and Conservation Law Foundation, Inc. v. Granite Shore Power LLC et al. (USDC ED NH), deposition 11/11/20 and courtroom testimony 10/20/22.

San Francisco Baykeeper v. City of Mountain View and *San Francisco Baykeeper v. City of Sunnyvale* (USDC ND Calif.), deposition 8/18/21.

Sierra Club v. Woodville Pellets, LLC (USDC ED Texas), deposition 7/29/21.

Environmental Law & Policy Center and Hoosier Environmental Council v. Cleveland-Cliffs Burns Harbor, LLC and Cleveland-Cliffs Steel (USDC ND Indiana), deposition 7/14/21.

PennEnvironment, Inc., and Clean Air Council v. United States Steel Corporation (USDC WD Penn), deposition 2/10/21.

Ohio Valley Environmental Coalition and The Sierra Club v. Eagle Natrium LLC (USDC ND West Virginia), deposition 8/19/20.

Gary and Anne Childress, et al. v. JP Morgan Chase & Co., et al. (USDC ED North Carolina), deposition 1/24/19 and affidavit 3/17/20.

Seneca Economics and Environment, LLC v. Manson Bolves Donaldson Varn, P.A. (Florida Circuit Court), affidavit 2/26/20.

JONATHAN S. SHEFFTZ

Testimony History (continued)

Permit application for Plaquemines Liquids Terminal, LLC (Louisiana DEQ), affidavit 1/27/20.

Newark Education Workers Caucus and Natural Resources Defense Council, Inc. v. City of Newark et al. (USDC NJ), courtroom testimony 8/15/19.

Wild Fish Conservancy v. Cooke Aquaculture Pacific, LLC (USDC WD Wash), deposition 8/02/19.

Waste Action Project v. Port of Olympia (USDC WD Wash), deposition 7/17/19.

Toxics Action Center, Inc. and Conservation Law Foundation v. Casella Waste Systems, Inc. and North Country Environmental Services, Inc. (USDC NH), deposition 5/15/19.

Suncoast Waterkeeper, Our Children's Earth Foundation, and Ecological Rights Foundation v. City of Gulfport (USDC MD Fla), deposition 5/7/19.

San Antonio Bay Estuarine Waterkeeper and S. Diane Wilson v. Formosa Plastics Corp., Texas, et al. (USDC SD Tex), deposition 1/16/19.

Infinity Fluids Corporation v. Eemax, testimony at binding arbitration hearing, 12/6/18.

Puget Soundkeeper Alliance v. Seattle Iron & Metals, Corp. (USDC WD Wash), deposition 10/4/18.

Natural Resources Defense Council, Respiratory Health Association, and Sierra Club, Inc. v. Illinois Power Resources, LLC and Illinois Power Resources Generating, LLC (USDC CD Illinois), deposition 6/12/18.

Louisiana Environmental Action Network and Stephanie Anthony v. Exxon Mobil Corp. d/b/a/ ExxonMobil Chemical Co. (USDC MD Louisiana), deposition 10/26/17.

Jeffrey Palmer v. Inn Serve Corporation d/b/a Hampton Inn & Suites, Inn of Daphne, Inc. d/b/a Hampton Inn et al. (Court of Lauderdale County, Mississippi), affidavits 6/2/17 & 10/23/17.

In the Matter of Taotao USA, Inc., Taotao Group Co., Ltd., and Jinyun County Xiangyuan Industry Co., Ltd. (U.S. EPA Administrative Court), deposition 9/26/17, courtroom testimony 10/19/17.

Puget Soundkeeper Alliance v. Louis Dreyfus Commodities LLC et al. (USDC WD Wash), deposition 3/2/16.

Gulf Restoration Network, Louisiana Environmental Action Network, and Sierra Club v. United Bulk Terminals Davant, L.L.C. (USDC ED Louisiana), deposition 5/5/15.

JONATHAN S. SHEFFTZ

Testimony History (continued)

Village of Stillwater, Town of Stillwater, Town of Waterford, Water Commissioners of the Town of Waterford, Village of Waterford, Town of Halfmoon, and County of Saratoga v. General Electric Company et al.; and *Saratoga County Water Authority v. General Electric Company* (USDC ND New York), deposition 4/2/14.

Environment Texas Citizen Lobby, Inc. and Sierra Club v. ExxonMobil Corporation, et al. (USDC SD Tex), deposition 6/1/12, courtroom testimony 2/14/14.

Waste Action Project v. Draper Valley Holdings LLC dba Draper Valley Farms (USDC WD Wash), deposition 1/21/14.

RE Sources for Sustainable Communities v. Pacific International Terminals, Inc. (USDC WD Wash), deposition 4/11/13.

WildEarth Guardians v. Lamar Utilities Board doing business as Lamar Light and Power, and Arkansas Power Authority (USDC Colo), deposition 3/22/13.

Tina A. Rhodes, Individually and as Administratrix of David C. Rhodes, et al. v. Tyrone Gadsen and GP&T Transport, Inc. (Mass. Superior Court), deposition 12/11/12, courtroom testimony 1/23/13.

Waste Action Project v. Sierra Pacific Industries dba Sierra Junction City Sawmills (USDC WD Wash), deposition 12/28/12.

People of the State of California and The City of San Diego v. Kinder Morgan Energy Partners, L.P., et al. (USDC SD Cal), deposition 4/26/12.

Marvin Evans v. Certain Underwriters at Lloyd's London, KMS Associates, Inc., Greenwich Insurance Company, W. Brown & Associates, Inc. and Hub International Gulf South Limited f/k/a/ Hibernia Rosenthal Insurance Agency, LLC d/b/a Hibernia Rosenthal (Florida Circuit Court), depositions 9/15/11 and 11/15/10.

Bouncing Cranberries LLC v. CommonPlaces eSolutions, LLC, testimony at binding arbitration hearing 8/18/11.

Puget Soundkeeper Alliance v. BNSF Railway Company (USDC WD Wash), deposition 7/7/11.

State of Texas v. BP Products North America Inc. (Texas District Court), deposition 6/7/11.

Chevron Corporation v. Jonathan S. Shefftz (USDC Mass) and *Maria Aguinda et al. v. Chevron Corporation* (Court of Justice of Nueva Loja, Ecuador), deposition 12/16/10.

Testimony History (continued)

Elizabeth Russell and Katherine Gates v. Joseph Reilly and James Georges, Executors of the Estate of K. Mildred Dooling, a/k/a Mildred K. Dooling, and Patrick Curtin, Individually and as Trustee of the M.D. Realty Trust (Mass. Superior Court), courtroom testimony 7/21/10.

Hildagarde Bartling, et al. v. Country Villa Bay Vista Healthcare Center, et al. (California State Court), deposition 1/29/10.

Joseph J. Zajac III v. Pamela J. Trueblood, et al. (USDC MD Fla), affidavit 9/16/09.

In the matter of 99 Cents Only Stores (U.S. EPA Administrative Court), courtroom testimony 6/24/09.

U.S. v. Government of Guam (USDC Guam), courtroom testimony 12/9/08 and 4/13/09.

U.S. v. James and Nancy Oliver d/b/a Safety Waste Incineration (USDC Alaska), courtroom testimony 3/25/09 and 3/27/09.

In the matter of Valimet, Inc. (U.S. EPA Administrative Court), courtroom testimony 12/10/08.

Rectrix Aerodome Centers, Inc. v. Barnstable Municipal Airport Commission, et al. (USDC Mass), deposition 12/2/08.

State of Ohio v. The Shelly Holding Company et al. (Franklin County Municipal Court), depositions 7/30/08 and 9/19/08, courtroom testimony 10/16/08 and 10/17/08.

In the matter of Lowell Vos Feedlot (U.S. EPA Administrative Court), courtroom testimony 9/17/08.

French Heritage, Inc. v. Ethan Allen, Inc. (Connecticut State Court), deposition 6/28/06 and 6/29/06.

Oregon Public Interest Research Group, Diane Heintz, and Rena Taylor v. Pacific Coast Seafoods Company, Pacific Surimi Joint Venture, LLC, Pacific Surimi Co., Inc., and Dulcich Inc. d/b/a Pacific Seafood Group (USDC Oregon), deposition 4/18/06.

In the matter of Rizing Sun LLC (U.S. EPA Administrative Court), courtroom testimony 2/7/06.

State of Ohio v. Container Recyclers, Inc. (Franklin County Municipal Court), deposition 4/1/05.

In the matter of Vico Construction Corporation and Smith Farm Enterprises (U.S. EPA Administrative Court), courtroom testimony 6/20/02 and 10/8/03.

U.S. v. The New Portland Meadows, Inc. (USDC Oregon), courtroom testimony 5/20/03.

In the matter of Vico Construction Corporation and Amelia Venture Properties (U.S. EPA Administrative Court), courtroom testimony 1/14/03.

Testimony History (continued)

United States Public Interest Research Group, Stephen E. Crawford, and Charles Fitzgerald v. Heritage Salmon, Inc.; U.S. PIRG et al. v. Stolt Sea Farm, Inc.; U.S. PIRG et al. v. Atlantic Salmon of Maine LLC (USDC Maine), deposition 6/5/01, courtroom testimony 10/15/02.

U.S. v. Murphy Oil USA, Inc. (USDC WD Wis), deposition 4/24/01.

U.S. v. Royal Oak Enterprises, Inc. (USDC ED Va), depositions 3/22/00 and 5/19/00.

In the matter of Titan Wheel Corp. of Iowa (U.S. EPA Administrative Court), affidavit 11/24/99.

U.S. v. Gulf States Steel, Inc. (USDC ND Ala), affidavit 12/30/98, deposition 10/22/99.

U.S. v. Koch Industries, Inc. (USDC ND Okla and SD Tex), depositions 5/24/99 and 6/1/99.

State of Wisconsin v. I-K-I Manufacturing Company, Inc., deposition 4/13/99.

U.S. v. Borden Chemicals & Plastics (USDC MD La), deposition 2/5/98.

State of New Hampshire v. Johnson Products, Incorporated, deposition 2/3/98.

In the matter of EK Associates, L.P., d/b/a EKCO/GLACO, and EK Management Corporation (U.S. EPA Administrative Court), courtroom testimony 8/14/97.

U.S. v. Smithfield Foods, Inc., et al. (USDC ED Va), deposition 7/9/97.

U.S. v. Nucor Corporation (USDC ND Ala), deposition 6/12/97.

U.S. v. U.S. Metallics, Inc., and Town of Onalaska, Wis. (USDC WD Wis), affidavit 10/21/96.

CERTIFICATE OF SERVICE

This is to certify that a true and exact copy of the foregoing was filed electronically on the 28th day of October, 2024, via the Court's electronic filing system and notice of this filing will be sent to all Parties by operation of the Court's electronic filing system.

/s/ Alyssa Koepfgen
Alyssa Koepfgen
Attorney for Echard Plaintiffs

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

In re: WELLS FARGO FORBEARANCE SETTLEMENT LITIGATION	Case No.: 2:24-cv-01026-MHW-EPD Judge Michael H. Watson Magistrate Judge Elizabeth A. Preston Deavers DECLARATION OF ARTHUR OLSEN [REFILED]

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

BRIAN ECHARD, on behalf of himself and all others similarly situated, Plaintiffs, v. WELLS FARGO BANK. Defendant.	Case No. 2:21-cv-05080-MHW-KAJ Judge Michael H. Watson Magistrate Judge Kimberly A. Jolson

DECLARATION OF ARTHUR OLSEN

I, Arthur Olsen, hereby declare and state as follows:

1. I am over the age of eighteen (18) years of age and competent to give testimony in this Affidavit. The information set forth in this Affidavit is true and correct to the best of my knowledge. I would competently testify thereto if called upon.

QUALIFICATIONS

2. I am the principal of Cassis Technology, LLC, ("Cassis") an information technology (IT) consulting firm, and have over 25 years of professional experience in the IT field, specializing in the areas of data analysis, database development, and database administration and support. My qualifications and background are set forth in my consultant profile ("Profile") attached hereto as **Exhibit A**. Attached as **Exhibit B** is a list of the cases where I have provided trial or deposition testimony during the last four years.

3. Prior to starting my own firm, I worked as a database engineer for Microsoft Corporation ("Microsoft"), and also worked under contract as a database administrator,

developer, and administration support specialist for Hewlett-Packard Company ("Hewlett-Packard"). At Microsoft, I participated in the design, implementation, and support of an extensive data warehousing solution for Microsoft's licensing division, managed and supported numerous databases throughout the company, and received Microsoft's award for operational excellence for my database-related work. At Hewlett-Packard, I served as the primary database administrator for both Oracle and SQL Server systems that supported multiple Hewlett-Packard divisions, and also served as the lead analyst in charge of compiling, analyzing, and processing data from various internal database systems throughout Hewlett-Packard for use in litigation support.

4. In addition to my work for Microsoft and Hewlett-Packard, I have provided database services to several other large corporations, including Cisco Systems, Inc. My responsibilities in that regard have included integrating various internal database systems for financial reporting services. I have also managed the development of data integration solutions for small to mid-size companies, and developed a solution for integrating an automated process for the calculation of inventory reserves with Oracle Financials.

5. Since 2008, I have extensive experience working on a number of litigation consulting projects involving financial institutions. For example, I previously provided trial testimony and was qualified as an expert witness in a consumer lawsuit against Wells Fargo relating to its overdraft practices and fees, which ultimately resulted in a judgment of $203 million against Wells Fargo. *See Gutierrez v. Wells Fargo Bank, N.A.*, 730 F. Supp. 2d 1080 (N.D. Cal. 2010). In its Order awarding restitution to the class members, the court found that I had done a "professional and careful job" in connection with this work:

> This order finds that plaintiffs' expert Arthur Olsen has convincingly shown that it is entirely practical to re-run the computerized data in storage for each class members' account and determine how many overdrafts were added by the high-to-low practice for debit-card transactions during the class period. Indeed, he has already done so, using various alternate posting sequences. This has been done by him on an account-by-account, day-by-day, and transaction-by-transaction basis, using the bank's own real-world data. Court orders were needed to provide him access to this data, but-after much work and time-this order finds that Expert Olsen has done a professional and careful job in laying out the impacts of various alternative posting protocols. This work has not only demonstrated the enormous impact of the high-to-low scheme, but it has demonstrated that it is possible, in considering relief and restitution, to add back to depositors' specific accounts the amounts that were wrongfully taken by Wells Fargo, using posting protocols that this order finds would have tracked the ordinary and reasonable expectations of depositors.

Id. at 1138.

6. In addition, I was the principal data and damages expert for Plaintiffs in the massive multi-district litigation *In re: Checking Account Overdraft Litigation*, MDL No. 2036 ("Overdraft MDL"). In connection with my work in the Overdraft MDL, I have analyzed historical transaction data from over thirty of the largest banks in the United States, including but not limited to: Bank of America, BancorpSouth, Capital One, Comerica, Compass, Great Western, JPMorgan Chase, PNC, RBS Citizens, TD Bank, Union Bank, and US Bank, in order to advise the Court on the feasibility of using such data to ascertain damaged class members and to calculate individual damages for those class members. In each case, I was able to perform these tasks, and I have submitted numerous declarations in support of class certification motions describing my findings and conclusions. In each of those cases, using algorithms that I developed, I was able to programmatically ascertain class members and calculate damages using the bank's own data.

7. I am being paid $400 per hour which is my usual and regular rate. The amount I am being paid is not dependent on the outcome of this litigation.

SCOPE OF ENGAGEMENT

8. I was retained by class counsel to provide consulting and expert work regarding database analysis and data extraction in connection with the above-captioned action and to testify at deposition and trial if necessary. However, it is my understanding that all the work that I have performed in this case is covered by the mediation privilege, and potentially other privileges, which have not been waived, so I can only speak generally about my work.

9. I was provided with a series of databases containing information for over one million Wells Fargo customers. I assisted Class Counsel by running various queries and analyses of the data to assist Class Counsel's development of class size and damages theories for use in mediation. It is my understanding that counsel's requests were informed by their legal theories and advice from other experts. Further, it is my understanding that Class Counsel used the data I provided to confirm the accuracy of Wells Fargo's factual assertions, to develop class size and damages theories, and to formulate settlement demands, all for use in the mediation.

10. In assisting Class Counsel to evaluate the customer populations and analyze class size and class definitions, my work included the following types of analysis:

a. Determining the number of customers in various categories defined for me by Counsel;

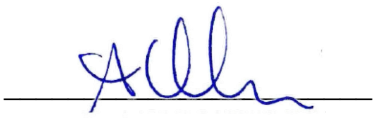
b. Identifying subsets of customers based on certain categories of information found in the data;

c. Determining the overlaps between various subsets of customers with other subsets of customers; and

d. Assisting Counsel with interpreting the available data to create various criteria for identifying specific categories of customers.

11. In assisting Counsel to extrapolate data for the purpose of developing damages theories and quantifying damages, and formulating settlement demands, my work began with identifying various subsets of customers as described above, and then extrapolating various information that could be used to analyze potential damages from the data for such populations. For example, I provided data that I understand assisted Class Counsel in identifying customers who could have been harmed by a delay in the ability to refinance due to forbearance and the financial harm they experienced during and after forbearance. This included evaluation of interest rates of various populations under their existing mortgages, which I understand Class Counsel compared with market rates for refinancing during applicable periods to evaluate the damages resulting from delay or denial of credit applications.

Executed this 8th day of September 2022, at Seattle, Washington.



Arthur Olsen

CERTIFICATE OF SERVICE

This is to certify that a true and exact copy of the foregoing document and supporting exhibits were filed electronically on the 9th day of September, 2022, via the Court's electronic filing system and notice of this filing will be sent to all Parties by operation of the Court's electronic filing system.

/s/ Marc Zemel
Marc Zemel (pro hac vice)
Attorney for Plaintiffs

IT CONSULTANT PROFILE: ARTHUR OLSEN

BACKGROUND

Specializing in the areas of data analysis, database development, and database administration, Mr. Olsen has nearly 20 years of professional IT experience. He has a strong background in both Oracle and Microsoft database technologies, with a focus in developing large-scale applications and designing reporting solutions for publicly traded corporations. Additionally, he has had valuable experience in analyzing and processing massive amounts of data for use in litigation support.

SKILLS

- Considerable experience compiling, analyzing and processing data in support of corporate and class-action litigation.
- Extensive training and experience creating functional designs and logical data models.
- Proficient in the wide range of database development and administration technologies including: Microsoft SQL Server; Oracle RDBMS; and Teradata RDBMS.
- Relevant experience designing, implementing and maintaining large scale database solutions on Oracle and SQL Server, including both online transaction based systems and data warehouses.
- Reporting specialist with experience developing custom reporting solutions based on financial systems such as Microsoft Dynamics and Oracle Financials, as well as custom applications.

AWARDS

- Award for Operational Excellence | Microsoft
  Recognized for outstanding contribution to the design and implementation of the data warehousing solution for the Microsoft Licensing division.

CERTIFICATIONS

- Oracle Certified Professional
- Certified Oracle Database Administrator

EXPERIENCE

Data Expert: Litigation Specialist | retained by various law firms

- Data expert supporting massive multi-district class action litigation, (MDL No. 2036 – *In Re: Checking Account Overdraft Litigation*).
- Processed and analyzed data in support of class action litigation, (*Arnett v. Bank of America, N.A.*, D. Or. Case No. 3:11-CV-01372).
- Processed and analyzed data in support of class action litigation, (*Sheila I. Hofstetter et. al. v. JP Morgan Chase Bank, N.A.*, N.D. Cal. Case No. CV-10-1313 WHA).
- Processed and analyzed data in support of class action litigation, (*Veronica Gutierrez et. al. v. Wells Fargo Bank, N.A.*, N.D. Cal. Case No. 07-05923 WHA), that resulted in a $203 million class restitution award.

Database Engineer: Reporting Specialist | under contract at various clients

- Developed a custom Chart of Accounts management solution that integrates with Microsoft Great Plains for small to mid-size companies.
- Designed and implemented several custom financial reporting solutions, including one for a Fortune 500 company, based on Microsoft Business Intelligence, MOSS, and Excel Services.
- Architected a solution for a large corporation that integrated with Oracle Financials and automated the process of calculating inventory reserves.

Database Administrator, Developer & Litigation Support Specialist | under contract at Hewlett Packard, Cupertino, CA

- Primary Database Administrator responsible for both Oracle and SQL Server support for three divisions, including 20+ applications spread out over a total of 30+ development, test and production servers.
- Lead analyst responsible for compiling, analyzing and processing data from various systems throughout HP for use in litigation support.
- Participated as the principal authority in the composition and implementation of SQL Server database standards across the three divisions, including security models, backup and recovery plans, programming standards, and general database naming conventions.

Database Engineer | Microsoft Licensing, Inc., Reno, NV

- Participated in the design, implementation and support of an extensive data warehousing solution for Microsoft's licensing division. System included nearly twenty data sources and several thousand end users, including select customers who accessed the system remotely via the Internet.
- Developed numerous DTS packages to pull delta information from various source systems, process and denormalize data and push it to one of several data repositories.
- Created and documented plans for database maintenance, backup and recovery, and high availability.

Database Engineer | under contract at Microsoft Corporation, Redmond, WA

- Lone Oracle database administrator and general Oracle resource for all teams associated with an enterprise level online end user billing system, including: Management, Development, Testing, Production Support and Infrastructure.
- Primary owner of a 24 x 7 production database that resided on a DEC Alpha failover cluster.
- Designed replication model using Oracle replication to satisfy extensive reporting requirements.
- Tuned SQL statements as written by members of the development team. Developed PL/SQL triggers, stored procedures, SQL scripts and NT scripts as needed to enhance applications and to correct problems as discovered.
- Acted as liaison between Microsoft and Oracle for all technical issues related to the databases, and between Microsoft and Digital for all technical issues related specifically to the Alpha cluster.

EDUCATION

- Microsoft Internal Training – Redmond, WA | March 2000
  Instructor led SQL Server training, including courses on Database Architecture and Administration, Database Tuning, and Microsoft's TSQL
- ARIS Education Center – Bellevue, WA | June 1996
  Oracle DBA Program, including courses on Relational Database Design, Database Architecture and Administration, SQL and PL/SQL, Application Tuning, Database Tuning, and Advanced Database Concepts
- University of Washington – Seattle, WA | June 1989
  BA in Business Administration with a concentration in Finance.

CASE LIST: ARTHUR OLSEN

TESTIMONY GIVEN IN DEPOSITION OR AT TRIAL SINCE JANUARY 2016

Case Name	Filing Date	Case Number	Court
Corvello v. Wells Fargo Home Mortgage	10/20/2010	4:10-CV-05072-VC	U.S. District Court, Northern District of California
Hawkins, et al. v. First Tennessee Bank	9/6/2011	CT-004085-11	Circuit Court of Shelby County, Tennessee
In re: Fifth Third Early Access Cash Advance Litigation	11/2/2012	1:12-cv-00851-MRB	U.S. District Court, Southern District of Ohio
Hernandez, et al. v. Point Loma Credit Union	6/18/2013	37-2013-00053519-CU-BT-CTL	Superior Court of San Diego County, California
Moss, et al., v. First Premier Bank	9/30/2013	2:13-CV-05438-JFB-GRB	U.S. District Court, Eastern District of New York
Lusnak, et al. v. Bank of America	3/12/2014	2:14-cv-01855-GW	U.S. District Court Central District of California
All-South Subcontractors v. Sunbelt Rentals	8/22/2014	1:14-cv-00124-WLS	U.S. District Court, Middle District of Georgia
Lynch, et al. v. San Diego County Credit Union	3/12/2015	37-2015-00008551-CU-BT-CTL	Superior Court of San Diego County, California
IN RE: TD Bank, N.A. Debit Card Overdraft Fee Litigation	Consolidated 4/15/2015	MDL No. 2613. Civil Action No. 6:15-MN-2613-BHH	U.S. District Court, District of South Carolina
Hunters Run, et al. v. WCA Waste Corporation	6/17/2015	1:15-cv-151-MW-GRJ	U.S. District Court, Northern District of Florida
Gunter, et al. v. United Federal Credit Union	9/21/2015	3:15-cv-00483-MMD-WGC	U.S. District Court, District of Nevada

Case Name	Filing Date	Case Number	Court
Stathakos, et al. v. Columbia Sportswear	10/2/2015	4:15-cv-04543-YGR	U.S. District Court Northern District of California
Morrow, et al. v. Carter's, Inc.	5/6/2016	1:16-cv-01485-ELR	U.S. District Court Northern District of Georgia
Childress, et al. v. JP Morgan Chase	5/31/2016	5:16-cv-00298-BO	U.S. District Court Eastern District of North Carolina
Roberts, et al. v. Capital One, N.A.	6/22/2016	1:16-cv-04841-LGS	U.S. District Court Southern District of New York
Kirkpatrick, et al. v. HomeAway.com	6/23/2016	1:16-cv-00733-LY	U.S. District Court Western District of Texas
Baker, et al., v. City of Florissant	10/31/2016	4:16-cv-1693	U.S. District Court, Eastern District of Missouri
Webb, et al., v. City of Maplewood	11/1/2016	4:16-cv-1703	U.S. District Court, Eastern District of Missouri
Liberty Salad, Inc., et al. v. Groundhog Enterprises	1/17/2017	2:17-cv-00226	U.S. District Court, Eastern District of Pennsylvania
Hoggard, et. al. v. Nationstar Mortgage	1/13/2017	1:17cv00099-TK	U.S. District Court, District of Columbia
Custom Hair Design, et al. v. Central Payment	8/21/2017	8:17-cv-00310	U.S. District Court, District of Nebraska
Smith, et al. v. Flagstar Bank	8/22/2018	3:18-CV-05131-WHA	U.S. District Court, Northern District of California
Clark v. Bank of America, N.A.	11/29/2018	1:18-cv-3672-SAG	U.S. District Court, District of Maryland

Case Name	Filing Date	Case Number	Court
Garcia, et al. v. UMB Bank	1/15/2019	1916-CV01874	Circuit Court of Jackson County, Missouri
Baker, et al. v. State Farm	2/7/2019	4:19-cv-00014-CDL	U.S. District Court, Middle District of Georgia
Blankenship, et al., v. HAPO Community Credit Union	2/20/2019	19-2-00922-03	Superior Court of Washington, County of Benton
Howell, et al., v. Eastman Credit Union	4/25/2019	C42517	Circuit Court for Sullivan County, Tennessee
Walkingstick, et al., v. Simmons Bank	5/22/2019	6:19-cv-03184-RK	U.S. District Court, Western District of Missouri
Yarski, et al., v. Knoxville TVA Emp Credit Union	6/13/2019	3-220-19	Circuit Court of Knox County, Tennessee
Carnley v. Conduent Business Services	9/5/2019	5:19-cv-01075-XR	U.S. District Court, Western District of Texas
Nguyen, et al., v. Raymond James & Associates, Inc.	1/14/2020	8:20-cv-195-CEH-AAS	U.S. District Court, Middle District of Florida
Precision Roofing, et al., v. Centerstate Bank	4/6/2020	3:20-cv-00352-BJD-JRK	U.S. District Court, Middle District of Florida
Grant, et al., v. Centerstate Bank	8/18/2020	8:20-cv-1920-MSS-AAS	U.S. District Court, Middle District of Florida

CERTIFICATE OF SERVICE

This is to certify that a true and exact copy of the foregoing was filed electronically on the 28th day of October, 2024, via the Court's electronic filing system and notice of this filing will be sent to all Parties by operation of the Court's electronic filing system.

/s/ Alyssa Koepfgen
Alyssa Koepfgen
Attorney for Echard Plaintiffs

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

In re: WELLS FARGO FORBEARANCE SETTLEMENT LITIGATION	Case No.: 2:24-cv-01026-MHW-EPD Judge Michael H. Watson Magistrate Judge Elizabeth A. Preston Deavers DECLARATION OF STAN V. SMITH, PH.D. [REFILED]

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

BRIAN ECHARD, on behalf of himself and all others similarly situated, Plaintiffs, v. WELLS FARGO BANK. Defendant.	Case No.: 2:21-cv-05080-MHW-KAJ Judge Michael H. Watson Magistrate Judge Kimberly A. Jolson

DECLARATION OF STAN V. SMITH, PH.D

September 7, 2022

I, Stan V. Smith, hereby declare the following:

1. My name is Stan V. Smith. I am over 21 years of age, of sound mind, capable of executing this Declaration, and have personal knowledge of the facts stated herein, and they are all true and correct.

EXPERT BACKGROUND AND QUALIFICATIONS

2. I am President of Smith Economics Group, Ltd., headquartered in Chicago, IL, which provides economic and financial consulting nationwide. I have worked as an economic and financial consultant since 1974, after completing a Research Internship at the Federal Reserve, Board of Governors, in Washington, D.C.

3. I received my Bachelor's Degree from Cornell University. I received a Master's Degree and my Ph.D. in Economics from the University of Chicago; Gary S. Becker, Nobel Laureate 1992, was my Ph.D. thesis advisor. The University of Chicago is one of the world's

preeminent institutions for the study of economics, and the home of renowned research in the law and economics movement.

4. As President of Smith Economics, I have performed economic analyses in a great variety of engagements, including damages analysis in personal injury and wrongful death cases, business valuation, financial analysis, antitrust, contract losses, a wide range of class action matters, employment discrimination, defamation, and intellectual property valuations including evaluations of reasonable royalty.

5. I have more than 40 years of experience in the field of economics. I am a member of various economic associations and served for three years as Vice President of the National Association of Forensic Economics (NAFE) which is the principal association in the field. I was also on the Board of Editors of the peer-reviewed journal, the Journal of Forensic Economics, for over a decade; I have also published scholarly articles in this journal. The JFE is the leading academic journal in the field of Forensic Economics.

6. I am the creator and founder of Ibbotson Associates' Stock, Bonds, Bills, and Inflation (SBBI) Yearbook, Quarterly, Monthly, and SBBI/PC Services published by Morningstar, Inc. In my experience, SBBI is widely relied upon and regarded as the most accepted and scholarly reference by the academic, actuarial and investment community, and in courts of law. This series, which acknowledges me as the Originator while a Principal and Managing Director at Ibbotson Associates, is, to my knowledge, generally regarded by academics in the field of finance as the most widely accepted source of statistics on the rates of return on investment securities. Originally published in book form, the SBBI historical series is now available at Morningstar on various Morningstar software platforms.

7. I wrote the first textbook on Forensic Economic Damages that has been used in university courses in various states; as an adjunct professor, I created and taught the first course in

Forensic Economics nationwide, at DePaul University in Chicago. I have performed economic analysis in many thousands of cases in almost every state since the early 1980s.

8. My curriculum vitae is attached, listing all my publications in the last 10 years and beyond. The list of all cases in which I have testified in the last 4 years is also attached.

SCOPE OF ENGAGEMENT

1. I was retained by counsel for Plaintiffs, and the putative Class, to determine whether it is possible to assess the damages necessary to compensate proposed class members on a class-wide basis using a formulaic method.

2. It is my understanding that all of my work assisting Class Counsel to prepare for mediation is covered by the mediation privilege, and potentially other privileges, which have not been waived, so I can only speak generally about my work.

3. Generally, I assisted Class Counsel to develop sound theories on damages and calculate damages on a class-wide basis. I also assisted Class Counsel to develop information requests that their database expert used to extrapolate information from the databases provided by Wells Fargo.

4. The general categories of damages discussed and calculated included the following:

   a. Loss of credit expectancy;

   b. Higher interest costs during forbearance, for customers whose forbearance delayed their refinance and temporarily locked them into contract rates that were higher than market rates;

   c. Higher interest costs after forbearance, for customers whose forbearance prevented them from refinancing when market rates were at their lowest;

   d. Higher interest costs because forbearance created credit damage that increased the refinance costs; and

e. Lost time and inconvenience.

9. It is my understanding that the categories of damages above and the various economic methodologies I used are commonly accepted methodologies recognized by experts in damage valuations.

10. It is reasonable for experts in the field of economics and finance to rely on the methods, materials and information I reviewed and discussed in this case for the formulation of my substantive opinions.

Stan V. Smith, Ph.D.
Executed this 7th day of September, 2022 in Chicago, IL

SEG

Smith Economics Group, Ltd.
A Division of Corporate Financial Group
Economics / Finance / Litigation Support

Stan V. Smith, Ph.D.
President

S T A N V. S M I T H, P H. D.

Smith Economics Group, Ltd. -- Consultants and Experts in Economics and Finance. President, 11/85 to present. Assisted in the successful resolution of thousands of lawsuits on behalf of clients that include many dozens of the nation's largest law firms, the U.S. Department of Justice, as well as thousands of other prominent plaintiff and defense law firms in almost every state. Firm provides economic and financial consulting and economic legal analysis in federal and state courts on damages of every sort: Business Damages including antitrust damages, patent valuation, breach of contract losses, and others commercial losses; Business Valuations; Personal Injury and Wrongful Death losses including lost wages, benefits, services, and other injury losses; Hedonic Damages; Wrongful Discharge, defamation and employment discrimination; Identity Theft and other credit damages; Product Liability; Pension Fund Evaluation and Withdrawal liability, Security Losses.

DePaul University. -- Adjunct Professor, College of Law, 1990 to 1994. Created and taught a full three-credit course in Advanced Remedies - Analysis of Economic Damages in Litigation, based on my textbook on Forensic Economics; delivered lectures to other courses in subsequent years. This was the first course created nationwide in the area of Forensic Economics.

Ibbotson Associates, Inc. -- Economic and Financial Consultants. Principal and Managing Director; Originator of SBBI Subscription Services, 11/81 to 11/85. Firm provides consulting to hundreds of the nation's most prominent money managers, law firms, brokerage firms, and pension funds.

Seaquest International, Inc. -- Founder and President, 7/77 to 11/81. Developed and financed sophisticated research, search, and recovery technologies for ancient underwater artifacts.

The December Group, Ltd. -- Investment Banking Consultants. Associate Economic Analyst 12/74 to 7/77. Firm specialized in mergers and acquisitions, leveraged buy-outs, divestitures and financing specialized start-ups with venture capital.

JPMorgan Chase Bank - Chicago. -- Staff Economist, 3/74 to 12/74. Analyzed bank credit and service pricing policies.

Federal Reserve System. -- Staff Economist at Board of Governors, Washington, D.C. 9/73 to 2/74.

University of Chicago. – Adjunct Professor, Public Policy Economics, 3/73 to 6/73. Research Assistant to Eugene Fama - Nobel Prize Economics 2013, 3/70 to 6/73.

Midlothian Manufacturing Co. -- Vice President, 9/68 to 3/73. Responsible for marketing to retail and industrial clients; production control.

SEG

EDUCATIONAL BACKGROUND:

University of Chicago, Chicago IL. Ph.D. in Economics, 1997; Support Areas in Finance and Econometrics. Honors: Allied Chemical Scholar and Federal Reserve Internship. The University of Chicago is recognized as a world preeminent institution for the study of Economics and the home of the Law and Economics movement. Prof. Gary Becker, Nobel Prize Economics 1992, Thesis Advisor.

University of Chicago, Chicago, IL. Master's Degree, 1972, Graduate School of Business; Field of Concentration in Economics.

Cornell University, Ithaca, NY. Bachelor of Science, Operations Research, 1968; Field of Concentration in Statistics, Computer Science and Industrial Engineering, Honors: John McMullen Scholar.

PROFESSIONAL ACTIVITIES:

American Academy of Economic & Financial Experts, Journal of Legal Economics, Manuscript Referee, 199x-2008.
American Arbitration Association, Arbitrator, 1994 to 1996;
American Board of Disability Analysts, Professional Advisory Council, 2002 to present, Member & Diplomat, 2001 to present;
American College of Forensic Examiners, Fellow, Diplomate and Board Certified Forensic Examiner, 1996 to present;
American Economic Association, Member, 1985 to present;
American Finance Association, Member, 1985 to present;
Collegium of Pecuniary Damages Experts, Charter Member, 2008-2011;
Journal of the American Rehabilitation Economics Association: The Earnings Analyst, Manuscript Referee, 1998 to 2002;
Journal of Forensic Economics, Board of Editors, 1990 to 2001;
Journal of Forensic Economics, Manuscript Referee, 1990 to 2003;
National Academy of Economic Arbitrators, Founder and Charter Member, 1989 to 2005;
National Association of Forensic Economics, Vice President, 2000 to 2003, Board of Editors, 1990 to 2000, Member, 1988 to present;
National Futures Association's Panel of Arbitrators, Arbitrator, 1994 to present;

PUBLICATIONS:

Author, "Historical Returns on Investment Instruments," Handbook of Modern Finance 1985, with Roger Ibbotson and Larry Siegel; Dennis Logue, ed., Warren, Gorham & Lamont, New York.
Author, 1988 Supp.to Vol 13, Am Jur Proof of Facts 2d on Hedonic Damages.
Author, "Economist Proposes Relief From Present Value Ruling," Chicago Daily Law Bulletin, June 8, 1988.
Author, "Hedonic Damages" Illinois Tort Report, June, 1988. 421

Author, "Hedonic Damages in Wrongful Death Cases," the ABA Journal, Sept,1988.
Author, "Hedonic Damages," The Audio Lawyer, Vol. 6 No. 8, ALI-ABA, February, 1989.
Author, "The Hedonic Value of Life: Economic Expert Witness Testimony in Injury and Wrongful Death," Expert Evidence Reporter, Vol. 1, No. 1, September 1989, Shepard's McGraw-Hill.
Co-author: Economic/Hedonic Damages: A Practice Book for Plaintiff and Defense Attorneys, with M. L. Brookshire, Anderson Publishing Co., Cinn., Ohio, 1990.
Co-author, "Hedonic Damages and Personal Injury: A Conceptual Approach," Journal of Forensic Economics, 3(1), 1990, pp. 1-8.
Author, "Hedonic Damages in the Courtroom Setting - A Bridge Over Troubled Waters," Journal of Forensic Economics, 3(3), 1990, pp. 41-49.
Author, "Admissibility of Hedonic Damages Testimony," The Audio Litigator, Vol. 1, No. 1, April, 1990, ALI-ABA.
Author, "Hedonic Damages," with G. Magnarini, Wisconsin Lawyer, Vol. 64, No. 2, February 1991.
Author, "Hedonic Damages: Assessing the Loss of Enjoyment of Life," CaliforniaState Bar Bulletin, Vol. 1, No. 8, June 1991.
Co-author, "Hedonic Damages and Personal Injury: A Conceptual Approach," Journal of Forensic Economics, 3(1), 1990, pp. 1-8; Reprinted in A Hedonics Primer for Economists and Attorneys, Compiled and Edited by John O. Ward, Lawyers & Judges Publishing Co., Chapter 7, pp. 121-129, 1992.
Co-author: 1991/1992 Cumulative Supplement to Economic/Hedonic Damages: A Practice Book for Plaintiff and Defense Attorneys, with M. L. Brookshire, Anderson Publishing Co., Cinn., Ohio, 1992.
Author, "Hedonic Damages in the Courtroom Setting - A Bridge Over Troubled Waters,," Journal of Forensic Economics, 3(3), 1990, pp. 41-49; Reprinted in A Hedonics Primer for Economists and Attorneys, Compiled and Edited by John O. Ward, Lawyers & Judges Publishing Co., Chapter 6, pp. 111-120, 1992.
Author, "Spotting Bias in Plaintiffs' Economic Loss Reports: A Primer for both Sides," Illinois Bar Journal, Vol 80, No. 12, December, 1992, pp. 635-638.
Author, "Life Values: Measuring the Loss of Enjoyment of Life - Economic Analysis whose time has come," The Brief, Summer 1993, Vol. 22, No. 4 pp. 24-27, 62-63, The American Bar Association.
Co-author: 1992/1993 Cumulative Supplement to Economic/Hedonic Damages: A Practice Book for Plaintiff and Defense Attorneys, with M. L. Brookshire and Charles W. de Seve, Anderson Publishing Co., Cinn., Ohio, 1993.
Author, "Evaluating the Loss of Enjoyment of Life - Hedonic Damages," in Charles N. Simkins, ed., Analysis, Understanding and Presentation of Cases Involving Traumatic Brain Injury, National Head Injury Foundation, Wash., DC, 1993.
Author, "Hedonic Damages in Personal Injury and Wrongful Death Litigation," in Gaughan and Thornton, eds. Litigation Economics, Contemporary Studies in Economic and Financial Analysis, Vol 74, JAI Press, Greenwich, CT, 1993.
Author, "Economic Evaluation of the Loss of Enjoyment of Life – Hedonic Damages," in Damages in Tort Actions, Ch. 124, Release 29 - February 1994, Pub. 309, Mathew Bender & Co., New York.
Author, "Measuring the Loss of Enjoyment of Life in Personal Injury Cases – Hedonic Damages," Journal of the Massachusetts Academy of Trial Attorneys, Vol 2, No. 1, July, 1994, pp. 65-67.

Author, 3-Part Series, "Two Plus Two Equals -- What?" October, 1994, p. 21; "Detecting Bias in Economics," November, 1994, pp. 14 & 21; "Striving for Economic Fairness," December, 1994, pp. 24-25, California Bar Journal, The Experts.

Author, "Measuring the Loss of Enjoyment of Life in Personal Injury Cases - Hedonic Damages," MTLA News, Vol. 6, No. 4, December, 1994, pp. 3-5, Maine Trial Lawyers Association.

Author, "Hedonic Damages: Measuring The Loss of Enjoyment of Life in Personal Injury Cases," The Prairie Barrister, Vol. 1, No. 1, Winter, 1995, pp. 3, 4, & 12, Nebraska Association of Trial Attorneys.

Author, "Measuring The Loss of Enjoyment of life in Personal Injury Cases in Ohio - Hedonic Damages," Ohio Trial, Vol. 6, Issue 3, Summer 1995, pp. 13- 16, Ohio Academy of Trial Lawyers Education Foundation.

Author, "Measuring The Loss of Enjoyment of Life in Personal Injury Cases - Hedonic Damages," The Advocate, Vol. 22, No. 5, September/October, 1995, pp. 14-16, 22, The Kentucky Academy of Trial Attorneys.

Author, "Damages for the Value of Life," North Dakota Trial Lawyers The Pleader, Vol. 18, No. 4, September 1995, pp. 9-11, 24.

Author, "Hedonic Damages - Measuring The Loss of Enjoyment of Life in Personal Injury Cases," Law Reporter, The Journal of the Hawaii Trial lawyers Association, Vol. 7, No. 9, September 1995, pp. 8-10.

Author, "Measuring The Loss of Enjoyment of Life in Personal Injury Cases in Arizona - Hedonic Damages," Advocate, Arizona Trial Lawyers Association, November 1995, pp. 5, 7, 15.

Co-Author, "Hedonic Damages and Personal Injury: A Conceptual Approach," Journal of Forensic Economics, 3(1), 1990, pp. 1-8; Reprinted in A New Hedonics Primer for Economists and Attorneys, Compiled and Edited by Thomas R. Ireland and John O. Ward, Lawyers & Judges Publishing Co., Reading 25, 1996, pp. 325-334.

Author, "Hedonic Damages - Measuring the Loss of Enjoyment of Life in P.I. Cases," In Brief, Iowa Trial Lawyers Association, Vol. 7/Issue 1, January-February 1996, pp. 13-15.

Author, "Hedonic Damages in Personal Injury and Wrongful Death Litigation," in Gaughan and Thornton, eds. Litigation Economics, Contemporary Studies in Economic and Financial Analysis, Vol 74, JAI Press, Greenwich, CT, 1993; Reprinted in A New Hedonics Primer for Economists and Attorneys, Compiled and Edited by Thomas R. Ireland and John O. Ward, Lawyers & Judges Publishing Co., Reading 3, 1996, pp. 15-36.

Author, "Measuring the Loss of Enjoyment of Life in Personal Injury Cases and Wrongful Death Cases in New Mexico - Hedonic Damages," The New Mexico Trial Lawyer, New Mexico Trial Lawyers' Foundation, Vol. XXIV, No. 3, March, 1996, pp. 1, 60-63.

Author with Introduction by Darrel W. Aherin, "Measuring The Loss of Enjoyment of Life in Personal Injury Cases - Hedonic Damages," Idaho Trial Lawyers Association Journal, Volume 25, Number 2, Summer 1996, pp. 32-36.

Author, "The Value of Life to Close Family Members: Calculating the Loss of Society and Companionship," The New Hedonics Primer for Economists and Attorneys, Second Edition, Edited by Thomas R. Ireland and John O. Ward, Lawyers & Judges Publishing Co., 1996, pp. 377-384.

Author, "Pseudo-Economists - The New Junk Scientists," Federation of Insurance & Corporate Counsel Quarterly, Vol. 47, No. 1, Fall 1996, pp. 95-105.

Author with Introduction by Darrel W. Aherin, "Measuring The Loss of Enjoyment of Life in Personal Injury Cases in Idaho - Hedonic Damages," Western Chronicle, N/D 1996, Western Trial Lawyers Association, pp. 32, 35-36.
Author, "Measuring The Loss of Enjoyment of Life in Personal Injury Cases in Washington - Hedonic Damages," Trial News, Vol. 32, Number 5, January 1997, Washington State Trial Lawyers Association, pp. 29-30.
Author, "Jury Verdicts in Drunken Driving Cases," University of Chicago Ph.D. Thesis, UMI Dissertation Services, Ann Arbor, MI, 1997.
Author, "The Value of Life to Close Family Members: Calculating the Loss of Society and Companionship," American Rehabilitation Economics Association 1997 Monograph, pp. 10-16.
Author, Abstract: "Jury Verdicts in Drunken Driving Cases," Journal of Forensic Economics, 11(1), 1998, p. 67-68.
Author, "Why Juries Can Be Trusted," Voir Dire, Vol. 5, Issue 3, Summer 1998, American Board of Trial Advocates, pp. 19-21 & 25.
Author, "Measuring The Loss of Enjoyment of Life in Personal Injury Cases - Hedonic Damages," The Neurolaw Letter, Vol. 9, No. 8, April 2000, pp. 45, 48-49.
Author, "Jury Verdicts and the Dollar Value of Human Life," Journal of Forensic Economics, 13(2), 2000, pp. 169-188.
Author, "Hedonic Damages," Izabela Z. Schultz, Douglas O. Brady, Steven Carella, Eds., Psychological Injuries at Trial, Torts Section, American Bar Association, 2003.
Contributor, "Economic Foundations of Injury and Death Damages," Roger T. Kaufman, James D. Rodgers, Gerald D. Martin, Edward Elgar Publishing, Inc., 2005.
Author, "Don't Overlook the Loss of Expanded Family Services," Trial, Vol. 42, No. 3, "Good Counsel" Column, March 2006, pg. 73.
Co-Author, "What is Your Value?" Chapter 2 in Six-Figure Salary Negotiation, Michael Zwell, Platinum Press, 2008.
Co-Author, "Jury Verdicts in Drunken Driving Cases," Review of Law & Economics, Berkeley Press, 2008.
Contributor, "Determining Economic Damages," Gerald D. Martin, James Publishing Inc., 2008 & previous years' editions.
Co-Author, "Estimating the Value of Family Household Management Services: Approaches and Markups," Forensic Rehabilitation & Economics, Vol 3, No. 2, 2010, with David A. Smith and Stephanie R. Uhl, pp. 85-94.
Co-Author, "Credit Damage: Causes, Consequences and Valuation," Forensic Rehabilitation & Economics, Vol 4, No. 1, 2011, with David A. Smith and Stephanie R. Uhl, pp. 27-32.
Co-Author, "Reply to Tinari's Comment on 'Estimating the Value of Family Household Management Services: Approaches and Markups,'" Forensic Rehabilitation & Economics, Vol 4, No. 1, 2011, with David A. Smith and Stephanie R. Uhl, pp. 37-38.
Co-Author, "A Response to Jayne's Comment on 'Estimating the Value of Family Household Management Services: Approaches and Markups,'" Forensic Rehabilitation & Economics, Vol 4, No. 1, 2011, with David A. Smith and Stephanie R. Uhl, pp. 39-40.
Co-Author, "A Reply to Mr. Climo's Credit Damage Comment," Forensic Rehabilitation & Economics, Vol 5, No. 1, 2012, with David A. Smith and Stephanie R. Uhl, pp. 75-76.

Contributor, "Lost Earnings Report: Economist Expert," How To Write An Expert Witness Report, James J. Mangraviti, Jr., Steven Babitsky, Nadine Nasser Donovan, SEAK, Inc, The Expert Witness Training Company, 2014, pp. 527-542.
Author, "Economic Damages in Nevada," Vegas Legal Magazine, Vol 1, Issue 1, Summer 2015, pp. 24-25.
Author, "Economic Damages in Nevada," REPRINT, Vegas Legal Magazine, Fall 2016, pp. 31-32.
Author, "What Is a Wife Worth?" Vegas Legal Magazine, Winter 2017, pp. 34-35.
Author, "What Is Your Earning Capacity?" Vegas Legal Magazine, Spring 2017, pp.26-27.
Author, "Partially Disabling Injuries," Vegas Legal Magazine, Summer 2017, pp. 26-27.
Co-Author, "Credibility & Bias in Economic Experts," Vegas Legal Magazine, Winter 2017, pp. 28-29.
Co-Author, "Credit Damages," Vegas Legal Magazine, Spring 2018, pp. 28-29.
Co-Author, "Defamation" Vegas Legal Magazine, Summer 2018, pp. 26-27.
Co-Author, "Economics is Not Fair!" Vegas Legal Magazine, Fall 2018, pp. 20-21.
Co-Author, "Speculative Damages v. Imprecision: Are They the Same?" Vegas Legal Magazine, Spring 2019, pp. 24-25.
Co-Author, "Partially Disabling Injuries," REPRINT, Vegas Legal Magazine, Winter 2020, pp. 24-25.
Co-Author, "The COVID-19 Economy" Vegas Legal Magazine, Spring 2020, pp. 12-13.

Creator and founder of Ibbotson Associates' Stocks, Bonds, Bills, and Inflation (SBBI) Yearbook, Quarterly, Monthly, and SBBI/PC Services. SBBI is generally regarded by academics in the field of finance as the most widely accepted source of statistics on the rates of return on investment securities. SBBI was originally published by Ibbotson Associates, then by Morningstar, Inc., and is now currently published by Duff & Phelps. The original SBBI series generated what became a six-book set universally used for business valuation, and currently available on an online platform. These data series are widely relied upon and regarded as the most accepted and definitive scholarly references by the academic, actuarial and investment community, and in courts of law. All three publishers of the SBBI series acknowledge me as the founder in 1983, for my "invaluable role" as having "originated the idea" of SBBI, which I then implemented while Managing Director at Ibbotson Associates.

PROFILES:

The Wall Street Journal, page 1 feature article with photo;
The Best Lawyer's in America: Directory of Expert Witnesses;
National Law Journal, page 1 feature article with photo;
Who's Who in the World;
Who's Who in America;
Who's Who in Finance and Industry;
Who's Who in Science and Engineering;

Who's Who in the Midwest;
Who's Who of Emerging Leaders of America;
Chicago Daily Law Bulletin, page 1 feature article;
Chicago Reader, Section 1 feature article with photo;
Like Judgment Day: The Ruin and Redemption of A Town Called Rosewood, D'Orso, Michael, 1996, Pg. 237.

NATIONAL PRESENTATIONS:

Arizona: Brain Injury Association 13th Annual Conference for Attorneys, Phoenix, September 16, 1999;
California: American Bar Association Annual Meeting, San Francisco, August 10, 1992;
California: American Trial Lawyers Association 2005 Winter Convention, "Making Tangible the Intangible: Replacement Household/Family Services", Palm Springs, January 29, 2005;
Canada: Association of Trial Lawyers of America Annual Meeting, Economic Damages, Toronto, 1991;
District of Columbia: Larry King Live, Washington, May 22, 1989;
District of Columbia: National Institute for Trial Advocacy (NITA), Seventh Annual Washington DC Masters Advocacy Program, "Direct and Cross Examination of an Economic Witness," Washington, October 15, 1991;
District of Columbia: National Association. of Protection & Advocacy Systems, Inc., 19th Annual Conference, "Assessment and Proof of Damages," Washington, May 30, 1996;
District of Columbia: American Bar Association Annual Meeting, Washington, TIPS Aviation and Space Law, "Beyond the Horizon: What's Next in Aviation and Space Law Litigation," October 18, 2013;
Florida: Association of Trial Lawyers of America 1992 Winter Convention, Boca Raton, "Cutting Edge Developments in Economic Testimony," January 15, 1992;
Florida: Brain Injury Association 10th Anniversary Trial Lawyers Conference, Palm Beach, September 19, 1996;
Florida: National Association of Consumer Advocates, 2003 NACA-FCRA Conference, Building on Our Success, Panel of Experts, "What the Experts Have Learned, A View From the Witness Box," Orlando, March 9, 2003;
Georgia: National Academy of Economic Arbitrators Annual Meeting, Differences in Economic Assumptions in Personal Injury Wage Calculations, Atlanta, December, 1989;
Georgia: National Association of Forensic Economics Annual Meeting, Value of Life, Atlanta, December, 1989;
Hawaii: American Bar Association Annual Meeting in Honolulu, HI, Speaker and Expert Witness at Mock Trial, Honolulu, August, 1989;
Idaho: Inner Circle of Advocates Annual Meeting, Sun Valley, August, 1989;
Illinois: University of Chicago 1982 Annual Management Conference on Venture Capital;
Illinois: National Association of Consumer Advocates, 2009 NACA-FCRA Fair Credit Reporting Act Conference, "Credit Damages: How to Estimate Them," Chicago Hyatt Regency, May 9, 2009;
Illinois: American Rehabilitation Economics Association Annual Conference, "Hedonic Damages: A Basic Approach," Chicago, June 13, 2009;

Illinois: National Association of Consumer Advocates, 2010 NACA Auto Fraud Litigation Conference, Credit Damages: How to Estimate Them," Chicago Hyatt Regency, May 16, 2010;
Illinois: SEAK 19th Annual National Expert Witness Conference, "Handling the Toughest Questions: Depositions and Trial," Rosemont, June 25, 2010;
Illinois: National Consumer Law Center 20th Annual Consumer Rights Litigation Conference, "Expert Witnesses at Trial – Handling Experts in the Courtroom," Fairmont Chicago Millennium Park Hotel, November 5, 2011;
Internet: Credit Bureau Strategy Consulting, Webinar Presentation, "The Economics of Credit Damage," September 14, 2009
Louisiana: American Bar Association, National Institute Transportation Megaconference, New Orleans, March 5, 1993;
Louisiana: Defense Research Institute, Medical Malpractice Seminar, New Orleans, May 6, 1994;
Louisiana: Association of Trial Lawyers of America 2001 Winter Convention, Litigation at Sunrise, "Measuring the Loss of Enjoyment of Life in Personal Injury Cases -- Hedonic Damages Over the Last Ten Years," New Orleans, February 12, 2001;
Louisiana: National Association of Consumer Advocates, 2005 NACA-FCRA Conference, "Litigating Accuracy Issues with Furnishers of Credit Data," Speaker on Economic Damages, New Orleans, June 5, 2005;
Louisiana: National Association of Minority and Women-Owned Law Firms, Trials Practice Area Committee Session: Challenging Experts? "Tactics for Mastering Expert Examinations," New Orleans, February 21, 2016;
Louisiana: National Association of Minority and Women-Owned Law Firms, Emerging Leaders Session: Ready for Action? "Hone Your Expert Cross Examination Techniques," New Orleans, February 22, 2016;
Massachusetts: 46th Annual Eastern Economic Association Conference, "Calculations and Consideration of Hedonic Damages in Personal Injury," Boston, February 29, 2020;
Michigan: Northwest #255 Air Disaster Steering Committee Meeting, Detroit, June, 1989;
Nevada: American Rehabilitation Economics Association Conference, Mock Trial Presided by Nevada Supreme Court Justice William Maupin, Reno, May 15, 1999;
Nevada: National Association of Consumer Advocates, 2006 NACA-FCRA Conference, "Experts on Damages," Washington, May 6, 2006;
Nevada: National Association of Consumer Advocates, 2006 NACA-FCRA Conference, "Breakfast with the Stars," Washington, May 7, 2006;
Nevada: Brain Injury Association of America; Mastering the Science and Trial Strategies, "Making Tangible the Intangible: Expanding the Traditional Measures," Las Vegas, April 4, 2008;
Nevada: Internet Law Leadership Summit at Aria Resort & Casino, "Calculating Complex Financial Damages," Las Vegas, November 30, 2012;
New York: Eastern Economic Association Annual Conference, "Estimating the Value of Family Household Management Services: Approaches and Markups," New York City, February 28, 2009;
New York: Eastern Economic Association Annual Conference, "Credit Damage: Causes, Consequences and Valuation," New York City, February 28, 2009;
Oregon: National Crime Victim Law Institute at Lewis & Clark Law School, Ninth Annual Crime Victim Law Conference, Due Process for Victims: Meaningful Rights in Every Case, Portland, June 11, 2010;
Pennsylvania: Swiss Re American Annual Claims Conference, "Looking to the Third Millennium," Hershey, June 3, 1996;
Texas: MADD Advanced Victim Assistance Institute Seminar, Dallas, November 12,

1994;
Texas: National Norplant Litigation Conference 1995, Houston, June 22, 1995.
Texas: American Rehabilitation Economics Association Annual Conference, "Hedonic Damages for Dummies," Austin, June 23, 2018.

REGIONAL PRESENTATIONS:

Hawaii: Western Trial Lawyers Association 1994 Annual Convention, "Making it Work-Trial Practice in the 90's," Maui, June 16, 1994;
Illinois: GSA Seminar "Selling your Business", Chicago, October, 1987;
Illinois: Society of Trial Lawyers, "How to Depose an Economist," Chicago, May 7, 2009;
Louisiana: Southern Trial Lawyers Association Annual Meeting, New Orleans, 1988;
Louisiana: Southern Trial Lawyers Association 1996 Mardi Gras Conference, ATLA Traumatic Brain Injury Litigation Group, "Economic Implication of a Closed Head Injury," New Orleans, February 18, 1996;
Michigan: Advocacy Institute, Continuing Legal Education, 46th Annual Seminar, "Wrongful Death of an Older Person," Ann Arbor, May 12, 1995;
Michigan: Lorman Education Services, "Direct Examination of Experts in a Traumatic Brain Injury Case," Novi, August 21, 1997;
Michigan: Lorman Education Services, "Direct Examination of Experts in a Traumatic Brain Injury Case," Livonia, August 26, 1998;
New York: Eastern Finance Association Special Session on Pension Fund Asset Reversions, 1985;
New York: American Reinsurance Company for Senior Claims Executives Annual Meeting, August, 1989;
Ohio: Anderson Publishing Co., Proof of Economic Damages Seminar, Cincinnati, November 2, 1990.

STATEWIDE PRESENTATIONS:

California: Arizona State Bar Fourth Annual "CLE By The Sea," San Diego, July 22-23, 1994;
Connecticut Trial Lawyer Association, "All About Experts," Hartford, November 21, 1992;
Florida State Bar Association, National Institute of Trial Advocacy (NITA), Advanced Trial Advocacy Seminar, Speaker and Expert Witness at Mock trial on Economic Damages, Gainesville, May 14, 1991;
Georgia Brain Injury Association & Institute of Continuing Legal Education in Georgia, "Hedonic Damages: Proving Loss of Enjoyment of Life in Non-Fatal Injury Cases," Atlanta, March 29, 2002;
Idaho Trial Lawyers Association Annual Meeting, Twin Falls, February 23, 1996;
Illinois State Bar Association CLE Series, April, 1989;
Illinois: Insurance Group of the Union League Club of Chicago, "Toward A More Rational Approach to Liability Judgments," Chicago, March 19, 1991;
Indiana State Bar Association Annual Meeting, October, 1989;
Indiana Trial Lawyers Association Annual Meeting, November 30, 1990;
Indiana State Bar Association "Masters in Trial" Spring Meeting, South Bend, April 18, 1997;
Iowa Trial Lawyers Association Annual Meeting, Des Moines, November 5, 1993;
Kentucky Academy of Trial Attorneys Damages Seminar, Louisville, August 18, 1995;

Louisiana Trial Lawyer Association, Baton Rouge, "Winning with Experts" Seminar, November 10, 1989;
Louisiana Trial Lawyer Association, "Winning With the Masters" Seminar, New Orleans, November 21, 1995;
Louisiana Trial Lawyer Association, "Winning With the Masters" Seminar, New Orleans, December 10, 1997;
Massachusetts Trial Lawyers Association, "Learn From the Experts," Boston, October 9, 1992;
Massachusetts Trial Lawyers Association Annual Meeting, Boston, October 29, 1993;
Michigan Trial Lawyers Association Annual Meeting, Wrongful Death Damages, May, 1990;
Michigan Head Injury Alliance Fifth Annual Seminar on Closed Head Injury, Detroit, March 24, 1994;
Michigan Head Injury Alliance Sixth Annual Seminar on Closed Head Injury, Detroit, March 23, 1995;
Michigan Head Injury Alliance Seventh Annual Seminar on Closed Head Injury, Detroit, March 28, 1996;
Michigan Head Injury Alliance Eighth Annual Seminar on Closed Head Injury, Detroit, March 27, 1997;
Michigan, Institute of Continuing Legal Education, "The Name of the Game is Damages--Plaintiff and Defense Strategies in Negligence and Employment Cases," Troy, July 20, 2000;
Michigan Trial Lawyers Association Winter Seminar, "Hedonic Damages and Other Special Economic Issues," Gaylord, February 24, 2001;
Michigan Trial Lawyers Association 13th Annual Seminar in the Snow, Litigation Strategies and Techniques, "Loss of Society and Household Companionship and Advisory Services," Bellaire, February 22, 2003;
Mississippi Trial Lawyers Association Annual Convention, "Shooting Stars Seminar," Biloxi, May 19, 1995;
Mississippi Trial Lawyers Association Annual Convention, "Taking Your Recovery to the Next Level: Hedonic Damages," Biloxi, May 10, 2001;
Mississippi: Arkansas Trial Lawyer Association "Maximizing Damages in the Personal Injury Case," Tunica, MS, October 24, 2003;
Missouri: Kansas Trial Lawyers Association Annual Meeting, Kansas City, December 8, 1990;
Missouri State Bar Annual Meeting, Kansas City, September 19, 1996;
Missouri State Bar CLE Seminar, Proving Damages in Catastrophic Injury Cases, "Hedonic Damages after September 11th and An Economist's View on Proving Economic Damages," Kansas City, April 19, 2002;
Missouri State Bar CLE Seminar, Proving Damages in Catastrophic Injury Cases, "Hedonic Damages after September 11th and An Economist's View on Proving Economic Damages," St. Louis, May 9, 2002;
Montana Trial Lawyer Association Fourth Annual Convention, "Proving The Intangible (Hedonic) Value of Human Life," Whitefish, July 23, 1993;
Montana Trial Lawyer Association Seventh Annual Convention, Seminar of the Masters, Polson, August 1, 1996;
Montana Trial Lawyer Association Spring Seminar, Scientific Evidence, "Making Tangible the Intangible: Loss of Enjoyment of Life, and Society & Companionship Damages," Billings, April 25, 2003;
Nevada: Required Medical and Legal Education for the Traumatic Brain Injury Case, "9/11 Victim Compensation Fund Hedonic Damages: Implications for the State of Nevada," Las Vegas, October 25, 2002;

New Hampshire Trial Lawyer Association, "Secrets & Strategies of Trial Law," Concord, October 8, 1993;
New Mexico Trial Lawyers Association Annual Meeting, Economic Damages, Santa Fe, June 22, 1991;
New Mexico Trial Lawyers Foundation Damages Seminar, Albuquerque, October 11, 1996;
North Carolina, Brain Injury Association of NC, First Annual Trial Lawyers Conference, "The Use of Expert Testimony in Brain Injury Litigation," Charlotte, January 26, 1996;
North Carolina, Brain Injury Association of NC, Second Annual Trial Lawyers Conference, "The Loss of Enjoyment of Life in Personal Injury - Hedonic Damages," Charlotte, January 24, 1997;
North Dakota Trial Lawyers Association, Annual Meeting Trial Practice Seminar, Fargo, May 4, 1995;
Ohio Association of Trial Lawyers Annual Meeting, Speaker and Expert Witness at Mock Trial on Wrongful Death Damages, Toledo, April, 1990;
Ohio Head Injury Association, "Representing the Survivor of Mild Head Injury," Annual Seminar, Columbus, June 3, 1994;
Pennsylvania: Philadelphia Trial Lawyers Association CLE Lecture Series, March 17, 1993;
South Dakota Trial Lawyers Association Spring Seminar, April, 1989;
Texas Trial Lawyers Association, Medical Malpractice Seminar, Wrongful Death Damages, Houston, May, 1990;
Washington State Trial Lawyers Annual Meeting & Convention, Stevenson, July 11, 1998;
Wisconsin Association of Trial Lawyers Annual Meeting, Wrongful Death Damages, Door County, July, 1990;
Wisconsin Brain Injury 2nd Annual Seminar, "Identifying and Understanding Traumatic Brain Injury," Green Lake, May 31, 1997.

LOCAL PRESENTATIONS:

Alaska: Alaska Trial Lawyers Association, Anchorage, August, 1989;
California: "Value of Life: Dismal Science from the Courtroom, "Economics Department Workshop Colloquium, Pomona College, Claremont, April 17, 2006;
Illinois: Chicago North Suburban Bar Association, May, 1988;
Illinois: Chicago Advocates Society, June, 1988;
Illinois: Northwest Chicago Suburban Bar Association, January, 1989;
Illinois: Chicago Public Radio, WBEZ, February, 1989;
Illinois: DuPage County, Bar Association, Chicago, May, 1989;
Illinois: Sangamon County Trial Lawyers Association, Springfield, May, 1989;
Illinois: McHenry County Bar Association, Chicago, May, 1989;
Illinois: Chicago Bar Association Wrongful Death Seminar, Wrongful Death Damages, February, 1990;
Illinois: Chicago Bar Association Torts Seminar, Defense Perspectives on Economic Damages, January 21, 1991;
Illinois: Chicago Bar Association, Wrongful Death Seminar, February 11, 1993;
Illinois: Chicago Bar Association Effective Direct and Cross-Examination of Expert Witnesses - A Demonstration, January 9, 1995;
Illinois: Interstate National Corporation, "Cutting Edge Developments on Economic Damages - Defense Perspectives", Chicago, August 2, 1995;
Illinois: Interstate National Corporation, "Cutting Edge Developments on

Economic Damages - Defense Perspectives", Chicago, September 2, 1997;

Illinois: Cassiday Schade & Gloor, "Catastrophic Damages...They're Back! - Limiting Damages After the Invalidation of Tort Reform," Chicago, November 18, 1998;
Illinois: Law Bulletin Publishing Company, Legal Career Day, Economic Outlook for Lawyer Employment, Chicago, April 13, 2004;
Illinois: Fox News Contributor WFLD TV, October 10 and October 15, 2008; February 25, March 24, April 10, April 20, June 17, August 3, August 26 and October 19, 2009;
Michigan: American Radio Network, WFOX, Detroit, January, 1989;
Michigan: Oakland County Bar Association Negligence Committee, Bloomfield Hills, November 5, 1996;
Ohio: Hamilton County, Bar Association Seminar on Economic Damages, Cincinnati, January 31, 1991.

TELEVISION/VIDEO PRESENTATIONS

American Bar Association Tort and Insurance Practice Section Annual Meeting, "Hedonic Damages," San Francisco, CA, August 10, 1992;
American Law Institute-American Bar Association, ALI-ABA Tape, "Hedonic Damages: Litigating the Loss of Enjoyment of Life," The Lawyers' Video Magazine, Vol. III Issue 20, Philadelphia, PA, December, 1991;
CNN: Larry King Live, May 22, 1989.

PERSONAL BACKGROUND:

Born November 16, 1946, Rhinelander, Wisconsin;
Graduated Nicolet High School 1964, Milwaukee, Wisconsin;
Honorable Discharge U.S. Army, 1975;
Member of Chicago Board Options Exchange, 1975-1978;
Trustee, Wright Graduate University;
Board Member, Wright Foundation.

LIST OF CASES OVER THE LAST FOUR YEARS WHEREIN
STAN V. SMITH HAS TESTIFIED AS OF 9/7/2022

Case Name	Court	Case Number	Law Firm	Date
McGee v. Graybill	Circuit Court of Jackson County, Missouri at Independence	2116-CV14125	Langdon & Emison, Lexington, MO	09-06-2022
Malapo, et al. v. Carmen, Jr. et al.	District Court, 45th Judicial District, Bexar County, Texas	2019CI18171	DeSouza Law, San Antonio, TX	09-02-2022
Skeete v. Hyster-Yale Group, Inc.	Superior Court of New Jersey, Law Division - Middlesex County	MID-L-5113-19	Lynch Lynch Held Rosenberg, Hasbrouck Heights, NJ	09-02-2022
Billips v. CSX Transportation, Inc.	Circuit Court of the Fourth Judicial Circuit In and For Duval County	2021-CA-003067	Rossman Baumberger Reboso & Spier, Miami, FL	09-01-2022
Ekanayake v. Arizona Charlies, LLC., et al.	District Court, Clark County, Nevada	A-19-802612-C	Hansen Law Offices, Las Vegas, NV	08-31-2022
Freeman/Gentry v. Honda Motor Company, et al.	Circuit Court of Jackson County, Missouri at Kansas City	2016-CV08609, Div. 9	Langdon & Emison, Lexington, MO	08-31-2022
Ortiz v. Oberweis Dairy, Inc.	Circuit Court of Cook County, Illinois, County Department - Law Division	2018 L 013009	Phillips Law Offices, Chicago, IL	08-30-2022
Narvais v. Ybanez, et al.	229th Judicial District Court, Duval County, Texas	DC-20-104	DeSouza Law, San Antonio, TX	08-29-2022
McCain v. Scherer, D.C.	Circuit Court of Cook County, Illinois, County Department - Law Division	2019 L 005304	Motherway & Napleton, Chicago, IL	08-26-2022
Kaval v. Builtech Services, LLC	Circuit Court of Cook County, Illinois, County Department - Law Division	2020L000312	O'Connor Law Firm, Chicago, IL	08-26-2022
Lingo v. La Grange Crane Services, Inc.	Circuit Court of Cook County, Illinois, County Department - Law Division	19 L 009541	Witter Law Offices, Chicago, IL	08-25-2022
Frazier v. Impact RTO Florida, LLC.	Circuit Court of the Eighth Judicial Circuit In and for Levy County, Florida, Civil Division	20-CA-000126	Ziegler Diamond Law, Clearwater, FL	08-25-2022
Shulla, Jr. v. Morales Enterprises	94th Judicial District Court of Nueces County, Texas	2020DCV-2195-C	DeSouza Law, San Antonio, TX	08-25-2022
Steele v. Garcia, et al.	District Court, 225th Judicial District, Bexar County, Texas	2019-CI-02780	Maloney Law Group, San Antonio, TX	08-24-2022
Brauchler v. Kim, et al.	Circuit Court of the Twelfth Judicial Circuit, Will County, Illinois	17 L 298	Motherway & Napleton, Chicago, Il	08-24-2022
Cadena v. Kebo Oil and Gas, Inc.	430th Judicial District Court of Hidalgo County, Texas	C-1637-21-J	DeSouza Law, San Antonio, TX	08-23-2022
Winters v. Allamakee County, Iowa	Iowa District Court for Allamakee County	LACV026807	Duff Law Firm, West Des Moines\IA	08-22-2022
Germansky v. Stephens	District Court, Clark County, Nevada	A-20-820890-C, Dept No. 29	Powell Law Firm, Las Vegas, NV	08-19-2022
Keady, et al. v. Briggs, et al.	District Court, Johnson County, Kansas	20P8-PR01519	Goss Law, Kansas City, MO	08-17-2022
Arbo v. Proequities, Inc.	Arbitration Before the Financial Industry Regulatory Authority	20-02471	Tarter Krinsky & Drogin, New York#NY	08-16-2022
Witherspoon v. Sawgrass at Plum Creek Community Association, Inc.	District Court, County of Douglas County, State of Colorado	2020CV30417	Earl & Earl, Boise, ID	08-16-2022
Wilbourne v. Strumwasser, et al.	District Court, Clark County, Nevada	A-19-799879-C	Powell Law Firm, Las Vegas, NV	08-05-2022
McGraw v. Smith	Eighth Judicial District Court, Clark County, Nevada	A-20-824996-C, Dept 4	Powell Law Firm, Las Vegas, NV	08-03-2022
Johnson v. Ridge Tool Manufacturing	United States District Court for the Northern District of Illinois, Eastern Division	1:21-cv-01939	Cronauer Law, Sycamore, IL	08-03-2022
Moore/Apolon v. Penske Truck Leasing Co., et al.	District Court of Dallas County, Texas, 193rd Judicial District	DC-20-08301	Arnold & Itkin, Houston, TX	08-02-2022
Sitathammavong v. Barton	Eighth Judicial District Court, Clark County, Nevada	A-20-823325-C, Dept 31	Powell Law Firm	08-01-2022
Carrillo v. A&L Hot Oil Services, Inc., et al.	District Court, 192nd Judicial District, Dallas County, Texas	DC-20-06892	DeSouza Law, San Antonio, TX	08-01-2022
Cabrera v. A&L Hot Oil Services, Inc., et al.	District Court, 192nd Judicial District, Dallas County, Texas	DC-20-06894	DeSouza Law, San Antonio, TX	08-01-2022
Mirelez v. A&L Hot Oil Services, Inc., et al.	District Court, 192nd Judicial District, Dallas County, Texas	DC-20-06884	DeSouza Law, San Antonio, TX	08-01-2022
Villanueva v. Wal-Mart Real Estate Business Trust	United States District Court, Southern District of Texas, Laredo Division	5:21-CV-35	DeSouza Law, San Antonio, TX	07-27-2022
Linex v. Snuffer's Restaurants LLC	District Court, 162nd Judicial District, Dallas County, Texas	DC-20-14101	Grossman Law Offices, Dallas, TX	07-26-2022
Munson v. George	Circuit Court of the Twelfth Judicial Circuit, Will County, Illinois	19 L 773	Burnes & Libman, Chicago, IL	07-25-2022
Dash v. United States of America	United States District Court, Southern District of Florida	9:22-cv-80015-DMM	Bertling Law Group, Santa Barbara, CA	07-22-2022
Bonarirgo v. Raiser, LLC. Et al.	District Court, Clark County, Nevada	A-20-815534-C	Mainor Wirth, Las Vegas, NV	07-21-2022

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STAN V. SMITH HAS TESTIFIED AS OF 9/7/2022

Case Name	Court	Case Number	Law Firm	Date
Nazir v. Cook County Health and Hospital Systems	Circuit Court of Cook County, Illinois, County Department - Law Division	2020L008025	Hall-Jackson & Associates, Chicago, IL	07-20-2022
Shulla, Jr. v. Morales Enterprises	94th Judicial District Court of Nueces County, Texas	2020DCV-2195-C	DeSouza Law, San Antonio, TX	07-19-2022
Muhammad v. Leon	District Court, Clark County, Nevada	A-20-811447-C	Simon Law Group, Las Vegas, NV	07-19-2022
Leman v. Volmut	Circuit Court of Cook County, Illinois, County Department - Law Division	2019 L 3711	Turner & Sackett, Sycamore, IL	07-19-2022
Reyes, et al. v. Eddington	District Court, Clark County, Nevada	A-20-813798-C, Dept. 8	Harris Law Firm, Las Vegas, NV	07-18-2022
James/Phiffer v. Irwin, et al.	Circuit Court of Cook County, Illinois, County Department - Law Division	2017-L-006939	Loggans & Associates, Chicago\IL	07-18-2022
Weil v. Walmart Inc., et al.	United States District Court, District of Nevada	2:21-cv-01631-JAD-EJY	Lagomarsino Law, Las Vegas, NV	07-14-2022
Keniston v. Archer-Daniels-Midland Company Corn Processing, et al.	Iowa District Court In and For Linn County	LACV097501	Fiedler Law Firm, Johnson, IA	07-14-2022
McDaniel, M.D. v. Loyola University Medical Center, et al.	United States District Court, Northern District of Illinois, Eastern Division	1:13-CV-06500	Robinson Curley, Chicago\IL	07-13-2022
Rappuhn v. Primal Vantage Company, Inc., et al.	United States District Court, Southern District of Alabama, Southern Division	1:20-cv-528-CG-N	Morgan & Morgan, Orlando, FL	07-12-2022
Yates, et al. v. Traeger Pellet Grills, LLC	United States District Court, District of Utah	2:19-cv-00723-BSJ	Kronenberger Rosenfeld, San Francisco, CA	07-11-2022
Loyall, et al. v. Hardin Memorial Hospital, et al.	Commonwealth of Kentucky, Hardin Circuit Court	19-CI-01570	Hance & Srinivasan, Louisville, KY	07-11-2022
Inventist, Inc. v. Ninebot, Inc.	United States District Court for the Western District of Washington at Tacoma	3:16-cv-05688-BJR	WPAT, Vienna, VA	06-29-2022
Principe v. Village of Melrose Park	United States District Court for the Northern District of Illinois, Eastern Division	1:20-cv-01545	Disparti Law Group, Chicago, IL	06-28-2022
Badri/Monaghan v. Chun, M.D.	Circuit Court of the Eighteenth Judicial Circuit, DuPage County, Illinois	2015 L 143	Ridge & Downes, Chicago, IL	06-22-2022
Tennant v. University of Notre Dame Du Lac	State of Indiana, County of St. Joseph, St. Joseph Circuit Court	71C01-2007-CT-00254	Meyers & Flowers, St. Charles, IL	06-20-2022
Clark v. Woodside, et al.	Circuit Court, First Judicial Circuit, Jackson County, Illinois	18-L-80	Womick Law Firm, Carbondale, IL	06-20-2022
Integrative Health Institute, et al. v. Schaffner, et al.	United States District Court, Western District of Washington	2:20-cv-01471-RAJ-MLP	MDK Law, Bellevue, WA	06-17-2022
Shah v. Gummersall	Circuit Court of Cook County, Illinois, County Department - Law Division	2019-L-004017	Stamatis Law Office, Chicago, IL	06-15-2022
Bernardez v. Las Vegas Boat Harbor Inc., et al.	District Court, Clark County, Nevada	A-20-812414-C, Dept No. 26	Eglet Adams, Las Vegas, NV	06-13-2022
Palmquist v. The Hain Celestial Group, Inc.	District Court of Brazoria County, Texas, 149th Judicial District	111847-CV	Arnold & Itkin, Houston, TX	06-08-2022
Dittrick v. Chicago Central Pacific Railroad Company	Iowa District Court for Dubuque county	LACV111209	Wettermark Keith, Birmingham, AL	06-07-2022
Moreno v. Deming Hospital Corporation	State of New Mexico, County of Santa Fe, First Judicial District Court	D-101-CV-2021-00465	Salazar Sullivan Jasionowski, Albuquerque, NM	06-03-2022
Sklarova v. Coopersmith, M.D.	Supreme Court of the State of New York, County of New York	805212/2014	Lynch Lynch Held Rosenberg, Hasbrouck Heights\NJ	06-02-2022
Carr. Lurie Children's Medical Group,LLC	Circuit Court of Cook County, Illinois, County Department - Law Division	2019 L 000026	Cogan & Power, Chicago, IL	06-01-2022
Williams/Steels v. Thomas, M.D., et al.	Circuit Court of Cook County, Illinois, County Department - Law Division	2017 L 8230	Motherway & Napleton, Chicago\IL	05-24-2022
Lombardo v. Equifax Information Services, LLC.	United States District Court, Southern District of New York	7:20-cv-6813(VB)	Schlanger Law Group, New York, NY	05-23-2022
Borkowski v. Voirin, D.O., et al.	State of Illinois, County of DuPage, Circuit Court for the Eighteenth Judicial Circuit	2017L001111	Motherway & Napleton, Chicago, IL	05-23-2022
Zarling v. Abbott Laboratories	United States District Court, District of Minnesota	21-cv-23 MJD/BRT	Eastlund Hutchison, Savage, MN	05-20-2022
Tentler v. LPF Geneva Commons, LLC, et al.	Circuit Court of the Sixteenth Judicial Circuit, Kane County, Illinois	18 L 000655	Cogan & Power, Chicago, IL	05-20-2022
Wise v. Christus Santa Rosa Healthcare Corporation, et al.	407th Judicial District, Bexar County, Texas	2021-CI-00344	Maloney Law Group, San Antonio, TX	05-19-2022
O'Connell v. Crystal Enterprises, Inc. et al	Circuit Court for the County of Benzie, State of Michigan	19-11072-CZ	Cogan & Power, Chicago, IL	05-18-2022
Viera v. Trevino, et al.	District Court, 229th District of Duval County, Texas	DC-20-17	DeSouza Law, San Antonio, TX	05-17-2022

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STAN V. SMITH HAS TESTIFIED AS OF 9/7/2022

Case Name	Court	Case Number	Law Firm	Date
Thornburgh v. Vafaei	District Court, Clark County, Nevada	A-20-815393-C, Dept No. 30	Powell Law Firm, Las Vegas, NV	05-12-2022
Stiles, et al. v. Hernandez, et al.	357th Judicial District Court, Cameron County, Texas	2019-DCL-04592	DeSouza Law, San Antonio, TX	05-12-2022
Pawson v. Susan Bennett, LLC	State of Illinois, Circuit Court of the Twenty-Third Judicial Circuit, DeKalb County, Illinois	2016 L 46	Cronauer Law, Sycamore\IL	05-11-2022
Lanham v. BNSF Railway Company	District Court, 17th Judicial District, Tarrant County, Texas	CI 17-106	Atwood Holsten Brown Deaver & Spier, Lincoln\NE	05-10-2022
Little v. City of Chicago	Circuit Court of Cook County, Illinois County Department - Law Division	18 L 10146	Montgomery & Associates, Chicago\IL	05-09-2022
Espinoza v. Kansas City Southern Railway Company	District Court, 406th Judicial District, Webb County, Texas	2020CVF001385D4	Schechter Schaffer & Harris, Houston, TX	05-05-2022
Hart v. Southern Illinois Hospital Services, et al.	Circuit Court of the First Judicial Circuit, Jackson County, Illinois	17-L-59	Womick Law Firm, Carbondale, IL	05-04-2022
Ichihara v. Austin	Eighth Judicial District Court, Clark County, Nevada	A-21-828990-C, Dept No. 28	Powell Law Firm, Las Vegas, NV	05-03-2022
Chan/Wu v. Universal Health Services, et al.	Eighth Judicial District Court, Clark County, Nevada	A-17-756744-C, Dept No. XVII	Padda Law, Las Vegas, NV	05-02-2022
Disantis v. C&W Facility Services, Inc.	Circuit Court of Cook County, Illinois, County Department - Law Division	2018 L 012739	Anesi Ozmon, Chicago\IL	04-29-2022
Mackey v. Belden, Inc.	United States District Court for the Eastern District of Missouri	4:21-cv-00149-JAR	Federman & Sherwood, The Village, OK	04-28-2022
Lewis, et al. v. Medstar Good Samaritan Hospital, et al.	Circuit Court for Baltimore City, Maryland	24-C-21-001241 MM	Berman Sobin Gross, Lutherville, MD	04-27-2022
Moore, Jr. v. Pine Bluff Materials Co., LLC	United States District Court, Western District of Kentucky at Paducah	5:19-cv-00202	Katz Law, Paducah, KY	04-26-2022
Jimenez v. The Forest Preserve District of Cook County	Circuit Court of Cook County, Illinois, County Department - Law Division	2018L013072	Leonard Law Group, Chicago, IL	04-26-2022
Mahler v. Vitamin Shoppe Industries, Inc.	United States District Court for the Northern District of Illinois, Eastern Division	1:2019cv03848	TorHoerman Law, Edwardsville, IL	04-25-2022
Westeren v. Burt	District Court, Clark County, Nevada	A-20-808299-C, Dept No. 25	Powell Law Firm, Las Vegas, NV	04-22-2022
Maciolek v. Lutheran General Hospital	Circuit Court of Cook County, Illinois, County Department - Law Division	2019 L 008666	Motherway & Napleton, Chicago, IL	04-22-2022
Bourquin v. Kinder Morgan Liquid Terminals	United States District Court for the Northern District of Illinois, Eastern Division	21-CV-1813	Slavin & Slavin, Chicago, IL	04-22-2022
Morejon Buenrostro v. Ponce, Jr.	District Court, Clark County, Nevada	A-19-788332-C, Dept No. 1	Powell Law Firm, Las Vegas, NV	04-21-2022
Richard v. American Honda Motor Co., et al.	District Court, Clark County, Nevada	A-19-791675-C	Cottle Firm, Las Vegas, NV	04-20-2022
Ward v. Shelby County	United States District Court for the Western District of Tennessee at Memphis	2:20-CV-02407-JPM-cgc	Mitchell Law Office, Spokane\WA	04-12-2022
Moon v. Steelberg, M.D., et al.	Eighteenth Judicial District, District Court, Sedgwick County, Kansas Civil Department	2019-CV-2503	Napoli Shkolnik, Overland Park\KS	04-11-2022
Hall v. London Towne Houses Cooperative, Inc.	Circuit Court of Cook County, Illinois, County Department - Law Division	2020 L 001739	Loggans & Associates, Chicago, IL	04-07-2022
Reschman v. Methodist Healthcare System of San Antonio, Ltd.	District Court, 285th Judicial District, Bexar County, Texas	2020-CI-12433	Krebs Law Office, Austin, TX	04-06-2022
Burcio v. Nevada Pizza Restaurants, Inc.	Ninth Judicial District Court for the State of Nevada In and For the County of Douglas	2020 CV 00086, Dept No. I	Viloria Oliphant Oster & Aman, Reno, NV	04-05-2022
Wade v. American Phoenix, Inc.	In and For the District Court of Comanche County, State of Oklahoma	CJ-20-364	Zelbst Holmes & Butler, Lawton, OK	04-05-2022
Lopez, et al. v. Van Marcke Trade Supply, Inc., et al.	District Court, Clark County, Nevada	A-20-812600-C, Dept No. 22	Powell Law Firm, Las Vegas, NV	04-04-2022
Taylor v. Deleon, et al.	Circuit Court of Cook County, Illinois, County Department - Law Division	2019L010305	Vrdolyak Law Group, Chicago, IL	04-04-2022
Bourquin v. Kinder Morgan Liquid Terminals	United States District Court for the Northern District of Illinois, Eastern Division	21-CV-1813	Slavin & Slavin, Chicago, IL	04-04-2022
Priddle v. United Airlines, Inc.	United States Department of Labor, Occupational Safety and Health Administration	2020-AIR-00013	Soma Priddle, Norwalk, WI	03-31-2022
Buck v. Linn-Mathes Inc, et al.	Circuit Court of Cook County, Illinois, Law Division	2017 L 012239	Ryan Ryan & Viglione, Waukegan, IL	03-30-2022
Battaglia v. Union Pacific Railroad Company	Circuit Court of Cook County, Illinois, Law Division	20L1974	Cogan & Power, Chicago, IL	03-25-2022

LIST OF CASES OVER THE LAST FOUR YEARS WHEREIN
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Case Name	Court	Case Number	Law Firm	Date
Wilson/Pressley v. United States of America	United States District Court, Southern District of Georgia, Dublin Division	3:21-cv-00019-DHB-BKE	Bertling Law Group, Santa Barbara, CA	03-24-2022
Anthony v. Grossmann, M.D.	State of Maine, Aroostook, Superior Court, Civil Action	CV-17-72	Pickus Law, Kennebunk, ME	03-24-2022
Vasquez/Chapa v. Big House Burgers Alice, LLC	District Court of Jim Wells County, Texas, 79th Judicial District	20-04-60309-CV	Grossman Law Offices, Dallas, TX	03-23-2022
Tamton v. Advocate Christ Hospital, et al.	Circuit Court of Cook County, Illinois, Law Division	17 L 12380	Watts Guerra, San Antonio\TX	03-23-2022
Tober v. Rago	District Court, Bexar County, Texas, 131st Judicial District	2020-CI-13513	DeSouza Law, San Antonio, TX	03-22-2022
O'Haver v. Anesthesia Associates of Kansas City, P.C., et al.	Circuit Court of Jackson County, Missouri at Independence	1816-CV30710	Langdon & Emison, Lexington, MO	03-22-2022
Grando/Godoy v. FedEx Freight, Inc.	District Court of Travis County, Texas, 261st Judicial District	D-1-GN-19-007104	Arnold & Itkin, Houston, TX	03-21-2022
Blair v. Sozzoni, et al.	District Court, Clark County, Nevada	A-17-763707-C, Dept No. 24	Powell Law Firm, Las Vegas\NV	03-18-2022
Landing v. Inventiv Commercial Services, LLC, et al.	District Court In and For Tulsa County, State of Oklahoma	CJ-2015-04675	Andrew & Williams, Tulsa, OK	03-18-2022
Poli v. Wellington Regional Medical Centers, Inc.	Circuit Court of the Fifteenth Judicial Circuit, In and For Palm Beach County, Florida	502018CA012390, Div. AA	Goldenfarb Law Offices, West Palm Beach, FL	03-18-2022
Mendenhall/Burrell v. Smith, M.D., et al.	Circuit Court of Cook County, Illinois, County Department - Law Division	2017-L-011875	Mossing & Navarre, Chicago\IL	03-16-2022
Booth v. Toyota Motor Sales, USA, Inc.	Iowa District Court for Polk County	LACL143688	Langdon & Emison, Lexington, MO	03-16-2022
Wood v. Carl's Jr.	United States District Court, District of Nevada	2:20-cv-2329-APG-BNW	Padda Law, Las Vegas, NV	03-14-2022
Navarro v. Empower Batter, LLC	Before the Division of Workers' Compensation, State of Missouri	18-105719	Brown Law Office, Lake Tapawingo, MO	03-11-2022
United States of America v. Boam	United States District Court for the District of Idaho	CR-20-188-E-BLW	US Attorney's Office\Pocatello, ID	03-10-2022
Chiachio, Jr. v. Lindsay Corporation, et al.	Commonwealth of Massachusetts, Suffolk County, Superior Court Department of the Trial Court	1884CV03435	Langdon & Emison, Lexington, MO	03-07-2022
Davis v. Dunton	Eighth Judicial District Court, Clark County, Nevada	A-20-820905-C, Dept No. 4	Powell Law Firm, Las Vegas, NV	03-04-2022
Beniulis v. Allstate	American Arbitration Association	16 MR 2838	Richert Law Office, Orland Park, IL	03-04-2022
Cochrane v. Rao, M.D., et al.	Superior Court of New Jersey, Law Division - Sussex County	SSX-L-000400-18	Lynch Lynch Held Rosenberg, Hasbrouck Heights, NJ	03-03-2022
Young v. Rockford Memorial Hospital, et al.	Circuit Court of the 17th Judicial Circuit, Winebago County, Illinois	17 L 329	Cogan & Power, Chicago, IL	03-03-2022
Powers v. Barrera, et al.	District Court, Clark County, Nevada	A-18-779011-C, Dept. No XX	Powell Law Firm, Las Vegas, NV	03-02-2022
Baseflug v. American Speed, Inc.	District Court, Harris County, Texas, 125th Judicial District	2019-40983	Arnold & Itkin, Houston, TX	02-28-2022
Manier v. Dalpra, et al.	United States District Court for the Southern District of Illinois	3:20-cv-00329-MAB	Langdon & Emison, Chicago, IL	02-28-2022
Gay v. Metropolitan Hospital, et al.	State of Michigan, Circuit Court for the County of Kent	21-01483-NH	Buchanan Firm, Ada, MI	02-28-2022
Liedl/Hunter v. Chippewa County Department of Human Services	United States District Court, Western District of Wisconsin	20-CV-61	Herrick & Hart, Eau Claire, WI	02-17-2022
Media Excel, Inc. v. Kim	District Court of Travis County, Texas, 459th Judicial District	D-1-GN-20-001814	Shaw Cowart, Austin, TX	02-15-2022
Aguirre Guerra v. Dematic Corp.	United States District Court, State of Nevada	3:18-cv-00376-LRH-CBC	Brazelton Law, Reno, NV	02-11-2022
McKinnie v. Layman, M.D., et al.	Circuit Court of the 17th Judicial Circuit, Winebago County, Illinois	16 L 319	Cogan & Power, Chicago, IL	02-11-2022
Maher v. Union Pacific Railroad Company	Circuit Court of Cook County, Illinois, County Department - Law Division	2018 L 009322	Cogan & Power, Chicago, IL	02-09-2022
Baseflug v. American Speed, Inc.	District Court, Harris County, Texas, 125th Judicial District	2019-40983	Arnold & Itkin, Houston, TX	02-09-2022
Johnson v. SW Gaming LLC	Circuit Court of Washington County, Mississippi	2018-0023-CI	Merkel & Cocke, Clarksdale, MS	02-08-2022
Rak v. Loyola University Medical Center, et al.	Circuit Court of Cook County, Illinois, County Department - Law Division	2017 L 6439	Taxman Pollock Murray & Bekkerman, Chicago, IL	02-08-2022
Smith, M.D. v. Brook	District Court, Clark County, Nevada	A-19-799154-C, Dept No. 16	Sgro & Roger, Las Vegas, NV	02-07-2022

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Thompson v. American Family Mutual Insurance Company	State of Wisonsin, Circuit Court, Eau Claire County	18-CV-231	Herrick & Hart, Eau Claire, WI	02-04-2022
Davis v. Bridgewater Apartments V, LLC.	Circuit Court of St. Louis County, State of Missouri	19SL-CC00869	Reinoehl Kehlenbrink, Arnold, MO	02-03-2022
Jones/Walker v. Tom, D.O., et al.	Circuit Court of Cook County, Illinois, County Department - Law Division	2019 L 006275	Loggans & Associates, Chicago, IL	02-02-2022
Yates, et al. v. Traeger Pellet Grills, LLC	United States District Court, District of Utah	2:19-cv-00723-BSJ	Kronenberger Rosenfeld, San Francisco, CA	02-01-2022
Jackson v. Pace, et al.	Circuit Court of Cook County, Illinois, County Department - Law Division	2019 L 004103	Goldberg Segalla* Chicago, IL	02-01-2022
Landeros v. Northeast Illinois Regional Commuter Railroad Corporation	Circuit Court of Cook County, Illinois, County Department - Law Division	19 L 013996	McNabola Law Group, Chicago, IL	01-31-2022
Erves v. Union Pacific Railroad Company, et al.	Circuit Court of Cook County, Illinois, County Department - Law Division	17 L 007998	Dinizulu Law Group, Chicago, IL	01-28-2022
Kelley v. Chicago Transit Authority	United States District Court, Northern District of Illinois, Eastern Division	20-cv-2881	Herrera Law Office,	01-27-2022
Cochrane v. Rao, M.D., et al.	Superior Court of New Jersey, Law Division - Sussex County	SSX-L-000400-18	Lynch Lynch Held Rosenberg, Hasbrouck Heights, NJ	01-17-2022
Castello v. Union Pacific Railroad	Circuit Court of Cook County, Illinois, County Department - Law Division	20L4000	O'Connor Law Group, Chicago, IL	01-14-2022
Veerman v. Suburban Surgical Care Specialists	Circuit Court of Cook County, Illinois, County Department - Law Division	2019 L 001828	Cogan & Power, Chicago, IL	01-14-2022
King v. Pepperd	Superior Court for the State of Alaska, Third Judicial District at Anchorage	3AN-19-8982	Martin Law Offices, Palmer, AK	01-13-2022
Frank v. Hallman, M.D.	Iowa District Court for Clinton County	LACV047045	Galligan Law, Des Moines, IA	01-12-2022
Norwillo/Dougherty v. Purple Shovel, LLC	Circuit Court of the Thirteenth Judicial Circuit In and For Hillsborough County, Florida, Civil Division	16-CA-009933	Arnold & Itkin, Houston, TX	01-12-2022
Norwillo v. Purple Shovel, LLC	Circuit Court of the Thirteenth Judicial Circuit In and For Hillsborough County, Florida, Civil Division	16-CA-009933	Arnold & Itkin, Houston, TX	01-12-2022
Garza v. Take 5 LLC, et al.	District Court, Bexar County, Texas, 224th Judicial District	2020-CI-01309	Maloney & Campolo, San Antonio, TX	01-11-2022
Young v. Dworkin & Maciariello	Circuit Court of Cook County, Illinois, County Department - Law Division	2019-L-004071	Patterson Law Firm, Chicago, IL	01-11-2022
Casaccio v. Casaccio Brothers, Inc.	Circuit Court of Cook County, Illinois, County Department - Chancery Division	16 CH 15170	Xydakis Law Office, Chicago, IL	01-10-2022
Strakos v. Dye M.D., et al.	District Court, Nueces County, Texas, 94th Judicial District	2018DCV-6027-C	Krebs Law Office, Austin, TX	01-06-2022
Hawkins v. Scott & White Memorial Hospital	District Court, 26th Judicial District, Williamson County, Texas	20-0283-C26	Krebs Law Office, Austin, TX	01-04-2022
Klein v. Seldin Company, Inc.	Circuit Court of Clay County, Missouri	20CY-CV07854	Krigel & Krigel, Kansas City, MO	01-04-2022
Chimack v. Frank, M.D., eta l.	Circuit Court of Cook County, Illinois, County Department - Law Division	2018 L 005300	Motherway & Napleton, Chicago, IL	12-17-2021
Potter v. Sound Inpatient Physicians of Texas I, Inc.	District Court, 407th Judicial District, Bexar County, Texas	2019-CI-17106	Maloney Law Group, San Antonio, TX	12-15-2021
Trice v. SDI Security, Inc.	Circuit Court of Cook County, Illinois, County Department - Law Division	18 L 1845	Motherway & Napleton, Chicago, IL	12-14-2021
Jones v. DeLong	Second Judicial District Court of the State of Nevada, In and For the County of Washoe	CV19-00895, Dept No. 7	Shook & Stone, Las Vegas, NV	12-09-2021
Furtek v. McDermott Center, Inc.	Circuit Court of Cook County, Illinois, County Department - Law Division	2019 L 002103	Pullano Law Firm, Chicago, IL	12-09-2021
Ramos v. El-Gazzar, M.D.	Superior Court of New Jersey, Law Division - Hudson County	HUD-L-3793-19	Lynch Lynch Held Rosenberg, Hasbrouck Heights, NJ	12-08-2021
Smith/Kincaid-Hill v. Lyons	District Court, Clark County, Nevada	A-18-777939-C, Dept No. IV	Naqvi Injury Law, Las Vegas, NV	12-07-2021
Vohrer v. Shade, D.C.	Superior Court of New Jersey, Law Division - Monmouth County	MON-L-000881-19	Hanna Law Office, Manasquan, NJ	12-07-2021
Britt/Gianos v. Toyota Motor Sales, U.S.A., Inc.	District Court of Oklahoma County, State of Oklahoma	CJ-2011-8958	Tawwater Law Firm, Oklahoma City, OK	12-06-2021
Marshall v. Illinois Central Railroad Company	Circuit Court of Cook County, County Department - Law Division	2019 L 010513	Cogan & Power, Chicago, IL	12-03-2021
Anderson v. Prasad, M.D., et al.	Iowa District Court for Polk County	LACL143411	Duff Law Firm, West Des Moines\IA	12-02-2021

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McNamara v. ICO Polymers North America, Inc., et al.	Circuit Court of Cook County, County Department - Law Division	2014 L 000819	Hendler Flores Law, Austin\TX	12-01-2021
Williams/Steels v. Thomas, M.D., et al.	Circuit Court of Cook County, County Department - Law Division	2017 L 8230	Motherway & Napleton, Chicago, IL	11-30-2021
Gauthier/Pero v. County of Ashland	United States District Court, Western District of Wisconsin	3:20-cv-00984	Condon Law, La Grange, IL	11-29-2021
Patterson v. Little Company of Mary Hospital and Healthcare Centers	Circuit Court of Cook County, County Department - Law Division	18 L 5671	McNabola Law Group, Chicago, IL	11-29-2021
Ranieri v. Simses, et al.	Circuit Court of the 15th Judicial Circuit In and For Palm Beach County, Florida	2020-CA-008999	Frankl & Kominsky, Boynton Beach, FL	11-23-2021
Ranieri v. Simses, et al.	Circuit Court of the 15th Judicial Circuit In and For Palm Beach County, Florida	2020-CA-008999	Goldenfarb Law Offices, West Palm Beach, FL	11-23-2021
Brooks v. Martin	District Court, Clark County, Nevada	A-20-817479-C, Dept No. 20	Powell Law Firm, Las Vegas, NV	11-19-2021
Chuprinskas v. Pub Entertainment Group, LLC	Porter Superior Court, Sitting at Portage, Indiana	64D02-2006-CT-004421	Allen Law Group, Valparaiso, IN	11-19-2021
Kocis v. Yavapai Community Hospital Association	Superior Court of Arizona, In and For the County of Yavapai	P1300CV202000072	Lloyd Law Group, Payson, AZ	11-18-2021
Carroll v. Wilde, et al.	District Court, Clark County, Nevada	A-20-813341-C, Dept No. 32	Powell Law Firm, Las Vegas, NV	11-17-2021
Ahmadi v. Bellagio, LLC	District Court, Clark County, Nevada	A-18-779587-C, Dept No I	Mainor Wirth, Las Vegas, NV	11-17-2021
Davis v. Palo Verde Cabinet Co., Inc.	Superior County of the State of Arizona, In and For the County of Maricopa	CV2020-013600	Harris Law Firm, Las Vegas, NV	11-12-2021
Crokin v. Primrose	Superior Court of the State of California for the County of Orange	30-2018-01039553-CU-PO-NIC	Medler Law Firm, Irvine, CA	11-12-2021
Olivelli v. Sabogal, et al.	Superior Court of New Jersey, Law Division - Bergen County	BER-L-3939-19	Lynch Lynch Held Rosenberg, Hasbrouck Heights, NJ	11-11-2021
Webb & Gerritsen, Inc. v. Vital Pharmaceuticals, Inc.	State of Wisconsin, Circuit Court, Waukesha County	19-CV-1049	Edwards Law Group* Oregon\WI	11-10-2021
Vohrer v. Shade, D.C.	Superior Court of New Jersey, Law Division - Monmouth County	MON-L-000881-19	Hanna Law Office, Manasquan, NJ	11-10-2021
Afante v. Bulger	Circuit Court of Cook County, Illinois, County Department - Law Division	2019 L 009790	Karchmar & Stone, Chicago, IL	11-08-2021
Ranieri v. Simses, et al.	Circuit Court of the 15th Judicial Circuit In and For Palm Beach County, Florida	2020-CA-008999	Frankl & Kominsky, Boynton Beach, FL	11-08-2021
Ranieri v. Simses, et al.	Circuit Court of the 15th Judicial Circuit In and For Palm Beach County, Florida	2020-CA-008999	Goldenfarb Law Offices, West Palm Beach, FL	11-08-2021
Switalski v. Clevenger, et al.	State of Michigan in the Circuit Court for the County of Kalamazoo	2017-0522-NI	Corey Law Firm, Royal Oak, MI	11-05-2021
Molina v. Young	District Court, Clark County, Nevada	A-20-817668-C	Powell Law Firm, Las Vegas, NV	11-04-2021
Mendenhall/Burrell v. Smith, M.D., et al.	Circuit Court of Cook County, Illinois, County Department - Law Division	2017-L-011875	Mossing & Navarre, Chicago, IL	11-04-2021
Nlandu v. Advocate Condell Medical Center, et al.	Circuit Court of Cook County, Illinois, County Department - Law Division	16 L 12697	McNabola & Associates, Chicago, IL	11-03-2021
Wine v. Crete Carrier Corporation, et al.	United States District Court, Eastern District of Missouri, Eastern Division	4:20-cv-1721	Langdon & Emison, Lexington, MO	11-02-2021
Gathers v. Carnival Corporation	United States District Court, Southern District of Florida, Miami Division	1:20-cv-24428-CMA	Parker Nelson, Las Vegas, NV	10-29-2021
McIntyre v. Janssen	Iowa District Court for Jones County	LACV006976	Peddicord Wharton, West Des Moines, IA	10-28-2021
Gilbert v. Dell Technologies, Inc.	United States District Court for the Southern District of New York	1:19-cv-01938-JGK	Weiss Law, Brooklyn, NY	10-27-2021
Herron v. Analytis, M.D.	Circuit Court of Grundy County, Illinois, County Department - Law Division	2018 L 0067	Motherway & Napleton, Chicago, IL	10-27-2021
Carroll v. City of Oak Forest, et al.	United States District Court for the Northern District of Illinois, Eastern Division	19-cv-07412	Gardiner Koch Weisberg & Wrona, Chicago, IL	10-26-2021
Abbey Pub Inc. v. Rfit Investments, Inc.	Circuit Court of Cook County, County Department - Law Division	2017CH05137	Fitzpatrick & Fitzpatrick, Chicago, IL	10-25-2021
Hopkins/Higgins v. Pecoraro, et al.	District Court, Clark County, Nevada	A-19-806157-C, Dept No. 14	Powell Law Firm, Las Vegas, NV	10-22-2021
Andrews v. Carbon on 26th, LLC., et al.	Circuit Court of Cook County, County Department - Law Division	16 L 6628	Grogan Tuccillo & Vanderleeden, Chicago, IL	10-21-2021
Squiers v. Fregien	Court of the Twenty-Second Judicial Circuit, McHenry County, Illinois	16 LA 61	Franks & Rechenberg, Lake in the Hills\IL	10-20-2021

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Neal v. Wells Fargo Bank, N.A.	Superior Court of the State of California for the County of Alameda, Unlimited Jurisdiction	RG18910729	Goodell Law Firm, San Francisco, CA	10-19-2021
Master's Transportation, Inc. v. Rev Group, Inc.	United States District Court, Western District of Missouri, Western Division	20-00368-CV-W-BP	Krigel & Krigel, Kansas City, MO	10-18-2021
Vohrer v. Shade, D.C.	Superior Court of New Jersey, Law Division - Monmouth County	MON-L-000881-19	Hanna Law Office, Manasquan, NJ	10-15-2021
Neal v. Wells Fargo Bank, N.A.	Superior Court of the State of California for the County of Alameda, Unlimited Jurisdiction	RG18910729	Goodell Law Firm, San Francisco, CA	10-13-2021
Nall v. Spotts, M.D.	District Court, Clark County, Nevada	A-18-782532-C, Dept No. 14	The 702 Firm, Las Vegas, NV	10-12-2021
Oetomo v. SW Excursion and Educational Tours, et al.	District Court, Clark County, Nevada	A-19-791818-C, Dept 23	Shook & Stone, Las Vegas, NV	10-12-2021
Jones v. Kelly	District Court, Clark County, Nevada	A-19-803468-C, Dept No. 16	Powell Law Firm, Las Vegas, NV	10-08-2021
Keen v. VHS San Antonio Partners, LLC	District Court, 408th Judicial District, Bexar County, Texas	2020-CI-10212	Krebs Law Office, Austin, TX	10-07-2021
Petruzzelli v. Northshore University, et al.	Circuit Court of Cook County, Illinois, County Department - Law Division	18 L 13219	Chapekis Chapekis & Schmidt, Chicago, IL	10-06-2021
Von Sachsen v. Lionetti, II	District Court, Clark County, Nevada	A-18-786495-C, Dept. 8	Powell Law Firm, Las Vegas, NV	10-05-2021
Nichols v. I-80/81 Storage, Inc.	District Court of York County, Nebraska	CI 16-99	Atwood Holsten Brown Deaver & Spier, Lincoln, NE	10-04-2021
Chambers, et al. v. B & T Express, Inc., et al.	Commonwealth of Kentucky, Franklin Circuit Court	19-CI-00790, Division II	Grossman Green, Louisville, KY	10-04-2021
Media Excel, Inc. v. Kim	District Court of Travis County, Texas, 459th Judicial District	D-1-GN-20-001814	Jefferies Law Firm, Austin, TX	10-01-2021
Pastrano v. Christus Santa Rosa Health Care	District Court, 166th Judicial District, Bexar County, Texas	2020CI09272	Krebs Law Office, Austin, TX	09-30-2021
Howard v. Licking Valley Rural Electric Cooperative Corp., et al.	Commonwealth of Kentucky, Magoffin Circuit Court	19-CI-00249	Collins Law Office, Salyersville, KY	09-29-2021
Peery v. SSM Health Care St. Louis, Inc.	Circuit Court of St. Louis County, State of Missouri	19SL-CC00838, Division 15	Gogel Law Firm, St. Louis, MO	09-29-2021
Nahaczewski v. Buck Global, LLC	United States District Court for the District of New Jersey	2:20-cv-12410	Gill & Chamas, Perth Amboy, NJ	09-28-2021
Woods. Industrial Controls of Oklahoma, Inc., et al.	District Court, Muskogee County, State of Oklahoma	CJ-2014-258	Smith Barkett Law Group, Muskogee, OK	09-27-2021
Kruwel v. Georgia Ports Authority	United States District Court, Southern District Georgia, Savannah Division	20-cv-00248	Mitchell Law Office, Spokane, WA	09-27-2021
Trevino v. Southwest General Hospital	District Court, 225th Judicial District, Bexar County, Texas	2020-CI-04647	Maloney Law Group, San Antonio, TX	09-24-2021
Sanchez v. Sabia	Superior Court of New Jersey, Law Division, Civil Part, Hudson County	HUD-L-3161-19	Injury & Accident Law, Marco Island, FL	09-23-2021
Johnson v. Reeme, et al.	Circuit Court of the Twelfth Judicial Circuit, Will County, Illinois	18L369	Rathbun Cservenyak Kozol, Joliet, IL	09-23-2021
Masterson v. Brody, et al.	Court of Common Pleas, Cuyahoga County, Ohio	CV-16-857804	Farrell Law Firm, Brooklyn Hts\Ohio	09-23-2021
Cohen v. American Center for Spine & Neuro-Surgery, LLC.	Circuit Court of Cook County, Illinois, County Department - Law Division	2018L004106	McNabola Law Group, Chicago, IL	09-22-2021
Heusman v. BNSF Railway Company	District Court of Lancaster County, Nebraska	CI 19-0000644	Atwood Holsten Brown Deaver & Spier, Lincoln, NE	09-21-2021
McStravick v. Freedman	District Court, Clark County, Nevada	A-19-799418-C, Dept No. 14	Powell Law Firm, Las Vegas, NV	09-17-2021
Wise v. Six Flags Magic Mountain	Superior Court of the State of California, County of Los Angeles, North Valley District (Chatsworth)	BC679307	Lagomarsino Law, Las Vegas, NV	09-17-2021
Barrera, et al. v. McKee, et al.	District Court, Clark County, Nevada	A-19-795400-C, Dept No. IV	Powell Law Firm, Las Vegas, NV	09-13-2021
Klein v. Seldin Company, Inc.	Circuit Court of Clay County, Missouri	20CY-CV07854	Krigel & Krigel, Kansas City, MO	09-13-2021
Echevarria v. Nationwide Distributors, Inc.	Circuit Court of Cook County, Illinois, County Department - Law Division	20 L 66008	Allen Law Group, Valparaiso, IN	09-10-2021
Rowe v. Vogt, et al.	District Court In and For Custer County, State of Oklahoma	CJ-2020-24	Zelbst Holmes & Butler, Lawton, OK	09-10-2021
Bauer/Guzick v. Norfleet, et al.	Circuit Court of Cook County, Illinois, County Department - Law Division	2017 L 010460	Burnes & Libman, Chicago, IL	09-09-2021

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Elms v. Sunbelt Rentals, Inc	Circuit Court of the Tenth Judicial Circuit, In and For Polk Count, Florida	2015-CA-001985	Langdon & Emison, Lexington, MO	09-08-2021
McElmurry v. Yavapai Community Hospital, et al.	Superior Court of the State of Arizona, In and For the County of Yavapai	P1300CV2020-00113	Lloyd Law Group, Payson, AZ	09-07-2021
Lanahan v. Northeast Illinois Regional Commuter Railway Company	Circuit Court of Cook County, Illinois, County Department - Law Division	19 L 006729	Cogan & Power, Chicago, IL	09-07-2021
Koen v. Monsanto Company	United States District Court for the Western District of Texas	1:20-CV-00241	Hendler Flores Law, Austin, TX	09-03-2021
Johnson v. Petrow	Circuit Court of the Eighteenth Judicial Circuit, Du Page County, Illinois	2014 L 1099	McGuire Law Firm, Mount Prospect, IL	09-02-2021
Olson v. BNSF Railway Company	District Court for Polk County, Iowa	LACL144908	Hubbell Law Firm, Kansas City\MO	09-02-2021
Little v. City of Chicago	Circuit Court of Cook County, Illinois, County Department - Law Division	18 L 10146	Montgomery & Associates, Chicago, IL	08-31-2021
Britz v. Northshore University Healthsystem, et al.	Circuit Court of Cook County, Illinois, County Department - Law Division	17 L 11216	Cogan & Power, Chicago, IL	08-30-2021
Baldwin v. Union Pacific Railroad	Circuit Court of Cook County, Illinois, County Department - Law Division	2019L004474	Cogan & Power, Chicago, IL	08-27-2021
Hall/Hodges v. Smith, et al.	Circuit Court of Wyandotte County, Kansas	2019-CV-000852	Langdon & Emison, Lexington, MO	08-26-2021
Adkins, et al. v. St. Joseph's Community Hospital, et al.	Circuit Court, Washington County, Wisconsin	2020CV000078	Trial Lawyers for Justice, Decorah, IA	08-26-2021
Medina v. Stony Brook University	United States District Court for the Eastern District of New York	2:20-cv-001420-RRM-RER	Thomas Legal Counselors at Law, New York, NY	08-24-2021
Lorusso v. Chiero	Circuit Court of the Eighteenth Judicial Circuit, DuPage County, Wheaton, Illinois	18-L-000091	Patterson Law Firm, Chicago, IL	08-23-2021
Landess v. DeBiparshad, M.D., et al.	District Court, Clark County, Nevada	A-18-776896-C, Dept No. 24	Howard & Howard, Las Vegas\NV	08-20-2021
Swan v. Equifax Information Systems, et al.	United States District Court, Middle District of Florida, Tampa Division	8:20-cv-1540-T-35SPF	Morgan & Morgan, Tampa, FL	08-19-2021
Hernandez v. Eaton	District Court, Clark County, Nevada	A-19-801395-C, Dept No. 4	Powell Law Firm, Las Vegas, NV	08-18-2021
Brinkman v. Equifax Information Services, LLC.	United States District Court, Middle District of Florida, Tampa Division	8:20-cv-02453-VMC-AAS	Morgan & Morgan, Tampa, FL	08-18-2021
Polk/Johnson v. University of Chicago Medical Centers	Circuit Court of Cook County, Illinois, County Department - Law Division	2018L011952	Loggans & Associates, Chicago, IL	08-17-2021
Summerfield/Scheffler v. Advocate Health and Hospitals Corporation	Circuit Court of Cook County, Illinois, County Department - Law Division	17 L 003704	AMB Law Group, Chicago, IL	08-16-2021
Odusanya, et al. v. Washington Hospital Centers	Superior Court for the District of Columbia, Civil Division	2020 CA 003221 M	Berman Sobin Gross Feldman & Darby, Lutherville, MD	08-16-2021
Bianchi, et al. v. McNamee, et al.	District Court, Clark County, Nevada	A-13-691887-C, Dept No. VIII	ER Injury Attorneys, Las Vegas\NV	08-13-2021
Pearson v. Maassen, M.D.	State of Indiana, County of Jasper, Jasper Circuit Court Sitting in Rensselaer	37C01-1601-CT-57	Martz & Lucas, Valparaiso, IN	08-05-2021
McFarland v. Rinella, M.D.	Circuit Court of Will County, Illinois	16 L 988	Motherway & Napleton, Chicago\IL	08-04-2021
Slaninko v. Biondi	Superior Court of New Jersey, Law Division - Monmouth County	MON-L-004184-18	Lomurro Law, Freehold, NJ	08-03-2021
Scheeler v. Hamilton, et al.	Iowa District Court for Polk County	LACL142262	Gourley Rehkemper & Lindholm, West Des Moines, IA	08-03-2021
Shipley v. Trans Union LLC, et al.	United States District Court, Middle District of Florida, Tampa Division	8:20-cv-2285-T-30SPF	Morgan & Morgan, Tampa, FL	08-02-2021
Swierzbinski v. Dev Medical, S.C., et al.	Circuit Court of Cook County, Illinois, County Department - Law Division	2020L004370	McNabola & Associates, Chicago, IL	08-02-2021
Tyler v. Spendard	District Court, Clark County, Nevada	A-19-804874-C, Dept No. XXIX	Powell Law Firm, Las Vegas, NV	07-30-2021
Hanshew v. T&J 5th Down, Inc.	State of Indiana, County of Allen, In the Allen Superior Court	02D01-1807-CT-000428	Theisen & Associates, Fort Wayne, IN	07-30-2021
O'Brien v. Progressive Direct Insurance Company	United States District Court, District of Nevada	2:20-cv01901-JCM-NJK	Harris Law Firm, Las Vegas, NV	07-29-2021
Eshelman v. Mercury Light, Inc.	District Court, Clark County, Nevada	A-19-798331-C, Dept No. XI	Shook & Stone, Las Vegas, NV	07-28-2021
Deloney v. Pizzaahhh, Inc.	Circuit Court of Cook County, Illinois, County Department - Law Division	17 L 2803	Tamari Law Group, Chicago, IL	07-28-2021
Roussell v. PBF Consultants, LLC., et al.	19th Judicial District Court for the Parish of East Baton Rouge, State of Louisiana	C-672352, Dept No. 25	Arnold & Itkin, Houston, TX	07-27-2021

LIST OF CASES OVER THE LAST FOUR YEARS WHEREIN
STAN V. SMITH HAS TESTIFIED AS OF 9/7/2022

Case Name	Court	Case Number	Law Firm	Date
Halvorson v. American Family Mutual Insurance Company, et al.	State of Wisconsin, Circuit Court, La Crosse County	2020CV000346	Egan & Richgels, La Crosse, WI	07-27-2021
McGee v. Target Corporation	United States District Court, District of Nevada	2:20-cv-00345-KJD-DJA	ER Injury Attorneys, Las Vegas, NV	07-26-2021
Welch/Martello v. United States of America	United States District Court, Northern District of Ohio, Eastern Division	1:20-CV-00065	McGraw Law, Cleveland, OH	07-26-2021
Williax/Carr v. Tullis, et al.	Circuit Court, Second Judicial Circuit, Hardin County, Illinois	18-L-2018L2	Walker Law Office, Granite City, IL	07-23-2021
Flint v. Aten, at al.	District Court, Clark County, Nevada	A-19-793275-C, Dept No. XXX	Powell Law Firm, Las Vegas, NV	07-22-2021
Becker v. Regents of the University of Minnesota	State of Minnesota, County of Hennepin, District Court, Fourth Judicial District	27-CV-19-6977	Kingsley Law Office, St. Paul\MN	07-21-2021
Welch/Martello v. United States of America	United States District Court, Northern District of Ohio, Eastern Division	1:20-CV-00065	McGraw Law, Cleveland, OH	07-20-2021
Smith v. Kia Motors Corporation	Commonweath of Kentucky, Laurel Circuit Court, Division II	19-CI-00354	Langdon & Emison, Lexington, MO	07-20-2021
King v. Westlake Services, LLC.	United States District Court, Central District of California	8:20-cv-00530-JLS-JDE	Loker Law, Arroyo Grande, CA	07-19-2021
Livengood v. Halliburton Energy Services, Inc.	District Court of Harris County, Texas, 334th Judicial District	2019-47237	Arnold & Itkin, Houston, TX	07-19-2021
Newberry v. School of the Osage, et al.	U.S. District Court, Western District of Missouri	2:18-cv-04116-+MDH	Deputy & Mizell, Lebanon, MO	07-16-2021
Akau-Passafiume v. Kryza, M.D.	Circuit Court of Grundy County, Illinois	17 L 7	Motherway & Napleton, Chicago\IL	07-15-2021
Mwaura v. DFW Airport Board, et al.	United States District Court for the Northern District of Texas, Dallas Division	3:19-cv-02967-M	Moore Law Offices, DeSoto, TX	07-12-2021
Wood v. PACCAR Inc. et al.	U.S. District Court, Northern District of Iowa, Eastern Division	2:19-CV-1010	Crowley & Prill, Burlington, IA	07-09-2021
Wood v. PACCAR Inc. et al.	U.S. District Court, Northern District of Iowa, Eastern Division	2:19-CV-1010	Crowley & Prill, Burlington, IA	07-09-2021
Welch/Martello v. United States of America	United States District Court, Northern District of Ohio, Eastern Division	1:20-CV-00065	McGraw Law, Cleveland, OH	07-09-2021
Nelson v. Silver Cross Hospital	Circuit Court of Will County, Illinois, County Department - Law Division	17 L 000068	O'Connor Law Group, Chicago\IL	07-08-2021
Noone v. Hub Group Trucking, Inc., et al.	Superior Court of New Jersey, Law Division - Burlington County	BURL-L-2517-18	Ciecka Law Office, Pennsauken, NJ	07-07-2021
Barton v. Arrow Striping & Manufacturing, Inc.	Montana Thirteenth Judicial District Court, Yellowstone County	DV 20-0459	Earl & Earl, Boise, ID	07-07-2021
Doe v. The District of Columbia	United States District Court for the District of Columbia	1:18-cv-02181-ABJ	Koonz McKenney Johnson DePaolis & Lightfoot, Washington, DC	07-06-2021
Welch/Martello v. United States of America	United States District Court, Northern District of Ohio, Eastern Division	1:20-CV-00065	McGraw Law, Cleveland, OH	07-02-2021
Saxena v. Happiest Hour, LLC	1st County Court at Law, Dallas County, Texas	CC-18-06335-A	Grossman Law Offices, Dallas, TX	07-02-2021
Yue v. Alvernaz Partners, LLC	Superior Court for the State of California, for the County of Alameda, Unlimited Jurisdiction	RG19014821	Goodell Law Firm, San Francisco, CA	06-30-2021
Williams v. Abilene Christian University	United States District Court, Northern District of Texas, Abilene Division	1:20-CV-073-H	Ranson & Kane, Colorado Springs, CO	06-29-2021
Huang/Zhang v. Uribe, et al.	Circuit Court of Cook County, Illinois, County Department - Law Division	16 L 003142	O'Toole Law, Chicago, IL	06-24-2021
Drake v. Passavant Area Hospital, et al.	Circuit Court for the Seventh Judicial Circuit, Springfield, Sangamon County, Illinois	14-L-85	Surdyk & Kachoyeanos, Chicago, IL	06-23-2021
Tolliver v. Kingdom World Ministries	Circuit Court of Jackson County, Missouri at Kansas City	2016-CV15890	Langdon & Emison, Lexington, MO	06-23-2021
Burke v. Kishhealth System, et al.	Circuit Court of DeKalb County, Illinois, County Department - Law Division	17 L 145	Cronauer Law, Sycamore, IL	06-22-2021
Fleming v. Highland Healthcare, LLC.	Superior Court of the State of Arizona, In and For the County of Maricopa	CV2020-091803	Lloyd Law Group, Payson, AZ	06-21-2021
Sanders v. Precision Pipeline, LLC	Circuit Court of Marshall County, West Virginia	19-C-48	Arnold & Itkin, Houston, TX	06-18-2021
Adams v. Ironwood Homes of Peoria, et al.	Circuit Court of Tenth Judicial Circuit, Peoria County, Illinois	18-L-00198	Green Law Office, Bloomington\IL	06-17-2021
Lopez v. Amazon, et al.	District Court, 116th Judicial District, Dallas County, TX	DC-19-02338	Witherspoon Law Group, Dallas, TX	06-16-2021
Rothman v. Bretschneider	Second Judicial District Court for the State of Nevada, County of Washoe	CV18-02481, Dept No. 15	Brazelton Law, Reno#NV	06-15-2021

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Case Name	Court	Case Number	Law Firm	Date
Terrana v. Johnson	Circuit Court of the Eighteenth Judicial Circuit, DuPage County, Illinois	2018L000965	O'Connor Law Office, Chicago, IL	06-15-2021
McIntyre v. Cruz Del Cid	District Court, Clark County, Nevada	A-19-801389-C, Dept XV	Powell Law Firm, Las Vegas, NV	06-14-2021
Gaiter, et al. v. Shatz, M.D., et al.	Circuit Court of St. Louis County, State of Missouri	18SL-CC01831	Witherspoon Law Group, Dallas, TX	06-11-2021
Waple, et al. v. Rogers	District Court of Montgomery County, Texas, 284th Judicial District	20-0708089	Tough Law Firm, Spring\TX	06-10-2021
Welch/Martello v. United States of America	United States District Court, Northern District of Ohio, Eastern Division	1:20-CV-00065	McGraw Law, Cleveland, OH	06-10-2021
Brigalia v. American River Transportation Co., LLC, et al.	United States District Court, Eastern District of Louisiana	20-00416	Arnold & Itkin, Houston, TX	06-09-2021
Naquin v. American River Transportation Co., LLC, et al.	United States District Court, Eastern District of Louisiana	20-00416	Arnold & Itkin, Houston, TX	06-09-2021
Pucheu v. American River Transportation Co., LLC, et al.	United States District Court, Eastern District of Louisiana	20-00416	Discon Law Firm, Mandeville, LA	06-09-2021
Kazic v. Doskocil Manufacturing Company, Inc.	In the Matter of Arbitration, Dispute Solutions, Inc.	10095	Grossman Law Offices, Dallas, TX	06-08-2021
Allan/Tanner v. Thorek Memorial Hospital	Circuit Court of Cook County, Illinois, County Department - Law Division	2018-L-013961	Napoli Shkolnik, Overland Park, KS	06-08-2021
Marsheh v. Boleky, et al.	Circuit Court of Cook County, Illinois, County Department - Law Division	18 L 004300	Nemeroff Law Office, Chicago, IL	06-07-2021
Petras v. Navy Federal Credit Union	United States District Court, District of Nevada	2:20-cv-00874	Loker Law, Arroyo Grande, CA	06-07-2021
Askar v. Betters, et al.	Court of Common Pleas, Beaver County, PA, Civil Division - Law	11305-2013	Benedetto Law Office, Philadelphia\PA	06-02-2021
Synergy Healthcare Resources, LLC. v. Telamon Corporation	State of Indiana, County of Lake, Lake County Superior Court	45D05-1701-PL-00005	Bishop & Associates, Merrillville, IN	06-01-2021
Gescheidler v. Westfield National Insurance Company	State of Indiana, County of Lake, Lake Superior Court, Civil Division 6	45D10-1906-CT-000615	Allen Law Group, Valparaiso, IN	05-26-2021
Carrera/Montiel v. Village of South Chicago Heights, et al.	Circuit Court of Cook County, Illinois, County Department - Law Division	2019 L 001493	Loizzi Cardenas Law, Chicago, IL	05-25-2021
Ross v. Meisel, M.D.	Circuit Court of Cook County, Illinois, County Department - Law Division	18 L 006873	Cogan & Power, Chicago, IL	05-25-2021
Remaly v. Equifax Information Services, LLC.	United States District Court for the District of Colorado	20-cv-3028-LTB-NYW	Vedra Law Office, Denver, CO	05-24-2021
Farmer v. Bay Industrial Group, Inc., et al.	United States District Court for the Northern District of Mississippi, Oxford Division	3:19-cv-283-NBB-RP	Merkel & Cocke, Clarksdale, MS	05-21-2021
Cortez, et al. v. Volvo, et al.	United States District Court for the District of Arizona	CV-19-1714-PHS-GMS	Langdon & Emison, Lexington, MO	05-20-2021
Perez v. Costa	Circuit Court of Cook County, Illinois, County Department - Law Division	2018L013249	Rubens Kress & Mulholland, Chicago, IL	05-18-2021
Messeri v. Moorhead Prof LLC	United States District Court for the District of Colorado	1:19-cv-03321-RBJ	Klenda Gessler & Blue, Denver, CO	05-17-2021
White v. BNSF Railway Co.	Circuit Court of Ralls County, Missouri	20RL-CV00096	Hubbell Law Firm, Kansas City, MO	05-14-2021
Tamton v. Advocate Christ Hospital, et al.	Circuit Court of Cook County, Illinois, County Department - Law Division	17 L 12380	Watts Guerra, San Antonio, TX	05-14-2021
Stara v. BNSF Railway Company	District Court of Lancaster County, Nebraska	CI190001962	Hubbell Law Firm, Kansas City, MO	05-13-2021
Odusanya, et al. v. Washington Hospital Centers	Superior Court for the District of Columbia, Civil Division	2020 CA 003221 M	Berman Sobin Gross Feldman & Darby, Lutherville, MD	05-13-2021
Kroft v. Viper Trans, Inc.	Circuit Court of Cook County, Illinois, County Department - Law Division	2016 L 009466	Allen Law Group, Valparaiso\IN	05-12-2021
Chiachio, Jr. v. Lindsay Corporation, et al.	Commonwealth of Massachusetts, Suffolk County, Superior Court Department of the Trial Court	1884CV03435	Langdon & Emison, Lexington, MO	05-10-2021
Chiachio, Jr. v. Lindsay Corporation, et al.	Commonwealth of Massachusetts, Suffolk County, Superior Court Department of the Trial Court	1884CV03435	Langdon & Emison, Lexington, MO	05-10-2021
Garcia, Jr. v. Hahn, et al.	Circuit Court of the Nineteenth Judicial Circuit, Lake County, Illinois	16L119	Salvi Schostok & Pritchard, Chicago, IL	05-05-2021
Villagomez v. Development Solutions, Inc.	Circuit Court of Cook County, Illinois, County Department - Law Division	17 L 5954	Shannon Law Group, Chicago, IL	05-05-2021
Martinez v. M/I Homes of Chicago, LLC, et al.	Circuit Court of Cook County, Illinois, County Department - Law Division	2019 L 013060	Gibson Steigauf, Waukegan, IL	05-05-2021

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Case Name	Court	Case Number	Law Firm	Date
DeRouen v. Hidden Lakes Development Partners, et al.	District Court of Galveston County, Texas, 10th Judicial District	18-CV-0556	Arnold & Itkin, Houston, TX	05-04-2021
Blankenship v. Napolitano, et al.	United States District Court for the Southern District of West Virginia, Charleston Division	2:19-cv-00236	Early Sullivan Wright Gizer & McRae, Los Angeles, CA	05-03-2021
Guido, Jr. v. Kutz	Circuit Court of Cook County, Illinois, County Department - Law Division	2016L007402	Tarpey Jones & Schroeder, Chicago, IL	04-30-2021
Coe v. Scottsdale Healthcare Hospital, et al.	Superior Court of the State of Arizona, In and For the County of Maricopa	CV2019-096427	Lloyd Law Group, Payson, AZ	04-29-2021
Garcia, Jr. v. Hahn, et al.	Circuit Court of the Nineteenth Judicial Circuit, Lake County, Illinois	16L119	Salvi Schostok & Pritchard, Chicago, IL	04-29-2021
Cheetham v. Specialized Loan Servicing LLC	United States District Court for the Western District of Washington	2:20-CV-00762-DWC	Hutchison Law Office, Tacoma, WA	04-28-2021
Ochsenbine, et al. v. Kennon, et al.	Circuit Court of Franklin County, Missouri	18AB-CC00257, Div. 1	Langdon & Emison, Lexington, MO	04-27-2021
West v. Valero Renewable Fuels Company, LLC.	United States District Court, Northern District of Indiana, Fort Wayne Division	1:19-cv-463-HAB-SLC	Rothberg Logan & Warsco, Fort Wayne, IN	04-26-2021
Black v. Grant County Public Utility District	United States District Court, Eastern District of Washington	2:17-cv-00365-RMP	Earl & Earl, Boise, ID	04-26-2021
Bjornberg v. LUMC, et al.	Circuit Court of Cook County, Illinois, County Department - Law Division	2017-L-002454	Peraica & Associates, Chicago, IL	04-23-2021
DellaValle-Jones v. Xerox Corporation	United States District Court for the Southern District of Indiana, Indianapolis Division	1:20-CV-288-SEB-MJD	Betz & Blevins, Indianapolis, IN	04-21-2021
Adams v. Ironwood Homes of Peoria, et al.	Circuit Court of Tenth Judicial Circuit, Peoria County, Illinois	18-L 00198	Green Law Office, Bloomington, IL	04-20-2021
Malone v. North Shore University Health System, et al.	Circuit Court of Cook County, Illinois, County Department - Law Division	17 L 5654	McNabola & Associates, Chicago, IL	04-19-2021
Zavala v. Kim, M.D., et al.	Circuit Court of Cook County, Illinois, County Department - Law Division	17 L 5234	Cogan & Power, Chicago, IL	04-16-2021
Gosa/Coxey v. Alabama & Gulf Coast Railway, et al.	Circuit Court of Pickens County, Alabama	54-CV-2018-900051.00	Arnold & Itkin, Houston, TX	04-15-2021
Sims v. University of Maryland Medical Corporation, et al.	United States District Court, District of Maryland, Northern Division	1:19-cv-00295-CCB	Faresha Sims Pro Se, Towson, MD	04-14-2021
Sanchez v. City of New Jersey, et al.	Superior Court of New Jersey, Law Division, Hudson County	HUD-L-00425-19	Bagolie Friedman, Jersey City, NJ	04-13-2021
Long v. Quality Well Services, Inc.	District Court of Tarrant County, Texas	017-311960-19	Arnold & Itkin, Houston, TX	04-02-2021
Hughes/Ortega-Hughes v. Union Pacific Railroad Company	Circuit Court of the Twelfth Judicial Circuit, Will County, Illinois	16 L 321	Parente & Norem, Chicago, IL	04-01-2021
Magee v. Caceres, et al.	District Court, Clark County, Nevada	A-18-786719-C, Dept No. 14	Powell Law Firm, Las Vegas, NV	03-29-2021
Johnson v. Soo Line Railroad Company, et al.	Circuit Court of Cook County, Illinois, County Department - Law Division	18 L 8884	Cogan & Power, Chicago, IL	03-29-2021
Alcorn/Lumar v. City of Chicago, et al.	United States District Court for the Northern District of Illinois, Eastern Division	17 CV 5859	O'Connor Law Group, Chicago, Il	03-25-2021
Swearingen v. BNSF Railway Company	District Court of Lancaster County, Nebraska	D02CI190003086	Atwood Holsten Brown Deaver & Spier, Lincoln, NE	03-24-2021
Mesh v. Union Pacific Railroad Company	Circuit Court of Jackson County, Missouri at Kansas City	1916-CV09931, Div. 9	Hubbell Law Firm, Kansas City, MO	03-23-2021
Jones/Williard v. Hobbs	District Court of the 95th Judicial District, Dallas County, Texas	DC-19-07571	Washington Law Office, Dallas, TX	03-22-2021
Fortner v. Welldone Parking and Restoration, Inc.	Circuit Court of Cook County, Illinois, County Department - Law Division	18 L 4636	Check Law Offices, Chicago, IL	03-19-2021
Potter v. Stein, et al.	State of Minnesota, County of Rice, District Court, Third Judicial District	66-CV-20-465	Rutzick Law Offices, St. Paul, MN	03-18-2021
Lingo v. Brake Supply Company, Inc., et al.	State of Indiana, Marion County Superior Court, Civil Division	49D12-2001-MI-000796	Robins Cloud, Houston, TX	03-16-2021
Guzman v. Prairie Managements & Development, Inc.	Circuit Court of Cook County, Illinois, County Department - Law Division	17 L 3510	Pullano Law Firm, Chicago, IL	03-15-2021
Morales v. Goodwin Hospitality & Associates	United States District Court for the Northern District of Illinois	19-cv-05175	S.T. Legal Group, Deerfield, IL	03-12-2021
Hemling v. Soo Line Railroad Company, et al.	United States District Court for the Western District of Wisconsin	3:19-cv-00894-jdp	Hunegs LeNeave & Kvas, Wayzata, MN	03-09-2021
Rodriguez v. IDOT	Illinois Court of Claims	2016 CC 92	Goodman Law Office, Rosemont, IL	03-05-2021
Mendoz v. Lizarraga-Valle	District Court, Clark County, Nevada	A-19-796012-C, Dept No. 24	Powell Law Firm, Las Vegas, NV	03-04-2021

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Case Name	Court	Case Number	Law Firm	Date
Moore v. Rader	Circuit Court of Cook County, Illinois, County Department - Law Division	2019L008304	Walsh Knippen & Cetina, Wheaton, IL	03-02-2021
Gildein v. Birky	State of Indiana, Porter County Superior Court	64D01-CT-006021	Martz & Lucas, Valparaiso, IN	03-02-2021
Webb & Gerritsen, Inc. v. Vital Pharmaceuticals, Inc.	State of Wisconsin, Circuit Court, Waukesha County	19-CV-1049	Edwards Law Group, Oregon, WI	02-26-2021
Nelson v. Wilt, et al.	Circuit Court of Jackson County, Missouri at Independence	2016-CV05545, Div 12	Langdon & Emison, Lexington, MO	02-25-2021
Greer v. Andlovec	Circuit Court of Cook County, Illinois, County Department - Law Division	2018 L 3891	Dinizulu Law Group, Chicago, IL	02-24-2021
Nelson v. Wilt, et al.	Circuit Court of Jackson County, Missouri at Independence	2016-CV05545, Div 12	Langdon & Emison, Lexington, MO	02-23-2021
Hampton v. Dallas	Circuit Court, Twelfth Judicial District, Will County, Illinois	18 L 1087	Shannon Law Group, Woodridge, IL	02-22-2021
Guerrero v. Clark Construction Group-Chicago LLC	Circuit Court of Lake County, Illinois, Nineteenth Judicial Circuit	18 L 37	Anesi Ozmon, Chicago, IL	02-19-2021
Luca v. Zdziarski	Circuit Court of Cook County, Illinois, County Department - Law Division	2018 L 011531	Staver Law Group, Chicago, IL	02-17-2021
Chiachio, Jr. v. Lindsay Corporation, et al.	Commonwealth of Massachusetts, Suffolk County, Superior Court Department of the Trial Court	1884CV03435	Langdon & Emison, Lexington, MO	02-17-2021
Palmer, Jr. II v. Indiana University	United States District Court for the Southern District of Indiana, Indianapolis Division	1:19cv-4610-JMS-MJD	Betz & Blevins, Indianapolis, IN	02-15-2021
Chaidez v. Harrigan	Eighth Judicial District Court, Clark County, Nevada	A-19-800181-C, Dept No. 23	Powell Law Firm, Las Vegas, NV	02-12-2021
Eiler v. Casey Equipment Company	Circuit Court of Cook County, Illinois, County Department - Law Division	2018-L-004893	Cogan & Power, Chicago, IL	02-11-2021
Dickens v. Uber Technologies, Inc.	Circuit Court of Cook County, Illinois, County Department - Law Division	17 L 010222	Pullano Law Firm, Chicago, IL	02-10-2021
Bean v. Sid Tool Co., Inc.	Second Judicial District Court of the State of Nevada, In and For the County of Washoe	CV19-00181, Dept No. 10	Viloria Oliphant Oster & Aman, Reno, NV	02-05-2021
Hammett v. The Sutherland Cardiology Clinic, P.C.	Circuit Court of Shelby County, Tennessee for the Thirtieth Judicial District at Memphis	CT-003673-15	Merkel & Cocke, Clarksdale, MS	02-01-2021
Bryant v. Palos Community Hospital, et al.	Circuit Court of Cook County, Illinois, County Department - Law Division	16 L 001481	Peters & Associates, Chicago, IL	01-29-2021
Mendenhall/Burrell v. Smith, M.D., et al.	Circuit Court of Cook County, Illinois, County Department - Law Division	2017-L-011875	Mossing & Navarre, Chicago, IL	01-26-2021
Beverly v. Abbott Laboratories, et al.	United States District Court, Northern District of Illinois, Eastern Division	1:17-cv-05590	Major Law Offices, Chicago, IL	01-25-2021
Smith v. Keyport Liquor	Superior Court of New Jersey, Law Division - Monmouth County	MON-L-1412-19	Hanus & Parsons, Middletown, NJ	01-21-2021
Tsisyk v. Schneider, et al.	United States District Court, Western District of Oklahoma	5:14-cv-00386-R	Tawwater Law Firm, Oklahoma City, OK	01-21-2021
Polk v. Grumet	United States District Court, District of Nevada (Las Vegas)	2:19-cv-01636-JAD-VCF	Powell Law Firm, Las Vegas, NV	01-20-2021
Perry/Smith v. Mosaic Residential Inc.	District Court for Harris County, Texas, 127th District Court	2019-76154	Arnold & Itkin, Houston, TX	01-20-2021
Devine v. XPO Logistics Freight, Inc.	United States District Court, Northern District of Illinois, Eastern Division	18 cv 1264	Woodruff Johnson & Evans, Aurora, IL	01-19-2021
Carlini, Sr. v. Atlas Van Lines, et al.	Circuit Court of the Twelfth Judicial Circuit, Will County, Illinois	15 L 000358	Burnes & Libman, Chicago, IL	01-18-2021
Powers/Zak v. Sofocleous, et al.	United States District Court for the Southern District of New York	1:20-cv-02625	Hendler Flores Law, Austin, TX	01-14-2021
Rothman v. Bretschneider	Second Judicial District Court for the State of Nevada, County of Washoe	CV18-02481, Dept No. 15	Brazelton Law, Reno, NV	01-13-2021
Oden, et al. v. Kelly, et al.	Twentieth Judicial District, District Court, Rice County, Kansas, Civil Department	2018-CV-26	Wagstaff & Cartmell, Kansas City, MO	01-13-2021
Savino, DO v. Indiana Urgent Care Physician Group, LLC	United States District Court for the Southern District of Indiana, Indianapolis Division	1:19-cv-2163	Betz & Blevins, Indianapolis, IN	01-12-2021
Thompson v. United States of America	United States District Court, Southern District of Illinois	3:18-CV-1520	Walker Law Office, Granite City, IL	01-08-2021
Goss v. Slavin, M.D., et al.	Circuit Court of Cook County, Illinois, County Department - Law Division	18 L 4606	Mossing & Navarre, Chicago, IL	01-04-2021
James/Phiffer v. Irwin, et al.	Circuit Court of Cook County, Illinois, County Department - Law Division	2017-L-006939	Loggans & Associates, Chicago, IL	12-16-2020

LIST OF CASES OVER THE LAST FOUR YEARS WHEREIN
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Case Name	Court	Case Number	Law Firm	Date
Disantis v. C&W Facility Services, Inc.	Circuit Court of Cook County, Illinois, County Department - Law Division	2018 L 012739	Anesi Ozmon, Chicago, IL	12-15-2020
McCaley/McCalley v. Petrovic, M.D.	Circuit Court of Cook County, Illinois, County Department - Law Division	2018 L 5925	Loggans & Associates, Chicago, IL	12-15-2020
Jeffress v. Trinity Industries, Inc., et al.	Circuit Court of Missouri, Twenty-First Judicial Circuit, St. Louis County, Missouri	19SL-CC04435	Langdon & Emison, Lexington, MO	12-14-2020
Graves v. 3M Company	State of Minnesota, County of Hennepin, District Court, Fourth Judicial District	27-CV-19-19916	Schwebel Goetz & Sieben, Minneapolis, MN	12-14-2020
Mesa v. Schindler Elevator Corporation	District Court, Clark County, Nevada	A-16-745747-C, Dept No. XXXII	Bochanis Law Office, Las Vegas, NV	12-11-2020
Mills v. Taragon Summit Ridge Lewisville, et al.	County Court at Law No. 1, Dallas County, Texas	CC-19-06948-A	Arnold & Itkin, Houston, TX	12-10-2020
Burton/Foster v. Bristol-Myers Squibb Company, et al.	United States District Court, Northern District of Florida, Pensacola Division	3:16-md-2734	Goldenberg Law, Minneapolis, MN	12-09-2020
Whitmore v. Spectrum Health Hospitals	State of Michigan in the Circuit Court for the County of Kent	20-01609-NH	Buchanan & Buchanan, Grand Rapids, MI	12-02-2020
Fletcher v. Whittington, et al.	United States District Court for the Western District of Louisiana (Shreveport)	5:18-cv-01153-SMH-KLH	Jacob Litigation, Mechanicsburg, PA	12-02-2020
Blankenship v. McLaughlin, et al.	United States District Court, Eastern District of Virginia, Alexandria Division	1:20-cv-00429	Early Sullivan Wright Gizer & McRae, Los Angeles, CA	12-01-2020
Marshall v. Henkels & McCoy, Inc., et al.	Superior Court of New Jersey, Law Division - Middlesex County	MID-L-6247-17	Brach Eichler, Roseland, NJ	11-20-2020
Newson/West v. Hayes, M.D., et al.	Circuit Court of Cook County, Illinois, County Department - Law Division	2017 L 003695	Loggans & Associates, Chicago, IL	11-19-2020
Tamton v. Advocate Christ Hospital, et al.	Circuit Court of Cook County, Illinois, County Department - Law Division	17 L 12380	Watts Guerra, San Antonio, TX	11-17-2020
Smith v. Bristol-Myers Squibb Co., et al.	U.S. District Court, Northern District of Florida, Pensacola Division	3:17-cv00474	Kirtland & Packard, Redondo Beach, CA	11-16-2020
Chandler-Tonstad v. Bristol-Myers Squibb Company, et al.	U.S. District Court, Northern District of Florida, Pensacola Division	3:18-cv-01302	Kirtland & Packard, Redondo Beach, CA	11-13-2020
Ray-Rouser vs. Hernandez/Century Towing	District Court, Clark County, Nevada	A-19-788335-C	Powell Law Firm, Las Vegas, NV	11-12-2020
Hutt, et al. v. Bristol-Myers Squibb Company, et al.	U.S. District Court, Northern District of Florida, Pensacola Division	3:17-cv-00634-MCR-GRJ	Bernheim Kelley Battista & Bliss, Plymouth, MA	11-11-2020
Spiekhout v. Pekin Insurance	American Arbitration Association	Z41-102	Thiesen & Roche, Wheaton, IL	11-04-2020
Moon v. Steelberg, M.D., et al.	Eighteenth Judicial District, District Court, Sedgwick County, Kansas Civil Department	2019-CV-2503	Napoli Shkolnik, Overland Park, KS	11-03-2020
Errant Gene Therapeutics LLC v. Sloan-Ketttering Institute for Cancer Research, et al.	Supreme Court of the State of New York, County of New York	150856/2017	McCue Sussmane Zapfel & Cohen, New York, NY	10-30-2020
Agwomoh v. Village of Dolton, et al	Circuit Court of Cook County, Illinois, Law Division	18 L 2677	Motherway & Napleton, Chicago, IL	10-29-2020
Gamze v. Seibel	Circuit Court of Cook County, Illinois, Law Division	2017-L-007185	Patterson Law Firm, Chicago, IL	10-28-2020
Driscoll v. Castellanos, et al.	U.S. District Court, for the District of New Mexico	1:19-cv-00527-JCH-KK	Langdon & Emison, Chicago, IL	10-27-2020
Wood v. PACCAR Inc. et al.	U.S. District Court, Northern District of Iowa, Eastern Division	2:19-CV-1010	Crowley & Prill, Burlington, IA	10-26-2020
Jones Martin v. United States of America	U.S. District Court, District of Nevada	2:18-cv-02392-GMN-VCF	Powell Law Firm, Las Vegas, NV	10-21-2020
Martinez vs. James River Insurance Company	U.S. District Court, District of Nevada	2:19-cv-00603-JAD-NJK	Powell Law Firm, Las Vegas, NV	10-20-2020
Pym v. Ford Motor Company, et al.	Circuit Court of Missouri, Twenty First Judicial Circuit (St. Louis County)	19SL-CC00857	Langdon & Emison, Lexington, MO	10-14-2020
Rosas/Godinez v. Level Construction, Inc.	Circuit Court of Cook County, Illinois, County Department, Law Division	2018 L 008625	Cogan & Power, Chicago, IL	10-06-2020
Trepeta v. National Consumer Telecom and Utilities Exchange, Inc., et al.	United States District Court, Eastern District of Virginia, Norfolk Division	2:19-cv-00405-MSJ-LRL	Consumer Litigation Associates, Newport News, VA	10-05-2020
DeLap v. Boone, M.D., et al.	Circuit Court of 17th Judicial Circuit, Winnebago County, Illinois	17 L 140	Cogan & Power, Chicago, IL	10-02-2020
Fernandez v. Debt Assistance Network, LLC ("DAN")	United States District Court for the Southern District of California	3:19-cv-01442-MMA-JLB	Kazerouni Law Group, Costa Mesa, CA	09-30-2020
Lietzow v. Village of Huntley et al	U.S. District Court, Northern District of Illinois, Eastern Division	17-cv-05291	Dvorak Law Office, Willowbrook, IL	09-29-2020
Burlew v. Shop Rite, et al.	Superior Court of New Jersey, Monmouth County	MON-L-4318-18	Hanna Law Office, Manasquan, NJ	09-28-2020

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Case Name	Court	Case Number	Law Firm	Date
Warner v. CCS/Wellpath, et al.	United States District Court, Southern District of Indiana, Indianapolis Division	1:19-cv-00774-RLY-MJD	Eskew Law Office, Indianapolis, IN	09-28-2020
Watkins/Green v. United States of America, et al.	United States District Court, Northern District of Illinois, Eastern Division	18-cv-4142	Cogan & Power, Chicago, IL	09-24-2020
Lipps v. Central DuPage Hospital Association	Circuit Court of Cook County, Illinois, County Department - Law Division	19 L 005371	Motherway & Napleton, Chicago, IL	09-21-2020
Dugger v. BNSF Railway Company	District Court of Box Butte County, Nebraska	CI1849	High & Younes, Omaha, NE	09-18-2020
Lugg v. Sutton, et al.	United States District Court for the Central District of Illinois, Peoria Division	18-cv-1412-JES-JEH	Katz Nowinski, Moline, IL	09-17-2020
Jones v. Ohio/Oklahoma Hearst Television, Inc.	District Court of Oklahoma County, State of Oklahoma	CJ-2017-4274	Burch George & Germany, Oklahoma City, OK	09-16-2020
Stambaugh v. Indiana Department of Insurance	State of Indiana, County of Miami in the Miami County Circuit Court	52C01-2005-CT-000326	Rothberg Logan & Warsco, Fort Wayne, IN	09-15-2020
Doe v. First Presbyterian Church of Plymouth, MI	State of Michigan in the Third Circuit Court, Wayne County	19-000088-NO	Fierberg National Law Group, Traverse City, MI	09-15-2020
Martinez v. Sorenson, et al.	District Court, Clark County, Nevada	A-19-798555-C, Dept No. 11	Injury Lawyers Nevada, Las Vegas, NV	09-14-2020
Dugger v. BNSF Railway Company	District Court of Box Butte County, Nebraska	CI1849	High & Younes, Omaha, NE	09-14-2020
Seymour/Mankin v. Lewis & McCorry PC	State of Michigan in the Circuit Court for the County of Kent	19-08339-NH	Buchanan & Buchanan, Grand Rapids, MI	09-04-2020
Myers/Saterlee v. Land 'N' Sea Distributing, Inc.	United States District Court, Northern District of Indiana, Fort Wayne Division	1:18-CV-00187-TLS-SLC	Theisen & Associates, Fort Wayne, IN	09-01-2020
Davis v. Suburban Hospital, Inc. et al.	Circuit Court for Montgomery County, Maryland	474907-V	Bekman Marder & Adkins, Baltimore, MD	09-01-2020
White v. Mejia, et al.	District Court, Clark County, Nevada	A-18-780344-C, Dept No. XXIII	Paternoster Law Group, Las Vegas, NV	08-31-2020
Sorge v. FCA US, LLC, et al.	Circuit Court of Jackson County, Missouri at Independence	1816-CV20409, Div 12	Langdon & Emison, Chicago, IL	08-27-2020
Lewis v. A.W. Chesterton Company, et al.	State of Indiana, Marion County Superior Court, Civil Division	49D12-1911-MI-047874	Maune Raichle Hartley French & Mudd, St. Louis, MO	08-25-2020
Price v. UBS Financial Services, Inc.	United States District Court, District of New Jersey, Newark Division	1701882 (WJM-MF)	Henrichsen Law Group, Jacksonville, FL	08-13-2020
Howe, et al. v. Tri-Energy, et al.	District Court, South Central Judicial District, State of North Dakota, County of Burleigh	08-2018-CV-02789	Beattie Law Firm, Des Moines, IA	08-11-2020
Polanco Urena/Urena-Valverde v. Vitex Extrusion, LLC.	United States District Court, District of New Hampshire	18-cv-1019-JL	Bagolie Friedman, Jersey City, NJ	08-06-2020
Heartwise, Inc. v. Nutrigold, Inc.	United States District Court, District of Utah, Central Division	2:13-cv-00982-DAK	Magleby Cataxinos & Greenwood, Salt Lake City\UT	07-30-2020
Myers/Saterlee v. Land 'N' Sea Distributing, Inc.	United States District Court, Northern District of Indiana, Fort Wayne Division	1:18-CV-00187-TLS-SLC	Theisen & Associates, Fort Wayne, IN	07-29-2020
Stallworth v. Estate of Stanius	Circuit Court of Cook County, Illinois, County Department - Probate Division	19 P 008267	Latimer LeVay Fyock, Chicago#IL	07-29-2020
Lee v. Dennison, et al.	United States District Court, District of Nevada	2:19-cv-01332-KJD-DJ	Powell Law Firm, Las Vegas, NV	07-22-2020
Ghaisar v. United States of America	United States District Court, Eastern District of Virginia, Alexandria Division	1:19-cv-01224	Harris Wiltshire & Grannis, Washington, DC	07-21-2020
Guthmiller v. Ocwen Loan Servicing, LLC.	United States District Court, Western District of Washington at Seattle	2:19-CV-01585-BJR	Hutchison Law Office, Tacoma, WA	07-20-2020
Guthmiller v. Ocwen Loan Servicing, LLC.	United States District Court, Western District of Washington at Seattle	2:19-CV-01585-BJR	Hutchison Law Office, Tacoma, WA	07-13-2020
Hammit v. Spectrum Paint Company, Inc.	Circuit Court of Washington County, Arkansas, Civil Division	72CV-19-2491	Etoch Law Firm, Helena, AR	07-13-2020
Hauck/Chambers v. Wabash National Corporation	First Judicial District Court, Sante Fe County, New Mexico	D-101-CV-2018-01101	Langdon & Emison, Lexington, MO	07-09-2020
Davis v. The Royal Paper Stock Company, Inc.	Common Pleas Court of Clinton County, Ohio, Civil Division	CVH 19000202	Langdon & Emison, Lexington, MO	07-07-2020
Victor v. Dickey, et al.	District Court, Clark County, Nevada	A-18-775694-C, Dept. No II	Paternoster Law Group, Las Vegas, NV	07-06-2020
Slotten, et al. v. Southeastern Emergency Physicians of Memphis, LLP, et al.	Circuit Court of St. Charles County, State of Missouri	1711-CC01108, Division 1	Cox & Associates, St. Charles, MO	07-01-2020
Morgan v. Lakeland Medical Center, et al.	State of Michigan, Circit Court for the County of Kalamazoo	ADMIN-2019-0011-A6	Buchanan & Buchanan, Grand Rapids, MI	06-30-2020
Roter v. Muhammad, M.D., et al.	Circuit Court of the 21st Judicial Circuit, Kankakee County, Illinois	17 L 4	Cogan & Power, Chicago, IL	06-29-2020

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Case Name	Court	Case Number	Law Firm	Date
Stewart v. Pinnacle, et al.	Commonwealth of Kentucky, Fayette Circuit Court, Division 8	18-CI-03919	Oldfather Law Firm, Louisville, KY	06-17-2020
Rhude v. Artis, et al.	District Court, Clark County, Nevada	A-18-785559-C, Dept No. 8	Powell Law Firm, Las Vegas, NV	06-16-2020
Penton v. Hubard, et al.	United States District Court for the Eastern District of California, Sacramento Division	2:11-cv-00518-TLN-KJN (PC)	Simpson Thacher, Palo Alto, CA	05-19-2020
Burford, et al. v. Arconic, Inc., et al.	District Court of the 11th Judicial District, Harris County, Texas	2017-70076-ASB	Cappolino Dodd & Krebs, Cameron, TX	05-18-2020
Magiera v. Modern Forge Services, LLC., et al.	State of Indiana in the Lake Superior Court Sitting at Gary, Indiana	45D04-1505-CT-157	Allen Law Group, Valparaiso, IN	05-11-2020
Abt v. Ceco Concrete Construction, LLC	Iowa District Court In and For Polk County	LACL 144075	Duff Law Firm, West Des Moines, IA	05-07-2020
Winward, et al. v. Bitumar USA, Inc.	Circuit Court for Baltimore City	24-C-19-003648 OT	Bekman Marder & Adkins, Baltimore, MD	05-05-2020
Ginsburg v. Furbush, et al.	District Court, Clark County, Nevada	A-18-779016-C, Dept. 10	Powell Law Firm, Las Vegas, NV	04-30-2020
Moore v. BNSF Railway Company	Nineteenth Judicial District, District County, Cowley County, Kansas, Civil Department	2017-CV-000099-W	Hubbell Law Firm, Kansas City, MO	04-30-2020
Dorn, et al. v. Vivint, Inc.	U.S. District Court, Middle District of Alabama, Northern Division	2:19-cv-258-MHT0SMD	Pittman Dutton & Hellums, Birmingham, AL	04-29-2020
Hart v. Southern Illinois Hospital Services, et al.	Circuit Court of the First Judicial Circuit, Jackson County, Illinois	17-L-59	Womick Law Firm, Carbondale, IL	04-27-2020
Bauer v. Parks/Patrick, et al.	Commonwealth of Kentucky, Floyd Circuit Court, Division No. 2	16-CI-00829	Collins Law Office, Salyersville, KY	04-27-2020
Boster v. Gordon Food Service, Inc.	Commonwealth of Kentucky, Warren Circuit Court, Division No. I	17-CI-01382	Stephenson Rife, Shelbyville, IN	04-20-2020
Jimenez v. Ramasamy, M.D., et al.	Superior Court of New Jersey, Law Division - Hudson County	HUD-L-004047-17	Lynch Lynch Held Rosenberg, Hasbrouck Heights, NJ	04-17-2020
Anderson v. Prasad, M.D., et al.	Iowa District Court, Polk County	LACL143411	Duff Law Firm, West Des Moines, IA	04-14-2020
Dreamstime.com v. Google, et al.	United States District Court, Northern District of California, San Jose Division	3:18-CV-01910-WHA	Baker Marquart, Los Angeles, CA	04-02-2020
Ebie v. UH Portage Medical Center, et al.	Court of Common Pleas, Portage County, Ohio	2018CV00571	Farrell Law Firm, Brooklyn Hts, Ohio	03-31-2020
Nelson v. Silver Cross Hospital	Circuit Court of Will County, Illinois, Illinois County Department - Law Division	17 L 000068	O'Connor Law Group, Chicago, Il	03-23-2020
Kendrick v. Union Pacific Railroad Co.	Circuit Court of Jackson County, Missouri at Independence	1716-CV18714	Davis Bethune & Jones, Kansas City, MO	03-19-2020
Hanson v. Mednax, Inc.	Circuit Court of Camden County, Missouri at Camdenton	17CM-CC00251	Heartland Group, Kansas City, MO	03-17-2020
Nnau v. Correa, et al.	District Court, Clark County, Nevada	A-18-780228-C, Dept No. XXII	The 702 Firm, Las Vegas, NV	03-11-2020
Friel v. Miller, et al.	Circuit Court of Cook County, Illinois, County Department - Law Division	2015-L-006664	Snorf Law Office* Chicago\IL	03-11-2020
Marques v. United Airlines, Inc.	United States District Court, Northern District of Illinois, Eastern Division	18-cv-4159	KMA Zuckert, Chicago, IL	03-10-2020
Figueroa-Rosario v. Wal-Mart Stores, Inc.	District Court, Clark County, Nevada	2:19-cv-00928-JCM-BNW	Powell Law Firm, Las Vegas, NV	03-09-2020
Stoch v. John Crane, Inc.	Circuit Court of Cook County, Illinois, County Department - Law Division	2016 L 009400	Taxman Pollock Murray & Bekkerman, Chicago, IL	03-05-2020
Egermeier v. Trinity Industries, Inc.	District Court In and For Nowata County, State of Oklahoma	CJ-2017-37	Langdon & Emison, Lexington, MO	03-03-2020
Range III v. Roscoe Properties, Inc.	District Court of Harris County, Texas, 61st Judicial District	2018-88031	Arnold & Itkin, Houston, TX	03-02-2020
Gonzalez v. Lowe's Home Centers, et al.	JAMS Arbitration, Las Vegas, NV	2:17-cv-02527-APG-PAL	Knepper & Clark, Las Vegas\NV	02-27-2020
Brown v. Cheesecake Factory Restaurants, inc.	District Court, Clark County, Nevada	A-17757481-C, Dept No. XXXII	Shook & Stone, Las Vegas, NV	02-27-2020
Nazario/Guerrero v. Trinity Health Corporation	Circuit Court of Cook County, Illinois, County Department - Law Division	2017 L 003937	Dinizulu Law Group, Chicago\IL	02-27-2020
Huntly v. Global Med Hospice Services, LLC, et al.	Eighth Judicial District Court, Clark County, Nevada	A-16-739023-C, Dept No. XXVIII	Lucherini Blakesley Courtney, Las Vegas\NV	02-26-2020
Long v. Love's Travel Stops and Country Stores, Inc.	United States District Court, Eastern District of Missouri, Eastern Division	4:18-CV-01414-SEP	Cox & Associates, St. Charles, MO	02-24-2020
Young/Artis v. Trinity Industries, Inc., et al.	Circuit Court of Cook County, Illinois, County Department - Law Division	2018 L 007726	Langdon & Emison, Lexington, MO	02-21-2020

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Case Name	Court	Case Number	Law Firm	Date
Jennings v. Nash, et al.	United States District Court, Western District of Missouri	6:18-cv-03261-NKL	Ramsey Law Office, St. Louis\MO	02-20-2020
Squiers v. Fregien	Court of the Twenty-Second Judicial Circuit, McHenry County, Illinois	16 LA 61	Franks & Rechenberg, Lake in the Hills, IL	02-18-2020
Clay v. Kabak, et al.	Circuit Court of Cook County, Illinois, County Department - Law Division	16 L 005380	Sandman Levy & Petrich, Chicago, IL	02-17-2020
Shores/Clewell v. The Dupps Company, Inc., et al.	United States District Court for the Central District of Illinois, Rock Island Division	4:18-cv-04147	Bradley Law Firm, St. Louis, MO	02-14-2020
Albright v. Metropolitan Sewer District	Jefferson Circuit Court, Division Thirteen(13)	18-CI-007082	Sitlinger & Theiler, Louisville, KY	02-13-2020
Lopez/Starrett v. Presbyterian Healthcare Services, Inc.	State of New Mexico, County of Santa Fe, First Judicial District Court	D-101-CV-2018-01247	Salazar Sullivan Jasionowski, Albuquerque, NM	02-11-2020
Aldred v. Renown Health, et al.	Second Judicial District Court for the State of Nevada, County of Washoe	CV18-01501, Dept. No 7	Langdon & Emison, Lexington, MO	02-11-2020
Brock/Olmedo v. Ching, et al.	Circuit Court of Cook County, Illinois, County Department - Law Division	17 L 9756	Kalogerakos & Associates, Lincolnwood, IL	02-10-2020
Hennigan v. J.B. Hunt.	Circuit Court of Cook County, Illinois, County Department - Law Division	2018 L 002962	Alberts Curran & Eiler, Chicago, IL	02-07-2020
Barnard v. Toyota Motor Corporation	Circuit Court of Cook County, Illinois, County Department - Law Division	2016 L 001063	Komyatte law Firm, Lakewood, CO	02-06-2020
Slocum v. Kaiser Foundation Health Plan, Inc.	Matter of Arbitration	15497	Kapoor Law Offices, Danville, CA	02-05-2020
Slocum v. Kaiser Foundation Health Plan, Inc.	Matter of Arbitration	15497	Kapoor Law Offices, Danville, CA	01-14-2020
Milburn v. Kansas City Southern Railway Company	Circuit Court of Jackson County, Missouri at Kansas City	1816-CV11866, Division 8	Davis Bethune & Jones, Kansas City, MO	01-14-2020
Barnard v. Toyota Motor Corporation	Circuit Court of Cook County, Illinois, County Department - Law Division	2016 L 001063	Komyatte law Firm, Lakewood, CO	01-14-2020
Marfice v. Finlay, et al.	District Court of the First Judicial District of the State of Idaho, In and For the County of Kootenai	CV28-18-6108	Ramsden Marfice Ealy & Harris, Coeur d'Alene, ID	01-14-2020
Kane v. Wal-Mart, Inc.	District Court, Clark County, Nevada	A-18-772835-C, Dept No. 13	Powell Law Firm, Las Vegas, NV	01-13-2020
Jado v. Mohamed, et al.	United States District Court, Southern District of Iowa, Eastern Division	3:18-cv-00091	Langdon & Emison, Lexington, MO	01-13-2020
Petite v. Martin	District Court, Clark County, Nevada	A-17-750181-C, Dept No. 2	Powell Law Firm, Las Vegas\NV	01-10-2020
Walker v. Desert Palace LLC	District Court, Clark County, Nevada	A-18-771501-C, Dept No. XV	Powell Law Firm, Las Vegas, NV	01-09-2020
Bauer v. Parks/Patrick, et al.	Commonwealth of Kentucky, Floyd Circuit Court, Division No. 2	16-CI-00829	Collins Law Office, Salyersville, KY	01-09-2020
Moss v. Grane Transportation Industries, Inc.	Circuit Court of Cook County, Illinois, County Department - Law Division	18-L-000164	Leonard Law Group, Chicago, IL	01-09-2020
Olek, Inc. v. RAR Development Associates, et al.	Superior Court of New Jersey, Law Division - Essex County	ESX-L-1780-15	Orr Law Office, Newark\NJ	01-08-2020
Kennedy, et al. v. University of Kentucky Hospital, et al.	Commonwealth of Kentucky, Fayette Circuit Court, Division 7	17-CI-02025	Erdmann & Stumbo, Richmond, KY	01-06-2020
Van Lente v. Rainbow Early Education Holding, LLC	State of Michigan, Circuit Court for the County of Ottawa	2019-005857-NO	Eardley Law Office, Rockford, MI	01-03-2020
Tutt-Crabtree v. Riley Love, et al.	Circuit Court of the Twelfth Judicial Circuit, Will County, Illinois	17 L 677	Suber & Associates, Chicago, IL	12-19-2019
Vilela/Ramos v. Valley Health Systems, LLC., et al.	United States District Court, District of Nevada	2:16-cv-01503	Luh & Associates, Las Vegas, NV	12-19-2019
Rea v. Carvana, LLC.	Marion Superior Court No. 13, State of Indiana	49D13-1712-CT-047191	Allen Law Group, Valparaiso, IN	12-18-2019
Carter v. Szemak, et al.	District Court, Clark County, Nevada	A-18-779043-C, Dept No. XXIV	Powell Law Firm, Las Vegas, NV	12-17-2019
Rust, II v. Banner Health, et al.	Superior Court of Arizona, In and For the County of Gila	S0400CV201900001	Lloyd Law Group, Payson, AZ	12-16-2019
Brady v. Desert Palace, Inc., et al.	District Court, Clark County, Nevada	A-16-746061-C, Dept No. II	Eglet Adams, Las Vegas, NV	12-10-2019
Butcher v. Dineequity, Inc., et al.	District Court, 192nd Judicial District, Dallas County, Texas	DC-18-05700	Witherspoon Law Group, Dallas, TX	12-09-2019
Godines v. Entac, et al.	Eighth Judicial District Court, Clark County, Nevada	A-18-777981-C, Dept. 15	Powell Law Firm, Las Vegas, NV	12-05-2019
Hankins v. Ragauskaite, M.D., et al.	Circuit Court of Cook County, Illinois, County Department - Law Division	16 L 2966	Motherway & Napleton, Chicago\IL	12-04-2019

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Case Name	Court	Case Number	Law Firm	Date
Gonzalez v. Christus Santa Rosa Health Care Corporation, et al.	District Court, 131st Judicial District, Bexar County, Texas	2018-CI-09552	Maloney Law Group, San Antonio, TX	12-03-2019
Farris, Jr. v. Clarksdale HMA, LLC., et al.	Circuit Court of Coahoma County, Mississippi	14-CI-17-0033	Merkel & Cocke, Clarksdale, MS	12-02-2019
Kroft v. Viper Trans, Inc.	Circuit Court of Cook County, Illinois, County Department - Law Division	2016 L 009466	Allen Law Group, Valparaiso, IN	11-26-2019
LePretre v. Lend Lease (US) Construction, Inc., et al.	Circuit Court of Cook County, Illinois County Department - Law Division	13 L 13896	Anesi Ozmon, Chicago, IL	11-25-2019
Olson v. Advanced Pain & Anesthesia Consultants, P.C., et al.	Circuit Court of Cook County, Illinois, County Department - Law Division	2016L007019	Ruder Law, Chicago, IL	11-25-2019
Mikocewicz v. Kroczek, M.D.	Circuit Court of Cook County, Illinois, County Department - Law Division	16 L 4094	Xydakis Law Office, Chicago, IL	11-22-2019
Heywood v. Stanford, et al.	District Court, Clark County, Nevada	A-18-769335-C, Dept No. XXXII	Lerner Injury Attorneys, Las Vegas, NV	11-14-2019
Davis v. Pace Suburban Bus Division of the Regional Transportation Authroity, et al.	Circuit Court of Cook County, Illinois, County Department - Law Division	18 L 693	Loggans & Associates, Chicago, IL	11-13-2019
Bennington v. Clapper, et al.	District Court, Clark County, Nevada	A-18-775050-C, Dept No 1	Powell Law Firm, Las Vegas, NV	11-13-2019
Whitfield v. St. Anthony Hospital, et al.	District Court for Oklahoma County, State of Oklahoma	CJ-2017-1428	Tawwater Law Firm, Oklahoma City, OK	11-07-2019
Darden v. Snow, et al	United States District Court, Northern District of Texas, Fort Worth Division	4:15-CV-221-A	Washington Law Office, Dallas, TX	11-06-2019
Narazio/Guerrero v. Trinity Health Corporation	Circuit Court of Cook County, Illinois, County Department - Law Division	2017 L 003937	Dinizulu Law Group, Chicago, IL	11-05-2019
Arijeloye v. Weidner Properties LLC	District Court of Midland County, Texas, 441st District Court	CV54920	Arnold & Itkin, Houston, TX	11-04-2019
Clean Culture Laboratories, LLC v. Oz Naturals, LLC	Judicial Arbitration and Mediation Service, Miami Office	1460005460	Kronenberger Rosenfeld, San Francisco\CA	10-30-2019
Michon v. The City of Chicago, et al.	United States District Court, Northern District of Illinois, Eastern Division	1:16-cv-06104	Horwitz Law Firm, Chicago\IL	10-29-2019
Baldassano v. Goetz, et al.	Circuit Court of Cook County, State of Illinois, 1st Municipal District - Law Division	17 L 63013	Carponelli Law Offices, Hoffman Estates\IL	10-29-2019
Shapiro, M.D. et al. v. Northshore University Healthsystem Faculty Practice Associates	Circuit Court of Cook County, Illinois County Department - Law Division	17 L 3203	Motherway & Napleton, Chicago, IL	10-28-2019
Guvenoz v. Target Corporation, et al.	Circuit Court of Cook County, Illinois, County Department - Law Division	16 L 7377	Motherway & Napleton, Chicago, IL	10-25-2019
Gaydula v. Roadsafe Traffic Systems, Inc.	Circuit Court of Cook County, Illinois, County Department - Law Division	17 L 6680	O'Connor Law Group, Chicago, IL	10-24-2019
Johnson/O'Leary v. Meeks Transport, LLC	Texas Arbitration Mediation Services	18-0524-ARB	Grossman Law Offices, Dallas, TX	10-23-2019
Jimenez v. Ramasamy, M.D., et al.	Superior Court of New Jersey, Law Division - Hudson County	HUD-L-004047-17	Lynch Lynch Held Rosenberg, Hasbrouck Heights, NJ	10-17-2019
Melgoza v. Rush University Medical Center	United States District Court, Northern District of Illinois, Eastern Division	17-cv-6819	Hahn Loeser & Parks, Chicago, IL	10-16-2019
Shah v. Insomniac, Inc., et al.	District Court, Clark County, Nevada	A-17-756782-C, Dept 10	Eglet Adams, Las Vegas, NV	10-16-2019
Skinner, et al. v. Ethicon, Inc., et al.	United States District Court for the Southern District of West Virginia at Charleston	2:15-cv-07789	Carpenter Zuckerman & Rowley, Ojai, CA	10-15-2019
Spradlin v. Millner, et al.	State of New Mexico, County of Grant, Sixth Judicial District Court	D-608-CV-2013-00141	Sherman & Sherman, Deming, NM	10-15-2019
Gaguancela v. BJ's Wholesale Club, Inc. etal	Superior Court of New Jersey, Law Division - Middlesex County	MID-L-3824-16	Gill & Chamas, Perth Amboy\NJ	10-09-2019
Greenberg, M.D. v. Board of Supervisors of Louisiana State University and Agricultural and Mechanical College	United States District Court, Eastern District of Louisiana	19-cv-00137	Flood Law, Royal Oak, MI	10-08-2019
Grzybowski v. All Star Fence, et al.	Circuit Court of Cook County, Illinois, County Department, Law Division	17 L 009196	Burnes & Libman, Chicago, IL	10-07-2019
Richards v. Rainford	District Court, Clark County, Nevada	A-18-775304-C, Dept No 4	Saggese & Associates, Las Vegas, NV	10-04-2019
Santiago v. Fischer	United States District Court, Eastern District of New York	09-CV-1383	Davis Polk & Wardwell, New York, NY	10-03-2019
Sisk/Golden v. Turner, M.D.	Circuit Court of Lee County Mississippi	CV18-046 (R) (L)	Wais Vogelstein Forman & Offutt, Baltimore, MD	10-02-2019
Huiett v. Trinity Industries, Inc.	Circuit Court of Lake County, Illinois	18L 00000741	Langdon & Emison, Lexington, MO	10-01-2019
Zalud v. HC Aurora, LLC., et al.	Circuit Court of the Sixteenth Judicial Circuit, Kane County, Illinois	13 L 570	Cogan & Power, Chicago, IL	10-01-2019

LIST OF CASES OVER THE LAST FOUR YEARS WHEREIN
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Case Name	Court	Case Number	Law Firm	Date
Baldassano v. Goetz, et al.	Circuit Court of Cook County, State of Illinois, 1st Municipal District - Law Division	17 L 63013	Carponelli Law Offices, Hoffman Estates, IL	09-30-2019
Jacobson v. Spectrum Health Primary Care Partners	State of Michigan, Circuit Court for the County of Kent	19-00978-NH	Buchanan & Buchanan, Grand Rapids, MI	09-30-2019
Ha v. Hong, M.D., et al.	Supreme Court of the State of New York, County of New York	805177/2014	Lynch Lynch Held Rosenberg, Hasbrouck Heights\NJ	09-27-2019
Pawson v. Susan Bennett, LLC	State of Illinois, Circuit Court of the Twenty-Third Judicial Circuit, DeKalb County, Illinois	2016 L 46	Burns Cronauer & Brown, Sycamore, IL	09-26-2019
Gallagher v. Midwest Orthopaedic Center, S.C., et al.	Circuit Court of the Tenth Judicial Circuit of Illinois, Peoria County	17 L 6	McNabola Law Group, Chicago, IL	09-26-2019
Banks v. Diaz, et al.	District Court, Clark County, Nevada	A-18-773248-C	Powell Law Firm, Las Vegas, NV	09-26-2019
Denniston v. BNSF Railway Company	Iowa District Court for Polk County	LACL134839	Atwood Holsten Brown Deaver & Spier, Lincoln\NE	09-25-2019
Mahaffey v. Union Pacific Railroad	Circuit Court of Ouachita County, Arkansas	52CV-17-186	Hubbell Law Firm, Kansas City, MO	09-19-2019
Lavelle III v. Illinois Bell Telephone Company	State of Illinois, Human Rights Commission	2007CN3494	McGrail & Associates, Loves Park\IL	09-18-2019
Smithers v. Phillips, M.D.	Commonwealth of Kentucky, Fayette Circuit Court, Division 7	16-CI-3702	Keith Law Office, Lexington, KY	09-18-2019
Winfield v. Metropolitan Hospital, et al.	State of Michigan, Circuit Court for the County of Kent	18-06748-NH	Buchanan & Buchanan, Grand Rapids, MI	09-16-2019
Gallagher v. Midwest Orthopaedic Center, S.C., et al.	Circuit Court of the Tenth Judicial Circuit of Illinois, Peoria County	17 L 6	McNabola Law Group, Chicago, IL	09-13-2019
Butcher v. Dineequity, Inc., et al.	District Court, 192nd Judicial District, Dallas County, Texas	DC-18-05700	Witherspoon Law Group, Dallas, TX	09-12-2019
Messeri v. University of Colorado, Boulder	United States District Court for the District of Colorado	18-CV-02658-WJM-SKC	Savela Law Firm, Boulder, CO	09-11-2019
Jones Farms v. Helena Chemical Company	State of Indiana, County of Harrison, Harrison Circuit Court	31C01-1512-PL-28	Moore & Malone, Owensboro\KY	09-09-2019
Huff, et al. v. AMR Corporation, et al.	Court of Common Pleas, Mahoning County, Ohio	2017 CV 02343	Engler Law Firm, Warren, OH	09-07-2019
Hudnut v. Adventist Midwest Health, et al.	Circuit Court of Cook County, Illinois, County Department - Law Division	2017-L-003732	McNabola & Associates, Chicago\IL	09-06-2019
Ludwig v. United States of America	United States District Court, Northern District of Illinois, Eastern Division	17 C 2943	Kralovec Jambois & Schwartz, Chicago, IL	09-04-2019
McNamara v. ICO Polymers North America, Inc., et al.	Circuit Court of Cook County, Illinois, County Department - Law Division	14-L-000819	Hendler Flores Law, Austin, TX	08-29-2019
Alonzo v. Kranzler, M.D., et al.	Circuit Court of Cook County, Illinois, County Department - Law Division	16 L 3895	Motherway & Napleton, Chicago, IL	08-26-2019
Koontz v. First Transit, Inc.	Superior Court of the State of Arizona, In and For the County of Maricopa	CV2017-090635	McGovern Law Offices, Phoenix, AZ	08-22-2019
Love, M.D. v. Medical College of Wisconsin, Inc.	United States District Court, Eastern District of Wisconsin	2:15-cv-00650-LA	Ruberry Stalmack & Garvey, Chicago, IL	08-22-2019
Gibson v. Pirelli Tire, et al.	Circuit Court of Benton County, Arkansas	04CV-17-2766	Langdon & Emison, Lexington, MO	08-21-2019
Brook, M.D., Ph.D. v. Peconic Bay Medical Center, et al.	Supreme Court of the State of New York, County of New York	650921/2012	Pryor Cashman, New York, NY	08-20-2019
Mangaras v. Geico Casualty Company	Circuit Court of the Twelfth Judicial Circuit, Will County, Illinois	17 L 001010	Allen Law Group, Valparaiso, IN	08-19-2019
Libby v. Medina, et al.	District Court, Clark County, Nevada	A-17-766067-C, Dept No. XXIV	Powell Law Firm, Las Vegas, NV	08-16-2019
Bryant v. Waukegan Illinois Hospital Company, et al.	19th Judicial Circuit Court, Lake County, IL	18 L 0000611	Geraci Law, Chicago, IL	08-16-2019
Ferry v. Shapero, DPM, et al.	Superior Court of New Jersey, Law Division - Middlesex County	MID-L-7150-16	Quinn Law Office, Red Bank, NJ	08-14-2019
Williams, et al. v. Chicago South Shore & South Bend Railroad, et al.	State of Indiana, County of Lake, Lake Circuit Court	45C01-1308-CT-124	Allen Law Group, Valparaiso, IN	08-12-2019
Wheaton College v. John	Circuit Court for the Eighteenth Judicial Circuit, DuPage County, Illinois	2013 L 1179	Stilp Business Law* Chicago, Il	08-07-2019
Watkins/Green v. United States of America	United States District Court, Northern District of Illinois, Eastern Division	18 C 4142	Cogan & Power, Chicago, IL	07-19-2019
Tutt-Crabtree v. Riley Love, et al.	Circuit Court of the Twelfth Judicial Circuit, Will County, Illinois	17 L 677	Suber & Associates, Chicago, IL	07-19-2019
Bangham v. Cabell, et al.	Circuit Court of Kanawha County, West Virginia	18-C-640	Cumbo Law Office, Inez, KY	07-18-2019

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Case Name	Court	Case Number	Law Firm	Date
Gerbasi v. Chicago Transit Authority	Circuit Court of Cook County, Illinois, County Department - Law Division	2016-L-8484	Grant Law* Chicago, IL	07-17-2019
Park v. Petranker	Superior Court of New Jersey, Law Division - Bergen County	BER-L-262-18	Lee Law Firm, Hackensack, NJ	07-15-2019
Jordan/Lee v. Silver Cross Hospital and Medical Centers, et al.	Circuit Court of Cook County, Illinois, County Department - Law Division	2015 L 002103	Cogan & Power, Chicago, IL	07-15-2019
Fenner v. Toyota Motor Corporation, et al.	District Court, Clark County, Nevada	A-17-757335-C, Dept No. 27	Olson Cannon Gormley Angulo & Stoberski, Las Vegas, NV	07-12-2019
Salazar v. ABC Automotive Investments, LLC.	United States District Court, District of Nevada	2:19-cv-00039-RFB-PAL	Haines & Krieger, Henderson, NV	07-11-2019
Handhal-Hasan v. Lee Canyon Ski Lifts, Inc., et al.	District Court, Clark County, Nevada	A-17-750487-C, Dept No. XIII	Simon Law, Las Vegas, NV	07-11-2019
Hankins v. Ragauskaite, M.D., et al.	Circuit Court of Cook County, Illinois, County Department - Law Division	16 L 2966	Motherway & Napleton, Chicago, IL	07-09-2019
Neufeld v. Capital Bank N.A.	United States District Court, Eastern District of California	1:18-cv-01012-LJO-SKO	Kazerouni Law Group, Arroyo Grande, CA	07-08-2019
Juve v. Premier Tech Technologies Ltd, et al.	United States District Court, District of Minnesota	17-cv-4545 (DWF/LIB)	Goldenberg Law, Minneapolis, MN	07-08-2019
Ilczyszyn v. Southwest Airlines Co., et al.	Superior Cour of California, County of Alameda	RG15766954	Balaban & Spielberger, Los Angeles\CA	07-03-2019
Huff, et al. v. AMR Corporation, et al.	Court of Common Please, Mahoning County, Ohio	2017 CV 02343	Engler Law Firm, Warren, OH	07-01-2019
Wade v. ArcelorMittal, et al.	Circuit Court of Cook County, Illinois, County Department - Law Division	16 L 11769	Rubino Ruman Crosmer & Polen, Dyer, IN	07-01-2019
Dunlap v. ArcelorMittal, et al.	Circuit Court of Cook County, Illinois, County Department - Law Division	16 L 11548	Motherway & Napleton, Chicago, IL	07-01-2019
Allen v. Cumberland County, et al.	United States District Court for the District of New Jersey, Camden Vicinage	1:15-cv-06273 (JBS/AMD)	Benedetto Law Office, Philadelphia, PA	06-27-2019
Dent v. Gewerth, et al.	District Court, Clark County, Nevada	A-17-751695-C, Dept No. XIV	Powell Law Firm, Las Vegas, NV	06-26-2019
Hudnut v. Adventist Midwest Health, et al.	Circuit Court of Cook County, Illinois, County Department - Law Division	2017-L-003732	McNabola & Associates, Chicago, IL	06-24-2019
Cocuzza v. Vecchione, D.D.S., et al.	Superior Court of New Jersey, Law Division - Morris County	MRS-L-1983-16	Lynch Lynch Held Rosenberg, Hasbrouck Heights, NJ	06-20-2019
Charette v. Vecchione, D.D.S., et al.	Superior Court of New Jersey, Law Division - Morris County	MRS-L-2497-17	Lynch Lynch Held Rosenberg, Hasbrouck Heights, NJ	06-20-2019
Steinberg v. Vecchione, D.D.S., et al.	Superior Court of New Jersey, Law Division - Morris County	MRS-L-2032-16	Lynch Lynch Held Rosenberg, Hasbrouck Heights, NJ	06-20-2019
Davino v. Vecchione, D.D.S., et al	Superior Court of New Jersey, Law Division - Morris County	MRS0L-1984-16	Lynch Lynch Held Rosenberg, Hasbrouck Heights, NJ	06-20-2019
Nieswand v. Vecchione, D.D.S., et al	Superior Court of New Jersey, Law Division - Morris County	MRS-L-1981-16	Lynch Lynch Held Rosenberg, Hasbrouck Heights, NJ	06-20-2019
Boyle v. Vecchione, D.D.S., et al.	Superior Court of New Jersey, Law Division - Morris County	MRS-L-1878-16	Lynch Lynch Held Rosenberg, Hasbrouck Heights, NJ	06-20-2019
Doyle v. Vecchione, D.D.S., et al.	Superior Court of New Jersey, Law Division - Morris County	MRS-L-1868-16	Lynch Lynch Held Rosenberg, Hasbrouck Heights, NJ	06-20-2019
Jarolem v. Vecchione, D.D.S., et al.	Superior Court of New Jersey, Law Division - Morris County	MRS-L-1867-16	Lynch Lynch Held Rosenberg, Hasbrouck Heights, NJ	06-20-2019
Wernau v. Vecchione, D.D.S., et al.	Superior Court of New Jersey, Law Division - Morris County	MRS-L-1866-16	Lynch Lynch Held Rosenberg, Hasbrouck Heights, NJ	06-20-2019
Benfield v. Vecchione, D.D.S., et al.	Superior Court of New Jersey, Law Division - Morris County	MRS-L-1862-16	Lynch Lynch Held Rosenberg, Hasbrouck Heights, NJ	06-20-2019
DelGrosso v. Vecchione, D.D.S., et al.	Superior Court of New Jersey, Law Division - Morris County	MRS-L-1393-16	Lynch Lynch Held Rosenberg, Hasbrouck Heights, NJ	06-20-2019
Baglieri v. New Jersey Manufacturers Insurance, et al.	Superior Court of New Jersey, Law Division - Bergen County	BER-L-3927-17	Seigel Law, Ridgewood, NJ	06-17-2019

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Case Name	Court	Case Number	Law Firm	Date
Mars v. BNSF Railroad Company	District Court of Oklahoma County, State of Oklahoma	CJ-2017-6097	Hubbell Law Firm, Kansas City, MO	06-17-2019
C.R. England, Inc., et al. v Abdi	Northern District of Illinois, Western Division	17 CV 50152	McNeely Stephenson* Shelbyville, IN	06-14-2019
Huff, et al. v. AMR Corporation, et al.	Court of Common Please, Mahoning County, Ohio	2017 CV 02343	Engler Law Firm, Warren, OH	06-14-2019
Boyd v. Autozone West, LLC	District Court, Clark County, Nevada	A-17-765517-C, Dept. No II	Saggese & Associates, Las Vegas, NV	06-11-2019
Morris v. Equifax Information Services, LLC, et al.	United States District Court, District of Nevada	2:18-cv-01829-JAD-GWF	Haines & Krieger, Henderson, NV	06-07-2019
Ruiz v. Diaz, M.D., et al.	Superior Court of New Jersey, Law Division - Hudson County	HUD-L-1177-17	Gill & Chamas, Howell, NJ	06-06-2019
Cramer v. Equifax Information Services, LLC.	United States District Court, Eastern District of Missouri, Eastern Division	4:18-cv-1078	Goldsmith Law Office, Rocky River, OH	06-04-2019
Caruso v. PBR Rock, LLC., et al.	District Court, Clark County, Nevada	A-17-776385-C, Dept No. II	Close Law Group, Henderson, NV	06-03-2019
Gross v. FCA US LLC, et al.	Circuit Court of Cook County, Illinois, County Department - Law Division	2016-L-007623	Langdon & Emison, Lexington, MO	05-30-2019
Mejia v. Valley Health Holdings, LLC., et al.	District Court, Clark County, Nevada	A-17-751096-C, Dept No. XVII	Paternoster Law Group, Las Vegas, NV	05-28-2019
Lemperle v. Avis Rent a Car Systems, LLC., et al.	United States District Court, District of Nevada	2:18-cv-00202-JCM-CWH	Powell Law Firm, Las Vegas, NV	05-28-2019
Landess v. DeBiparshad, M.D., et al.	District Court, Clark County, Nevada	A-18-776896-C, Dept No. 24	Howard & Howard, Las Vegas, NV	05-24-2019
Stratman v. Farris, et al.	District Court, Clark County, Nevada	A-18-767754-C, Dept No. 27	Powell Law Firm, Las Vegas, NV	05-23-2019
Schwab v. Ford Motor Company	United States District Court, District of Delaware	1:18-cv-00184 RGA	Lanier Law Firm, Houston, TX	05-22-2019
Salomone v. Advocate Health and Hospitals Corporation	Circuit Court of Cook County, Illinois, County Department - Law Division	2016 L 005457	Slavin & Slavin, Chicago, IL	05-21-2019
Guida v. Brown	Circuit Court of St. Charles County, Missouri, Circuit Judge Division	1711-CC00811	Bradley Law, Louisiana, MO	05-20-2019
Hinshaw/Johnson v. OSF Healthcare System, et al.	Eleventh Judicial Circuit Court of Livingston County, Illinois, Law Division	16 L 11	McNabola & Associates, Chicago, IL	05-20-2019
Moore v. Joe Tex, Inc., et al.	District Court, 62nd Judicial District, Franklin County, Texas	12363	Grossman Law Offices, Dallas, TX	05-17-2019
Arvidson v. Buchar	Superior Court of the Virgin Islands, Division of St. Thomas & St. John	410 / 2016	Kreamer Law Office, Naperville, IL	05-16-2019
Flores, et al. v. Ramirez, et al.	District Court of Harris County, Texas, 189th Judicial District	2017-74379	Grossman Law Offices, Dallas, TX	05-14-2019
Legiec v. Playcore Inc., et al.	Superior Court of New Jersey, Law Division - Middlesex County	MID-L-6217-17	Gill & Chamas, Perth Amboy, NJ	05-13-2019
Andrades v. Menard, Inc.	Circuit Court of Cook County, Illinois, County Department - Law Division	2017 L 000671	Argionis & Associates, Chicago, IL	05-03-2019
Errant Gene Therapeutics LLC v. Sloan-Kettering Institute for Cancer Research, et al.	Supreme Court of the State of New York, County of New York	150856/2017	McCue Sussmane Zapfel Cohen & Youbi, New York, NJ	05-01-2019
Birnbaum v. CentraState Medical Center, et al.	Superior Court of New Jersey, Law Division, Monmouth County	MON-L-4723-14	Lomurro Law, Freehold, NJ	04-30-2019
Schweer v. Diaz, et al.	District Court, Clark County, Nevada	A-17-766063-C, Dept no. 27	Powell Law Firm, Las Vegas, NV	04-26-2019
Rivo USA Co., LTD. V. Arro Corporation	United States District Court, Northern District of Illinois, Eastern Division	17cv08513-VMK-JC	Holmes Law Group, Chicago, IL	04-26-2019
Doe v. Colgate University	United States District Court, Northern District of New York	5:17-cv-1298 (FJS/ATB)	Nesenoff & Miltenberg, New York, NY	04-25-2019
Mrkalj v. Swedish Convenant Hospital, et al.	Circuit Court of Cook County, Illinois, County Department - Law Division	16 L 7992	McNabola & Associates, Chicago, IL	04-23-2019
Pappas v. Ford Motor Company, et al.	Superior Court of New Jersey, Law Division, Middlesex County	L-5811-16	Guajardo & Marks, Dallas, TX	04-23-2019
Zavala v. Richardson, et al.	District Court, Clark County, Nevada	A-17-749760-C, Dept No. II	Powell Law Firm, Las Vegas, NV	04-17-2019
McFarland v. Rinella, M.D.	Circuit Court of Will County, Illinois	16 L 988	Motherway & Napleton, Chicago, IL	04-15-2019
Swiech v. Birhanu, M.D., et al.	Circuit Court of Cook County, Illinois, County Department - Law Division	16 L 004271	Power Rogers & Smith, Chicago, IL	04-15-2019
Doe, et al. v. Macomb Community Unit School District No. 185, et al.	United States District Court for the Central District of Illinois, Rock Island Division	1:18-cv-01072-SLD-JEH	Fierberg National Law Group, Traverse City, MI	04-05-2019
Simon v. Riverside Health System, Inc., et al.	Circuit Court of Cook County, Illinois, County Department - Law Division	16 L 003077	Motherway & Napleton, Chicago, IL	04-05-2019

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Case Name	Court	Case Number	Law Firm	Date
Barajas v. Delnor Community Hospital, et al.	Circuit Court of the Sixteenth Judicial Circuit, Kane County, Illinois	13 L 40	Cogan & Power, Chicago\IL	04-04-2019
Gaguancela v. BJ's Wholesale Club, Inc. etal	Superior Court of New Jersey, Law Division - Middlesex County	MID-L-3824-16	Gill & Chamas, Perth Amboy, NJ	04-03-2019
Gildein v. Birky	State of Indiana, Porter County Superior Court	64D01-CT-006021	Martz & Lucas, Valparaiso, IN	04-02-2019
Walsh/Shane v. Koren, M.D., et al.	Superior Court of New Jersey, Law Division: Camden County	CAM-L-1617-16	Lynch Lynch Held Rosenberg, Hasbrouck Heights, NJ	04-01-2019
Das v. Kenny Construction Company, et al.	Circuit Court of Cook County, Illinois, County Department - Law Division	14 L 13186	Morici Figlioli & Associates, Chicago, IL	03-28-2019
Ottens v. Starcon International, Inc.	Circuit Court of Cook County, Illinois, County Department - Law Division	17 L 3697	Shannon Law Group, Woodridge, IL	03-27-2019
Adams v. May Trucking Co., et al.	Circuit Court of the First Judicial Circuit, Williamson County, Illinois	17-L-33	Langdon & Emison, Lexington, MO	03-26-2019
TSR Landmark, LLC., et al. v. International Plaza Owner's Association	Circuit Court of the Eighteenth Judicial Circuit, DuPage County, Illinois	2015 L 000569	Kreamer Law Office, Naperville, IL	03-26-2019
Kane v. Hill, et al.	Circuit Court of Cook County, Illinois, County Department - Law Division	11 L 10329	Loggans & Associates, Chicago, IL	03-25-2019
Celio v. American Family Insurance Company	State of Illinois, Uninsured Motorist Action	NA	Ryan Ryan & Landa, Chicago, IL	03-21-2019
Jones Farms v. Helena Chemical Company	State of Indiana, County of Harrison, Harrison Circuit Court	31C01-1512-PL-28	Moore & Malone, Owensboro, KY	03-20-2019
Gerbasi v. Chicago Transit Authority	Circuit Court of Cook County, Illinois, County Department - Law Division	2016-L-8484	Grant Law, Chicago, IL	03-20-2019
Saenz-Quintana v. Mora-Diaz, et al.	District Court, Clark County, Nevada	A-17-760888-C, Dept No. 12	Powell Law Firm, Las Vegas, NV	03-19-2019
Gulick v. Schreiber, Costel & Bryant PLLC	Jefferson Circuit Court, Division Six	15-CI-004456	Oldfather Law Firm, Louisville, KY	03-19-2019
Walther v. Majeed, et al.	Circuit Court of Cook County, Illinois, County Department - Law Division	2015 L 10267	Truglio & Associates, Chicago, IL	03-18-2019
Black v. Grant County Public Utility District	United States District Court, Eastern District of Washington	2:17-cv-00365-RMP	Earl & Earl, Boise, ID	03-13-2019
Longobardi v. Kaskel, M.D., et al.	Circuit Court of Cook County, Illinois, County Department - Law Division	16 L 10339	Cogan & Power, Chicago, IL	03-13-2019
Wise v. Red Star Expedite, Inc., et al.	Commonwealth of Kentucky, Shelby Circuit Court	16-CI-00321	Sitlinger & Theiler, Louisville, KY	03-12-2019
Petite v. Martin	District Court, Clark County, Nevada	A-17-750181-C	Powell Law Firm, Las Vegas, NV	03-11-2019
Hospedales v. DuPage Medical Group, LTD	Circuit Court of Cook County, Illinois, County Department - Law Division	16 L 9158	Lane & Lane, Chicago, IL	03-11-2019
Ayala/Muniz v. Lemons, et al.	United States District Court, District of Nevada	2:18-CV-00511-GMN-PAL	Powell Law Firm, Las Vegas, NV	03-08-2019
Rollo v. Flores, et al.	District Court, Clark County, Nevada	A-17-749017-C, Dept No. VII	Ladah Law firm, Las Vegas, NV	03-05-2019
Warner v. Sheridan Agatite, LLC., et al.	Circuit Court of Cook County, Illinois, County Department - Law Division	2016 L 010989	McNabola & Associates, Chicago, IL	03-05-2019
Maher v. Hackensack University Medical Center	Superior Court of New Jersey, Law Division - Bergen County	BER-L-001350-16	Shaw Law Office, Ft. Lee\NJ	03-04-2019
Obremski v. Advocate Christ Medical Center, et al.	Circuit Court of Cook County, Illinois, County Department - Law Division	2016-L-000627	Konicek & Dillon, Geneva, IL	03-01-2019
Varebrook v. Tisdall, M.D., et al.	District Court of Bexar County, Texas, 225th Judicial District	2017CI06007	Krebs Law Office, Austin\TX	02-28-2019
Ilahi v. Sebert Landscaping Company	Circuit Court of the Cook County Judicial Circuit, Cook County, Illinois	16 L 4742	Salvi & Maher, Waukegan, IL	02-27-2019
Gilmore v. Stamford Hospital, et al.	Superior Court J.D. of Fairfield at Bridgeport	FBT-CV16-6058665-S	Skiber Law Office, Norwalk, CT	02-27-2019
"Andy" v. Big Brothers Big Sister of America, Inc.	Third Judicial District Court, Salt Lake County, State of Utah	170901382	Marsh Law Firm, White Plains, NY	02-25-2019
Curry v. Brown, et al.	Circuit Court of Cook County, Illinois, County Department - Law Division	16 L 009946	Wolfman Law Office, Chicago, IL	02-21-2019
Lilley/Zeches v. Ek Lian Tan, et al.	District Court, Clark County, Nevada	A-17-749596-C, Dept No. XVIII	Powell Law Firm, Las Vegas, NV	02-20-2019
Santiago v. Fischer	United States District Court, Eastern District of New York	09-CV-1383	Davis Polk & Wardwell, New York, NY	01-30-2019
Strbac v. CT Mechanical, LLC, et al.	Circuit Court of Cook County, Illinois County Department - Law Division	16 L 7256	Curcio Law Offices, Chicago, IL	01-30-2019
Guzman/Jaramillo-Guzman v. Estate of Michael Don Tavis Dennis, et al.	District Court, Clark County, Nevada	A-16-748252-C, Dept No. VII	Bighorn Law, Las Vegas, NV	01-28-2019

LIST OF CASES OVER THE LAST FOUR YEARS WHEREIN
STAN V. SMITH HAS TESTIFIED AS OF 9/7/2022

Case Name	Court	Case Number	Law Firm	Date
Gregory v. Lexington Center Corporation	Commonwealth of Kentucky, Fayette Circuit Court, Division 4	14-CI-3891	O'Bryan Brown & Toner, Louisville, KY	01-28-2019
Cooley v. Power Construction Company, et al.	Circuit Court of Cook County, Illinois, County Department - Law Division	15 L 008626	O'Reilly Law Office, Chicago, IL	01-25-2019
Cochran, et al. v. Nevada Property 1, et al.	District Court, Clark County, Nevada	A687601, Dept No. 24	Eglet Prince, Las Vegas, NV	01-24-2019
Lambert v. Bliss, et al.	Circuit Court of Cook County, Illinois, County Department - Law Division	16 L 001043	Conway & Mrowiec, Chicago, IL	01-22-2019
Zorick v. ASV, Inc., et al.	State of Indiana, County of Porter, Porter Superior Court, Sitting at Valparaiso, Indiana	64D01-1705-CT-004454	Allen Law Group, Valparaiso, IN	01-21-2019
Heatherly, III v. Integrated Airline Services, Inc., et al.	Circuit Court of Cook County, Illinois, County Department - Law Division	17 L 4549	Shannon Law Group, Woodridge, IL	01-17-2019
Abdalla, et al. v. Jewish Hospital, et al.	Commonwealth of Kentucky, 30th Judicial Circuit Court, Jefferson Circuit Court, Division Nine (9)	16-CI-02929	Morris & Player, Louisville, KY	01-17-2019
Levi/Mitchell v. Thomas	District Court, 17th Judicial District, Tarrant County, Texas	017-287211-16	Washington Law Office, Dallas, TX	01-16-2019
Williams v. Kumho Tire Co. Inc., et al	Circuit Court for Jefferson County, Arkansas	CV-2014-360-2	Langdon & Emison, Lexington, MO	01-14-2019
Kieckhaefer v. Roscoe Township	State of Illinois, Circuit Court of the 17th Judicial Circuit, Winnebago County	14 L 194	Klein Stoddard Buck Lewis, Sycamore, IL	01-11-2019
Valencia v. U.S. Bank National Association	United States District Court for the Southern District of Iowa, Central Division	4:18-cv-00056	Duff Law Firm, West Des Moines, IA	01-10-2019
Martin v. Robertson	State of Indiana, County of Lake, Lake Superior Court, Sitting at Hammond, Indiana	45D01-1803-CT-00060	Hilbrich Law Office, Highland, IN	01-09-2019
Johnson v. Toyota Motor Corporation, et al.	Circuit Court of Cook County, Illinois, County Department - Law Division	16 L 9558	Langdon & Emison, Lexington, MO	01-09-2019
Capuano v. Roshi, et al.	Circuit Court of Cook County, Illinois, County Department - Law Division	15 L 12727	Motherway & Napleton, Chicago, IL	01-08-2019
Isaaq v. The Village3 of Niles, et al.	Circuit Court of Cook County, Illinois, County Department - Law Division	16 L 004710	Nemeroff Law Office, Chicago, IL	01-08-2019
Carter v. Chelich, D.O.	Circuit Court of Cook County, Illinois, County Department - Law Division	2017 L 004046	Cogan & Power, Chicago, IL	01-07-2019
Parmaksiz v. SVAP Hoffman Plaza, LP, et al.	Circuit Court of Cook County, Illinois, County Department - Chancery Division	2016 CH 014315	Paris Law Firm, Chicago, IL	01-04-2019
Ledet v. Capanna, M.D.	District Court, Clark County, Nevada	A-15-712091-C, Dept No. XXI	Eglet Prince, Las Vegas, NV	01-04-2019
Cortez v. FedEx Ground Package System, Inc.	44th Judicial District Court, Dallas County, Texas	DC-17-06463	Grossman Law Offices, Dallas, TX	12-21-2018
Benavides, Jr. v. Holland Community Hospital, et al.	State of Michigan in the Circuit Court for the County of Ottawa	17-5138-NH	Buchanan & Buchanan, Grand Rapids, MI	12-17-2018
Ripley v. Shankar, M.D., et al.	Circuit Court of the First Judicial Circuit, Jackson County, Illinois	16-L-78	Womick Law Firm, Carbondale, IL	12-13-2018
Ibach v. Cho, et al.	Circuit Court of Cook County, Illinois, County Department - Law Division	14 L 10446	McNabola & Associates, Chicago, IL	12-12-2018
Vesely v. Walsh Construction Company of Illinois, Inc.	Circuit Court of Cook County, Illinois, County Department - Law Division	15 L 004250	Morici Figlioli & Associates, Chicago, IL	12-12-2018
Gallagher v. Midwest Orthopaedic Center, S.C., et al.	Circuit Court of the Tenth Judicial Circuit of Illinois, Peoria County	17 L 6	McNabola Law Group, Chicago, IL	12-11-2018
Lisboa v. Stocker III, et al.	Circuit Court for Jackson County, Missouri at Independence	1816-CV00467	Langdon & Emison, Lexington, MO	12-10-2018
Torres, et al. v. Brown, et al.	United States District Court, District of Arizona	3:17-cv-08217 PCT-JAT	Lerner Injury Attyorney, Las Vegas, NV	12-10-2018
Roberts v. CCRP/AG BOFA Plaza Owner, LLC, et al.	District Court, Clark County, NV	A-15-713245-C, Dept No. VII	Maier Gutierrez & Associates, Las Vegas, NV	12-07-2018
Zdravich v. Agave Azul Authentic Mexican Restaurant 3 LLC	State of Indiana, County of Tippecanoe, Tippecanoe Circuit Court	79C01-1708-CT-000142	Oldfather Law Firm, Louisville, KY	12-07-2018
Bell v. Zarnke, M.D., et al.	Circuit Court of the 17th Judicial Circuit, Winebago County, Illinois	15 L 0206	Ryan Ryan & Landa, Chicago, IL	12-06-2018
Watson/Ransom/Jones v. Texas-Cola Leasing Co., et al.	District Court, Tarrant County, TX	352-290806-17	Washington Law Office, Dallas\TX	12-05-2018
Watson/Ransom/Jones v. Texas-Cola Leasing Co., et al.	District Court, Tarrant County, TX	352-290806-17	Washington Law Office, Dallas, TX	12-04-2018
Jones/Lofton v. Sheykholeslami, M.D., et al.	State of Illinois, Circuit Court of the 17th Judicial Circuit, County of Winnebago	2013-L-69	Taxman Pollock Murray & Bekkerman, Chicago, IL	12-04-2018
Cardinali, et al. v. Plusfour, Inc., et al.	United States District Court, District of Nevada	2:16-cv-02046-JAD-NJK	Haines & Krieger, Henderson, NV	12-03-2018
Adams v. University of Indianapolis	United States District Court for the Southern District of Indiana, Indianapolis Division	1:17-CV-02101-WTL-MJD	Betz & Blevins, Indianapolis, IN	11-30-2018

LIST OF CASES OVER THE LAST FOUR YEARS WHEREIN
STAN V. SMITH HAS TESTIFIED AS OF 9/7/2022

Case Name	Court	Case Number	Law Firm	Date
Hespe v. The City of Chicago, et al.	United States District Court for the Northern District of Illinois, Eastern Division	13 C 7998	Herbert Law Firm, Chicago, IL	11-29-2018
Meeks v. Dissanayake, M.D.	Circuit Court of Cook County, Illinois County Department - Law Division	15 L 11535	Loggans & Associates, Chicago\IL	11-29-2018
Thoroughman v. Wisconsin Central, Ltd.	United States District Court, Western District of Wisconsin	15-CV-74	Lipkin & Higgins, Chicago, IL	11-28-2018
Ruettiger v. Lincoln-Way Area Special Education District 843, et al.	Circuit Court of the Twelfth Judicial Circuit, Will County, Illinois	16 L 0539	Allen Law Group, Valparaiso\IN	11-28-2018
Adair/Veytsman v. State Farm Mutual Automobile Insurance Company, et al.	United States District Court, District of Nevada	2:17-cv-00421-RFB-CWH	Powell Law Firm, Las Vegas, NV	11-27-2018
E&I Holdings, Inc. v. Coral Springs Eggs and I, LLC, et al.	United States District Court for the District of Colorado	17-cv-02377-WJM-STV	NOVA IP Law, Gainesville, VA	11-21-2018
King v. Desert Palace, Inc., et al.	District Court, Clark County, Nevada	A-13-691609-C, Dept No. XIV	Gentile Cristalli Miller Armeni Savarese, Las Vegas\NV	11-21-2018
King v. Desert Palace, Inc., et al.	District Court, Clark County, Nevada	A-13-691609-C, Dept No. XIV	Gentile Cristalli Miller Armeni Savarese, Las Vegas\NV	11-20-2018
Wise v. Red Star Expedite, Inc., et al.	Commonwealth of Kentucky, Shelby Circuit Court	16-CI-00321	Sitlinger & Theiler, Louisville, KY	11-16-2018
Strbac v. CT Mechanical, LLC, et al.	Circuit Court of Cook County, Illinois County Department - Law Division	16 L 7256	Curcio Law Offices, Chicago, IL	11-14-2018
Watson/Ransom/Jones v. Texas-Cola Leasing Co., et al.	District Court, Tarrant County, TX	352-290806-17	Washington Law Office, Dallas, TX	11-13-2018
Watson/Ransom/Jones v. Texas-Cola Leasing Co., et al.	District Court, Tarrant County, TX	352-290806-17	Washington Law Office, Dallas, TX	11-12-2018
Griffin v. Warren Ball, et al.	Circuit Court of Cook County, Illinois County Department - Law Division	17 L 2740	Motherway & Napleton, Chicago, IL	11-09-2018
Riley v. City of Chicago, et al.	Circuit Court of Cook County, Illinois County Department - Law Division	17 L 246	Langdon & Emison, Chicago, IL	11-08-2018
Shah v. Bernstein, et al.	Eighth Judicial District Court, Clark County, Nevada	A-15-723496-C, Dept No. XIII	Padda Law, Las Vegas, NV	11-07-2018
Bowens/Allen v. Vitale, M.D., et al.	Superior County of New Jersey, Law Division: Bergen County	L-7014-16	Lynch Lynch Held Rosenberg, Hasbrouck Heights, NJ	11-07-2018
Lloyd/Watson v. Cumberland County, et al.	United States District Court for the District of New Jersey, Camden Vicinage	1:16-cv-03503 JBS-AMD	Benedetto Law Office, Philadelphia, PA	11-06-2018
Hennis v. Cumberland County, et al.	United States District Court for the District of New Jersey, Camden Vicinage	1:16-cv-03503 JBS-AMD	Benedetto Law Office, Philadelphia, PA	11-06-2018
Wilson/Lewis v. Cumberland County, et al.	United States District Court for the District of New Jersey, Camden Vicinage	1:16-cv-03503 JBS-AMD	Benedetto Law Office, Philadelphia, PA	11-06-2018
Sanchez v. Samrith, et al.	District Court, Clark County, Nevada	A-17-751126-C, Dept No. XXX	Powell Law Firm, Las Vegas, NV	11-05-2018
Orr, Jr. v. T. Burns, Ltd., et al.	Circuit Court of Jackson County, Missouri at Kansas City	1816-CV01412, Division 17	Langdon & Emison, Lexington, MO	11-05-2018
Colon-Montoya v. Mahari, et al.	District Court, Clark County, Nevada	A-16-746156-C, Dept No. XVIII	Powell Law Firm, Las Vegas, NV	11-01-2018
Colvin, et al. v. Baptist Healthcare System, Inc., et al	Jefferson Circuit Court, Division Twelve	17-CI-001894	Oldfather Law Firm, Louisville, KY	10-31-2018
Ocampo-Trujillo/Nunez v. Ali, et al.	District Court, Clark County, Nevada	A-15-728995-C, Dept No. I	Powell Law Firm, Las Vegas, NV	10-23-2018
Stoch v. Sid Harvey Industries, Inc. et al.	Circuit Court of Cook County, Illinois, County Department - Law Division	2015 L 010602	Sinson Law Group, Chicago, IL	10-23-2018
Bartels v. Silver Cross Hospital and Medical Centers, et al.	Circuit Court of the Twelfth Judicial Circuit, Will County, Illinois	2018 L 000328	McNabola Law Group, Chicago, IL	10-22-2018
Quinlan v. Alvarez, et al.	District Court, Clark County, Nevada	A-17-754682-C, Dept No. XV	Naqvi Injury Law, Las Vegas, NV	10-22-2018
Johnson/Toth v. White River Health System Inc., et al.	Circuit Court of Independence County, Arkansas, Civil Division	CV-2012-026-2	Wilcox Lacy, Jonesboro\AR	10-19-2018
Bartolo v. Whole Foods Market, Inc.	United States District Court for the District of Columbia	17-cv-1453 (APM)	Branch & Associates, Washington, DC	10-18-2018
Lilley/Zeches v. Ek Lian Tan, et al.	District Court, Clark County, Nevada	A-17-749596-C, Dept No. XVIII	Powell Law Firm, Las Vegas, NV	10-17-2018
Hinojosa v. United Parcel Service, Inc.	Circuit Court of Cook County, Illinois, County Department - Law Division	13 L 7549	Bashford Law Group, Glenview, IL	10-16-2018
Allenson v. Starbucks Corporation	Circuit Court of Cook County, Illinois, County Department - Law Division	16 L 4034	Cogan & Power, Chicago, IL	10-15-2018
Nichols v. Staley, et al.	Circuit Court of Cook County, Illinois, County Department - Law Division	2016 L 6671	Dinizulu Law Group, Chicago, IL	10-11-2018

LIST OF CASES OVER THE LAST FOUR YEARS WHEREIN
STAN V. SMITH HAS TESTIFIED AS OF 9/7/2022

Case Name	Court	Case Number	Law Firm	Date
Aye/Hnin v. Ford Motor Company, et al.	Missouri Circuit Court, Sixth Judicial Circuit, Platte County	17AE-CC00422	Langdon & Emison, Lexington, MO	10-11-2018
Malone, et al. v. Moe, et al.	Eighth Judicial District Court, Clark County, Nevada	A-16-734167-C, Dept No. XXI	Bighorn Law, Las Vegas, NV	10-09-2018
Taylor v. Berger, M.D., et al.	Circuit Court of Cook County, State of Illinois, County Department - Law Division	15 L 9086	Motherway & Napleton, Chicago\IL	10-09-2018
Vaseemuddin v. County of Cook, et al.	United States District Court, Northern District of Illinois, Eastern Division	14 C 2995	Kreamer Law Office, Naperville\IL	10-03-2018
Snyder v. Bank of America, N.A., et al.	United States District Court, Northern District of California	15-cv-042228-EDL	Pamela Snyder Pro Se, San Francisco, CA	10-01-2018
Farmer, et al. v. Las Vegas Metropolitan Police Department, et al.	United States District Court, District of Nevada	2:17-cv-01946-JCM-PAL	Marquis Aurbach Coffing* Las Vegas, NV	09-28-2018
Cavazos v. Paschal Enterprises LLC, et al.	88th Judicial District Court of Hardin County, Texas	57455	Grossman Law Offices, Dallas, TX	09-28-2018
Chappell v. Joey's Inc., et al.	District Court, Clark County, Nevada	A-17-752231-C, Dept No. XXX	Eglet Prince, Las Vegas, NV	09-27-2018
Confessore v. AGCO Corporation, et al.	Superior Court of New Jersey, Law Division - Monmouth County	MON-L-797-14	Gill & Chamas, Perth Amboy\NJ	09-26-2018
Romero v. Club 390 Corp, et al.	Circuit Court of Cook County, Illinois, County Department - Law Division	2016-L-006872	Cochran Firm, Chicago, IL	09-24-2018
Tran v. NDL Group, Inc., et al.	Eighth Judicial District Court, Clark County, Nevada	A-16-740978-C, Dept X	Nguyen & Associates, Las Vegas, NV	09-21-2018
Ballard/Chapman v. Swartz, M.D., et al.	Superior Court of New Jersey, Law Division - Ocean County	OCN-L-761-16	Escandon Fernicola Anderson & Covelli, Allenhurst, NJ	09-19-2018
Trahanas v. Northwestern University, et al.	United States District Court for the Northern District of Illinois, Eastern Division	1:15-cv-11192	DeRose & Associates, Hinsdale, IL	09-17-2018
Tracy v. Lake County Neurosurgery, et al.	Circuit Court of Cook County, Illinois, County Department - Law Division	09 L 14156	McNabola Law Group, Chicago\IL	09-17-2018
Garcia-Alvarez v. Lopez-Acosta, et al.	Eighth Judicial District Court, Clark County, Nevada	A-16-743595-C, Dept No. I	Lerner Injury Attorneys, Las Vegas, NV	09-14-2018
Ayala v. Young, et al.	District Court, Clark County, Nevada	A-16-747753-C, Dept No. IV	Powell Law Firm, Las Vegas, NV	09-14-2018
Briggs v. IAP Worldwide Services, Inc., et al.	United States District Court for the Eastern District of Virginia, Alexandria Division	18-cv-00982-AJT-TCB	Jarrard Law Office, Spokane, WA	09-13-2018
Lessert v. BNSF Railway Company	United States District Court, District of South Dakota, Western Division	5:17-cv-5030-JLV	Hubbell Law Firm, Kansas City, MO	09-11-2018
Sanchez-Tolentino v. Vasquez III, et al.	District Court, Clark County, Nevada	A-16-746-163-C, Dept No. XIII	Powell Law Firm, Las Vegas, NV	09-10-2018

CERTIFICATE OF SERVICE

This is to certify that a true and exact copy of the foregoing document and supporting exhibits were filed electronically on the 9th day of September, 2022, via the Court's electronic filing system and notice of this filing will be sent to all Parties by operation of the Court's electronic filing system.

/s/ Marc Zemel
Marc Zemel (pro hac vice)
Attorney for Plaintiffs

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

In re: WELLS FARGO FORBEARANCE SETTLEMENT LITIGATION	Case No.: 2:24-cv-01026-MHW-EPD Judge Michael H. Watson Magistrate Judge Elizabeth A. Preston Deavers DECLARATION OF HON. ANDREW GUILFORD (RET.) [REFILED]

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

BRIAN ECHARD, on behalf of himself and all others similarly situated, Plaintiff, v. WELLS FARGO BANK, N.A., Defendant.	Case No.: 2:21-cv-05080-MHW-KAJ Judge Michael H. Watson Magistrate Judge Kimberly A. Jolson

DECLARATION OF HON. ANDREW GUILFORD (RET.) IN SUPPORT OF MOTION FOR PRELIMINARY APPROVAL OF SETTLEMENT

I, Andrew J. Guilford, declare:

I am over the age of eighteen years, am of sound mind, and am competent to make this statement. I have personal knowledge of the facts set forth below, which are true and correct.

I served as mediator and assisted the parties in the above-captioned matter in reaching the terms of the Settlement Agreement currently placed before this Court in Plaintiffs' Motion for Preliminary Approval.

I served as a U.S. District Judge for the Central District of California from 2006 to 2020. I sat by assignment on the Ninth Circuit and Federal Circuit Courts of Appeals. Before becoming a judge, I was a trial attorney for over 30 years, and was elected to the American College of Trial Lawyers. I served as President of the State Bar of California from 1999 to 2000. Since leaving the bench, I have worked full time providing private arbitration and mediation services at Judicate West. Attached is a true and correct copy of my resume.

During my work as a private lawyer, trial judge, appellate judge, arbitrator, and mediator, I have worked on or presided over numerous consumer and banking class actions. This includes

reviewing and approving many dozens of class action settlements in my role as a U.S. District Judge.

I understand that questions have been raised about the process that resulted in the Settlement Agreement by counsel for plaintiffs in a competing class action. Thus, I offered to provide the Court with a declaration testifying to the skill and preparation of counsel and the vigorously contested settlement negotiations between the parties.

The contested nature of the negotiations is shown by, among other things, the length of the mediation process. It took four full-day sessions with me before the parties executed a term sheet containing the material terms of the proposed settlement in late July 2020. The mediation process took well over six months, from the time the parties retained my services, through negotiations and production of informal discovery, and culminating in the four mediation sessions with me. The dates of these sessions were April 6, 2022, April 28, 2022, May 18, 2022, and July 19, 2022.

During these sessions, counsel for both parties were extremely well prepared and vigorously represented the interests of their clients -- so much so that I wondered whether the parties would ultimately be able to reach a settlement. Plaintiffs' counsel were extremely well prepared for the mediation sessions, having submitted extensive briefing that reflected legal and expert analysis. Plaintiffs' counsel were professional and demonstrated a deep knowledge of the case and experience in negotiating settlements for consumer classes.

Because of the privileged nature of mediation, I cannot comment on the specifics of the negotiations, but I can testify that the mediation was arm's-length and hard fought. I observed nothing during the mediation consistent with collusion among the parties or their counsel. The

parties vigorously negotiated both monetary and non-monetary terms. The parties' and their counsel's conduct in the mediation sessions was beyond reproach.

When the parties' negotiations stalled during the May 18, 2022 mediation session, I resorted to making a mediator's proposal, including the $94 million settlement amount currently before the Court, that I believed was fair, given the strengths and risks of the case. Both parties accepted the mediator's proposal. Even then, the parties needed a fourth mediation session with me on July 19, 2022 and another six weeks of negotiations to finalize all details of the Settlement Agreement and that settlement is currently before the Court for preliminary approval.

The Settlement Agreement reflects a fair resolution of the case. As I explained to the parties, a fair settlement is one that balances the risks and interests that both parties face in the litigation, as well as other interests. Continued litigation would eventually favor one party or another, but I believe the parties' vigorous mediation negotiations helped establish a fair present value of the case.

I used my experience as a litigator, judge, mediator, and arbitrator to recommend to the parties a $94 million gross settlement amount, which represents a fair settlement value of this case at this time, given the competing strengths of the parties' positions, their risks, and their interests.

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct.

Executed this 7th day of September 2022 in Trabuco Canyon, California,

s/ Andrew J. Guilford
HON. ANDREW J. GUILFORD (RET.)

THE HONORABLE ANDREW J. GUILFORD
UNITED STATES DISTRICT JUDGE, RET.

Now serving as a Neutral for Judicate West. Sworn in as United States District Judge on July 7, 2006 following Senate Confirmation on June 22, 2006. Sat by designation with the Federal Circuit Court of Appeals and Ninth Circuit Court of Appeals. Served as a Patent Pilot Program Judge.

EDUCATION

UCLA, A.B. Summa Cum Laude, Regents Scholar, Phi Beta Kappa, 1972; UCLA, J.D., 1975, Law Review

PROFESSIONAL ACTIVITIES

President, State Bar of California, 1999 - 2000
President, Orange County Bar Association, 1991
President, Association of Business Trial Lawyers of Orange County, 2000 - 2001
President, Public Law Center, 2004 - 2006
President, Howard T. Markey Intellectual Property American Inn of Court, 2013 - 2015
President of the District Judges Association 2017 - 2019
Fellow, American College of Trial Lawyers, elected 1992
Dean's Advisory Council, University of California, Irvine, School of Law
Board of Visitors, Chapman University School of Law
Bishop's Committee, St. John's Episcopal Church 2017- 2020
State Bar Commission on Access to Justice, 2008 - 2013
Board of Directors, Federal Bar Association, 2001 -
Judicial Conference Committee on Codes of Conduct, 2011 - 2017
Adjunct Professor, UC Irvine School of Law, 2013 -
Contributing Editor, The Rutter Group's Federal Civil Procedure Before Trial

PROFESSIONAL EMPLOYMENT

Sheppard, Mullin, Richter & Hampton, Associate and Partner, 1975 - 2006
Extern for Justice Lester Roth, 1974, and Research Assistant for Professor Jesse Dukeminier, 1974

OTHER HONORS

Selected five times by Daily Journal as one of California's Top 100 Attorneys; Selected as one of 50 "Best Lawyers in Orange County"; Selected as one of "Best Lawyers in America"; Selected as a "Southern California Super Lawyer" 2004, 2005, 2006; Honored by UCI School of Law as a "True Founder of the School of Law", OC Trial Lawyers Association as Business Litigation Trial Lawyer of the Year, the Orange County Bar Association with its Franklin G. West Award, the Judicial Council with its Bernard E. Witkin Amicus Curiae Award, the Anti-Defamation League with its Jurisprudence Award, the J. Reuben Clark Society with its J. Reuben Clark Award, the Orange County Asian American Bar Association with its Judicial Excellence Award, the Poverty Law Center with its Outstanding Service Award, the Orange County Hispanic Bar Association with its Judge of the Year Award, the LAIPLA with its Distinguished Public Service Award, the Orange County Federal Bar Association with its Judge Alicemarie H. Stotler Award, the Orange County Intellectual Property Law Association with its Distinguished Judge Award, and the American Inns of Court with its Professionalism Award.

PERSONAL

Married since 1973 to Loreen Guilford. Daughter Dr. Amanda Murray is a psychologist. Daughter Colleen Zamm is a teacher and member of the California Bar. Proud Grandfather of a grandson and two granddaughters.

REPRESENTATIVE CLIENTS AND CASES

Lead counsel for: City of Anaheim in a trial to remove "Los Angeles" *from the name of the Angels baseball team; Beckman Coulter in a federal trademark trial and a patent case involving capillary electrophoresis; Wells Fargo Bank in numerous trials on financial matters; Reggie Jackson in assorted state and federal cases on contract claims; Alcatel in a variety of state and federal cases on intellectual property; Cottonwood Christian Center to obtain an injunction protecting rights under the Constitution and RLUIPA.*

May 2022	Mediating Patent and Trade Secret Disputes (LAIPLA)
May 2022	The Changing Diversity Landscape (OCBA)
March 2022	Fun Times in Federal Court (OCBA)
March 2022	Romeo, Juliet, and the Case of Friar Tuck (UC Irvine, UC Berkeley, San Francisco)
September 2021	Our Constitution (Concordia University)
September 2021	Concurrent Litigation and Jurisdictional Competition (UC Berkeley)
May 2021	Heart and Mind (Daniel's Inn)
March 2021	Et Tu Brute? – Shakespeare Trial (UC Irvine, UC Berkeley & Stanford Law)
February 2021	Ethical Conduct (Trinity Law School)
January 2021	Supreme Court Update (FBA/OC)
October 2020	Remote Mediation (Musick Peeler & Garrett)
October 2020	Born in the USA – Birthright Citizen (Federal Society)
August 2020	Virtual Mediations in the Time of COVID (OCBA Commercial law and Bankruptcy Section Meeting)
June 2020	Patents and COVID (Markey Inn of Court)
February 2020	Judicial Perspective (Federalist Society)
January 2020	International Symposium on Judicial Enforcement of Intellectual Property (Beijing, China)
October 2019	Best Practices in IP Litigation (Berkeley-Tsinghua Transnational IP Litigation Conference (Berkeley)
August 2019	So, You Want to be a Judge? (Calif. Lawyers Assoc. Litigation Section/San Francisco
May 2019	Another Side to the Infield Fly Rule (13 FIU L. Rev. 939
April 2019	European Patent Tour
April 2019	Charting a Path for Federal Judicial Reform (Berkeley)
March 2019	Best Practices in Patent Litigation (The Sedona Conference/Philadelphia
February 2019	Supreme Court Perspective (FBA/OC)
January 2019	Patent Case Management Conference (FJC/Wilmington, Delaware)
November 2018	The Supreme Court and the Constitution St. John's Episcopal Church)
November 2018	Federalism and Textualism on Judicial Review (Chapman IP Society)
October 2018	Patents in the United States (Int'l IP Court Conference/South Korea)
October 2018	Patents in the Southern Division (Chapman IP Society)
October 2018	Patents in the United States (Int'l IP Court Conference/South Korea)
August 2018	Pickiness and Proclivities in Picking Juries (OCBA Business Litigation Section Meeting)
June 2018	Reviewed Adjudicators: The Challenges (Federal Circuit Bench & Bar Conference/Coronado)
May 2018	Intellectual Property: The Role of Juries in Patent Cases (Bench & Bar Conference/Delaware)
April 2018	What Do Judicial Officers Really Think of IP Cases (DRI Conference/Denver)
March 2018	Frontier of IP Litigation: Perspectives from the Bench (USC School of Law)
March 2018	What is my IP Worth: Issues That Make a Difference (Rogers College of Law, Arizona)
February 2018	Is it OK to Lie in Mediation? (Pepperdine/Straus American Inn of Court/Los Angeles)
January 2018	How to Litigate Data Privacy, Security Breach Class Action Suits (Practising Law Institute/SF)
December 2017	Insights on Patent Trial and Litigation Issues (Advanced Patent Law Institute/Stanford)
December 2017	Patent Trial Best Practices (Daily Journal/Beverly Hills)
October 2017	Orange County - At the Cutting Edge of the Civil Rights Movement (Chapman Law School)
October 2017	Current Issues in IP Law (ABA-IPL/Long Beach)

October 2017	Managing the Need for Expedited Relief in Motion Practice (ABTL/Carlsbad)
September 2017	General Counsel & The Courts (FBA/Stanford Law School)
July 2017	Judicial Ethics Update-Dealing with the Digital Age (8th Circuit/N. Dakota)
June 2017	The History of the Association of Business Trial Lawyers, Orange County Chapter (ABTL/OC)
May 2017	Judicial Ethics Update-Dealing with the Digital Age (11th Circuit/Federal Judicial Center/Georgia)
May 2017	Continuing Evaluation of Patent Litigation in the Post-AIA World (LAIPLA/Del Mar)
May 2017	A Case Study from the Watergate Prosecutions: The Perils of Ex Parte Communication (FBA/OC)
May 2017	Searching for Justice: Place, PAE, and Policy (Patent Symposium/Stanford)
March 2017	Finding God in "Silence" (Lenten Series)
March 2017	Intellectual Property Issues (LAIPLA/Michel IP Inn of Court)
February 2017	Preserving the Trust: Ethics and Federal Judges (Federal Judicial Center/Redondo Beach)
January 2017	Lessons on the Perils of Ex Parte Communication (Federal Judicial Center/Tucson)
October 2016	Stanford Law School Symposium Honoring Judge Whyte (FBA/Stanford Law School)
September 2016	Courtrooms, Advocates, and Patents (OCBA IP/Technology Section)
September 2016	Deposition Do's and Don'ts (OCBA Business Litigation Section)
August 2016	Professionalism Under Our Constitution (Chapman Law School)
July 2016	A Summertime Search for God in Baseball Movies: "42" (Church Series)
June 2016	New Federal Rules for a New Frontier (Rutter/San Francisco/Los Angeles)
May 2016	Patent Litigation in the Biosciences Circa 2016: A View from the Bench (Stanford Law School)
February 2016	Finding God in "A Man for All Seasons" (Epiphany Series)
February 2016	U.S. Supreme Court Review (FBA/OC)
January 2016	Keynote Speech: The "Rules of Law" Making (OCPLA/LAIPLA/LaQuinta)
October 2015	E-Discovery Insights (ED Texas Bench Bar/Plano)
October 2015	IP Adjudication and Trade Development (FCBA/Shanghai)
September 2015	Step Aside: Time to Drop the IFR and End a Common Law Anomaly (Penn L. Rev. Vol. 164)
September 2015	Civil Procedure Before Trial (Rutter)
June 2015	Appellate Review (Fed. Cir. Bar Assn/Dana Point)
June 2015	Ten New "Magic Tricks" for Federal Practice (Rutter)
May 2015	Mediation in Patent Litigation (OCBA IP Section)
April 2015	IP and Entertainment: What IP Looks Like in Federal Court (UCLA/FBA)
March 2015	Finding God in "2001: A Space Odyssey" (Lenten Series)
February 2015	Patent Panel: Institutional Challenges Facing the Federal Circuit (LAIPLA/Michel IP Inn of Court)
January 2015	Ethics: Recusal Issues (Federal Judicial Center/Tucson)
January 2015	How Has the AIA Affected Patents and Innovation? (Federalist Society/Reagan Library)
January 2015	Preserving the Trust: Ethics and Federal Judges (Federal Judicial Center/Los Angeles)
November 2014	US-China IP Conference (Loyola Law School)
October 2014	Modern Headings to Head Readers the Right Way (Daily Journal)
October 2014	The American Patent System (Guangzhou Intermediate People's Court)
September 2014	The Meaning of Myriad (UCI Patent Conference)
September 2014	Preserving the Trust: Ethics and Federal Judges (Federal Judicial Center/Redondo Beach)
September 2014	Trial Advocacy (ABTL)

August 2014	Hot Topics in Judicial Ethics (Federal Judicial Center/Seattle)
May 2014	Ethics and Federal Judges (Federal Judicial Center/San Francisco)
May 2014	Patent Disputes Forum (Thompson West/Daily Journal)
May 2014	A View From the Bench: Best Practices in Proof (Litigation Counsel of America IP Institute)
April 2014	Litigating Patent Eligibility in a Changing Legal Climate (Howard T. Markey IP Inn of Court)
April 2014	Residential Mortgage Litigation & Regulatory Enforcement ((American Conference Institute/DC)
March 2014	New Pathways in Patent Litigation (USC IP Institute)
January 2014	Get to the Cutting Edge: IP Strategies from Start-Up to Going Global (AIPLA/Arizona)
January 2014	The Ethical and Moral Issues of Lying (Christian Legal Society)
December 2013	Advanced Forum on Patent Litigation (American Conference Institute/New York)
October 2013	The Rule of Law and Patents (Shanghai Consulate/China)
September 2013	The Lost Art of Mentoring (ABTL)
July 2013	Mentoring Program (OCBA)
July 2013	Ethics and Federal Judges (Federal Judicial Center/San Diego)
July 2013	Getting In and Out of Federal Court (Rutter)
June 2013	Trial Court Perspective (Federal Circuit Bar/Colorado Springs)
June 2013	Patent Pilot Program Panel (Southern District of California)
May 2013	Ethics and Federal Judges (Ninth Circuit/San Francisco)
April 2013	Advanced Complex Litigation Series (FBA/FCBA)
March 2013	Ethics and Federal Judges (Federal Judicial Center)
February 2013	Patent Panel: Best Practices (LAIPLA/Michel IP Inn of Court)
January 2013	Lawsuits Challenging Tenure (Federalist Society/Reagan Library)
January 2013	The Ethics of Negotiations (ADR Section)
November 2012	Tips for Employment Lawyers (Labor & Employment Section)
September 2012	Does Your Technology Meet the Jury's Expectations? (ABTL/Kauai)
September 2012	The Art of Closing (OCBA)
March 2012	Changes in Patent Litigation (USC IP Institute)
March 2012	Patent Panel: Best Practices (LAIPLA/Michel IP Inn of Court)
February 2012	IP Program: Procedures as Prologue (FBA/OC)
February 2012	Judicial Perception of Patents (Whittier Law School)
February 2012	Judging (BYU Management Society)
July 2011	Grading the Bar Exam: A Debate on Compulsory Licensing for Lawyers (Federalist Society)
June 2011	Innovation and the Courts (Federal Circuit Bar/Key Biscayne)
June 2011	Ethical Views from the Outside (Department of Justice/South Carolina)
May 2011	Litigating in the Busiest Patent Forums in the Country (GW Law School/Washington, DC)
April 2011	Local Patent Rules in the Central District of California (LAIP Inn of Court)
March 2011	Global-Tech Case (LAIPLA/Michel IP Inn of Court)
February 2011	Writing Right (USC Law School)
December 2010	Cutting-Edge Patent Litigation Issues (UT School of Law/Palo Alto)
November 2010	Legal writing: A Contract Between the Reader and Writer (Cal Bar Journal)
November 2010	Patent Damages (NAPABA)

November 2010	IP Damages (Cal CPA)
October 2010	Orange County Intellectual Property Roundtable (OCIP)
September 2010	Patent View from the Benches (Michel IP Inn of Court)
September 2010	Ethics in the Future (State Bar/Monterey)
September 2010	To Tell the Truth (Friday Friars)
July 2010	Writing Right: New Riffs on an Old Melody (FBA)
July 2010	The Supreme Court 2010 (Moderated a panel with Ken Starr and Erwin Chemerinsky) (ACTL)
June 2010	Pro Bono Advocacy (Federal Circuit Bar/Colorado Springs)
May 2010	Preliminary Remedies and Relief in Federal Courts (FBA)
February 2010	Judging and the Legal Profession (UCI)
January 2010	The Truth (Calvary Chapel)
December 2009	Effective Litigation Procedures and Practices (Advanced Patent Law Institute/Palo Alto)
November 2009	Truth Telling Today (Pacific Club)
October 2009	Why Did My Opponent File That Motion? (OCTLA/ABOTA)
October 2009	The Great Cultural Divide: Interpreting Our Legal System (ABTL/Colorado Springs)
September 2009	Sources of Uncertainty in Patent Litigation (Santa Clara Law School/Santa Clara)
June 2009	Closing Argument in a Patent Case (Michel IP Inn of Court)
June 2009	Home Run Motions in Federal Court (Rutter)
May 2009	The Ethical and Moral Issues of Lying (J. Reuben Clark Law Society)
February 2009	Honing Words – the Weapons in Your Arsenal, and the Tools of Your Trade (OCBA)
January 2009	Reliable Authority in the Digital Age (Ninth Circuit)
September 2008	Voir Dire for the Complex Case (ABTL/Hawaii)
July 2008	Cross Examination (FBA)
June 2008	Ethics in Time of Change (Federal Circuit Bar/Monterey)
May 2008	Jury Consultants (HBA/OCBA/Puerto Vallarta)
May 2008	How to Win Your Case Without Losing Your Shirt (ACCA)
March 2008	A View of Experts (FEWA)
November 2007	Advocacy and Summary Judgment (Chapman Law School)
November 2007	Broussard Ethics Program (Banyard Inn of Court)
July 2007	The Legal System: Good and Bad (Center Club)
November 2006	Reliable Authority - Steak, Sausage or Super-Duper (ABTL)
Spring 2005	Mocking Juries (Cal. Lit., Vol. 18)
March 2005	Writing Right (Brain) (Daily Journal)
March 2005	Remedies for Angels (Whittier Law School)
February 2005	Class Actions (CLE)
February 2005	Ethics (ALA)
January 2005	Multijurisdictional Practice (ABA)
July 2004	Professionalism & Civility (OCBA)
November 2003	Hot Topics in Environmental Law (LACBA)
July 2003	Ethical Quagmires – How To Avoid Getting Stuck (OCBA)
June 2003	Recent Developments in Multijurisdictional Practice Law (ACCA)

SELECTED LECTURES AND PUBLICATIONS CONTINUED

March 2003	Preparing for Trial (The Rutter Group)
March 2003	Navigating the Ethical Quandaries of the Typical IP Practice (Whittier Law School)
November 2002	Federal Appellate Advocacy (Appellate Law Section)
October 2002	Taking & Defending Effective Depositions (OCBA)
September 2002	Multijurisdictional Practice: Building Bridges Or Barriers? (ACCA)
July 2002	Director & Officer Liability (CEB)
April 2002	The Lawyer's Image in Society (Chapman Law School)
February 2002	Creativity in Brief Writing (Appellate Law Section)
Winter 2002	Federal Frolics (Cal. Lit., Vol. 14)
October 2001	Experts and Juries (ABTL)
June 2001	Persuasive Legal Writing (OCBA)
March 2001	Law and Economics: In Pursuit of God and Mammon (Clark Law Society)
February 2001	Y2K Presidential Election: Lessons for Litigators (ABTL)
October 2000	Pro Bono and Professionalism (Legal Aid)
October 2000	Paralegals and Professionalism (OCPA)
1999-2000	Over 100 speeches and articles as State Bar President on topics including ethics, professionalism, the State Bar, multidisciplinary practice, multijurisdictional practice, and pro bono work.
October 1999	Legal Ethics for Corporate Counsel (ACCA)
October 1999	Jury Communications (Legion Lex Inn of Court)
May 1998	Top Gun Closing Argument (OCBA)
May 1998	Liability of Executives (UCLA EMBA)
January 1998	Resolving the Complex Case (JAMS/ENDISPUTE)
July 1997	Preparing the Competitive Business Case (CEB)
March 1997	First Amendment, Church and State (CRF-OC)
April 1996	Bankruptcy Mediation (O.C. Bankruptcy Forum)
March 1995	Federal Court Practice (Riverside Inn of Court)
February 1995	ADR: Pros and Cons (Comm. Law & Bankruptcy Section)
October 1994	Legal Liability of Executives (Directors' Group)
September 1994	Bankruptcy and Non-Bankruptcy Courts Interplay (FBA/Bankruptcy Forum)
September 1994	Arbitration: Can It Be Artful Rather Than Arbitrary? (Financial Practice Section)
November 1993	Jury Selection, Art or Science? (Legion Lex Inn of Court)
June 1993	Summary Judgment and Adjudication (Rutter Group)
April 1992	Resolving Commercial Disputes in the 90's (Rutter Group)
October 1991	Forensic Accounting (OCBA)
September 1991	Civil Trials Symposium (Rutter Group)
May 1991	Use of Paralegals (Cal. Paralegals Assn.)
October 1990	Unfair Competition (Rutter Group)
February 1990	Competitive Business Practices (CEB)
September 1988	Delay Reduction Rules: "The Good, the Bad and the Ugly" (State Bar)
September 1988	The Death of Contracts (Business Lit. Section)

SELECTED LECTURES AND PUBLICATIONS CONTINUED

May 1988	Justice for Sale (Business to Business)
January 1988	The Fundamentals of Advocacy/Settlement (Hastings)
October 1987	Contracts – Dead or Alive (Bus. & Corp. Cnsl. Section)
October 1986	Lender Liability (Bankers' Compliance Group)
April 1986	Civil Procedure Before Trial (Rutter Group)
October 1985	Getting Results in Law & Motion (Rutter Group)
July 1985	Alternative Dispute Resolution (CEB)
February 1985	Summary Judgments and Dismissals (Rutter Group)
October 1984	Successful Discovery (Rutter Group)
June 1984	Negotiating Civil Settlements (CEB)
March 1984	Civil Practice (Rutter Group)
July 1983	Unfair Business Practices (Business Lit. Sec.)
May 1983	Multi-Party Litigation (Rutter Group)
October 1982	Leverage of Negotiations: Tactics Fair & Foul (Business Lit. Section)
May 1979	Partnership Litigation (CEB)
September 1978	Civil Litigation (CEB)
1974 - 1975	Comments and Notes (UCLA Law Review)

CERTIFICATE OF SERVICE

This is to certify that a true and exact copy of the foregoing was filed electronically on the 28th day of October, 2024, via the Court's electronic filing system and notice of this filing will be sent to all Parties by operation of the Court's electronic filing system.

/s/ Alyssa Koepfgen
Alyssa Koepfgen
Attorney for Echard Plaintiffs

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

In re: WELLS FARGO FORBEARANCE SETTLEMENT LITIGATION	Case No.: 2:24-cv-01026-MHW-EPD Judge Michael H. Watson Magistrate Judge Elizabeth A. Preston Deavers DECLARATION OF BRIAN ECHARD [REFILED]

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

BRIAN ECHARD et al., Plaintiffs, v. WELLS FARGO BANK, N.A., Defendant.	Case No.: 2:21-cv-05080-MHW-KAJ Judge Michael H. Watson Magistrate Judge Kimberly A. Jolson DECLARATION OF BRIAN ECHARD SUPPORTING PLAINTIFFS' MOTIONS FOR PRELIMINARY APPROVAL AND APPOINTMENT OF CLASS REPRESENTATIVES AND CLASS COUNSEL

I, Brian Echard, declare the following on the basis of personal knowledge to which I am competent to testify:

1. My primary residence is my home in Westerville, Ohio, which secured a September, 2016 mortgage from Wells Fargo, backed by the Department of Veterans Affairs. Wells Fargo also serviced my mortgage.

2. In July of 2020, I first learned that Wells Fargo had placed my mortgage in forbearance when I sought to refinance the loan but was unable to because of the forbearance. I did not knowingly consent to or request forbearance. I later learned that Wells Fargo placed my mortgage in forbearance in April 2020 and Wells Fargo claims that it did this based on my activity on Wells Fargo's website in early April 2020. I did log into Wells Fargo's website in early April 2020, but I did not knowingly sign up for forbearance. In fact, I made a mortgage payment in early April 2020, on the same day Wells Fargo claims I requested forbearance.

3. In the summer of 2020, I received multiple confusing letters from Wells Fargo related to the status of my mortgage, and Wells Fargo failed to apply several of my monthly payments in 2020 and 2021. By December 1, 2020, my FICO Score 8 dropped by at least 74 points, and while I was eventually able to refinance after an extensive effort, the unwanted forbearance prevented me from qualifying for the best refinancing terms.

4. I contacted Knoll Lowney in early 2021 for assistance with Wells Fargo's unsolicited forbearance of my mortgage. I had not seen reports of how widespread Wells Fargo's unsolicited forbearance program was, but based on my background in the banking industry, and the nature of Wells Fargo's website and communications with me, I anticipated that many other homeowners were experiencing similar problems. I knew Mr. Lowney from my experience as a class member and volunteer witness in a class action against Chase Bank, where I submitted written testimony about the banking experience of active duty servicemembers and veterans to support my fellow class members. From that experience, I knew that Mr. Lowney and his firm have a fantastic level of responsiveness and attentiveness to their clients and that they would be very receptive to my feedback and concerns. I did not reach out to any other lawyers to represent me, and I was unaware of any other cases over Wells Fargo's forbearances. Apparently, the law firm Keller Rohrback was also involved with the Chase Bank case, but I do not recall having any interaction or direct communication with anyone from that firm in my work on the Chase case.

5. In this case, I again worked closely with Smith & Lowney by providing detailed records of my mortgage and mortgage statements, proof of payments, documentation of my refinance attempts being denied, credit history, and communications with Wells Fargo; preparing a declaration to defend against Wells Fargo's attempt to dismiss the case; informing and reviewing pleadings; consulting with the lawyers throughout the litigation; and monitoring and providing input and decision-making on mediation and settlement.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed this 10th day of April 2024, in Westerville, Ohio.

Brian Echard

CERTIFICATE OF SERVICE

This is to certify that a true and exact copy of the foregoing was filed electronically on the 28th day of October, 2024, via the Court's electronic filing system and notice of this filing will be sent to all Parties by operation of the Court's electronic filing system.

/s/ Alyssa Koepfgen
Alyssa Koepfgen
Attorney for Echard Plaintiffs

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

IN RE WELLS FARGO COVID FORBEARANCE SETTLEMENT LITIGATION	Case No.: 2:24-cv-01026-MHW-EPD Judge Michael H. Watson Magistrate Judge Elizabeth A. Preston Deavers DECLARATION OF HEATHER SHIMP

I, Heather Shimp, declare the following on the basis of personal knowledge to which I am competent to testify:

1. I am a named plaintiff in this action and a Class Representative as defined in the Settlement Agreement.

2. In June of 2020, I first learned that Wells Fargo had placed my mortgage into forbearance when I sought to obtain a new mortgage for another home. I was rejected by the lender, who informed me that my Wells Fargo mortgage was in forbearance, unbeknownst to me. I later learned that Wells Fargo placed my mortgage into forbearance in April 2020, claiming that it did so based on my activity on Wells Fargo's website in early April 2020. I did not knowingly sign up for forbearance, either on Wells Fargo's website or over the phone. Once I learned that I was in a forbearance, I immediately began trying to get Wells Fargo to undo what they had done, ultimately getting out of the forbearance a couple months later in June 2020.

3. My involvement in this case began in November 2021.

4. Since that time, I have worked with the attorneys at Smith & Lowney to provide assistance whenever needed.

5. For example, I undertook extensive review of my own records and did work to obtain records from third parties regarding my mortgage with Wells Fargo as well as the aftermath of being wrongfully placed into forbearance. I compiled and provided all the documents related to my mortgage, including the mortgage itself, statements, and many letters from Wells Fargo. I had to reach out to the lender with whom I applied for a new mortgage to request a copy of the letter they sent me to inform me that they could not approve my loan because my Wells Fargo account was in forbearance. I looked through my emails and text messages, as well as the texts and emails of my husband, to find additional relevant records. I also reviewed my journal entries from the relevant time period.

6. I evaluated and approved proposals made by my attorneys in the context of mediation. I made myself available for telephone calls during these various mediation sessions in case my approval during the session was necessary.

7. I also generally monitored the course of this litigation via updates from my attorneys through emails and phone calls.

Executed this 20th day of October, 2024, in Las Vegas, NV_____.

Heather Shimp

Heather Shimp

CERTIFICATE OF SERVICE

This is to certify that a true and exact copy of the foregoing was filed electronically on the 28th day of October, 2024, via the Court's electronic filing system and notice of this filing will be sent to all Parties by operation of the Court's electronic filing system.

/s/ Alyssa Koepfgen
Alyssa Koepfgen
Attorney for Plaintiffs

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

In re: WELLS FARGO FORBEARANCE SETTLEMENT LITIGATION	Case No.: 2:24-cv-01026-MHW-EPD Judge Michael H. Watson Magistrate Judge Elizabeth A. Preston Deavers DECLARATION OF PATRICIA FOLEY

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

BRIAN ECHARD, HEATHER SHIMP, and PATRICIA FOLEY *on behalf of themselves and all others similarly situated*, Plaintiffs, v. WELLS FARGO BANK, N.A., Defendant.	Case No.: 2:21-cv-05080-MHW-KAJ Judge Michael H. Watson Magistrate Judge Kimberly A. Jolson DECLARATION OF PATRICIA FOLEY

I, Patricia Foley, declare the following on the basis of personal knowledge to which I am competent to testify:

1. I am a named plaintiff in this action and a Class Representative as defined in the Settlement Agreement.

2. In early 2020, I contacted Wells Fargo to ask about COVID-19 payment relief for my mortgage. I was told I would likely qualify, and that Wells Fargo would get back to me. I did not consent to being placed into forbearance on that call. I later learned that Wells Fargo placed my mortgage into forbearance in April 2020, claiming that it did so based on my activity on Wells Fargo's website in early April 2020. I did not knowingly sign up for forbearance, either on Wells Fargo's website or over the phone. I learned that my account was in forbearance when I attempted to obtain another loan and was denied due to my account being in forbearance. Once I learned I was in forbearance, I began contacting Wells Fargo to get my account taken out of forbearance. I even made at least one payment during my forbearance period.

3. My involvement in this case began in December 2022.

4. Since that time, I have worked with the attorneys at Smith & Lowney to provide assistance whenever needed.

5. For example, I undertook extensive review of my own records. I compiled and provided all the documents related to my mortgage, including the mortgage itself, statements, and letters from Wells Fargo. I answered questions from my attorneys via phone calls and email about my experience with Wells Fargo and the consequences of the wrongful forbearance. I also took notes on my calls with Wells Fargo, and I looked through those as well.

6. I also generally monitored the course of this litigation via updates from my attorneys through emails and phone calls.

Executed this 8th day of April, 2024, in _[City and State] Killeen, TX.

s/
Patricia Foley

CERTIFICATE OF SERVICE

This is to certify that a true and exact copy of the foregoing was filed electronically on the 28th day of October, 2024, via the Court's electronic filing system and notice of this filing will be sent to all Parties by operation of the Court's electronic filing system.

/s/ Alyssa Koepfgen
Alyssa Koepfgen
Attorney for Echard Plaintiffs