

**IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS, EASTERN DIVISION**

JOSEPH DUNN, HELEN IEHL, ALBERT)	
PIETERSON, JOHN HASTINGS, WINDIE)	
BISHOP, LISA BARNES, ANGELA GARR,)	No. 17-cv-00481
and MYESHA PRATHER individually and on)	
behalf of a class of similarly situated individuals,)	
)	
<i>Plaintiffs,</i>)	
)	Hon. Manish S. Shah
v.)	
)	
WELLS FARGO BANK, N.A.,)	
)	
<i>Defendant.</i>)	

**ORDER PRELIMINARILY APPROVING CLASS ACTION SETTLEMENT
AGREEMENT, DIRECTING NOTICE OF PROPOSED CLASS SETTLEMENT, AND
SCHEDULING A FINAL APPROVAL HEARING**

This matter having come before the Court on Plaintiffs’ Unopposed Motion for Preliminary Approval of Class Action Settlement (the “Motion”), the Court having reviewed in detail and considered the Motion, the Class Action Settlement Agreement (“Settlement Agreement”) between Plaintiffs Joseph Dunn, Helen Iehl, Albert Pieterston, John Hastings, Windie Bishop, Lisa Barnes, Angela Garr, Myesha Prather and Defendant Wells Fargo Bank, N.A. (together, the “Parties”), and all other papers that have been filed with the Court related to the Settlement Agreement, including all exhibits and attachments to the Motion and the Settlement Agreement,

IT IS HEREBY ORDERED AS FOLLOWS:

1. Capitalized terms used in this Order that are not otherwise defined herein have the same meaning assigned to them as in the Settlement Agreement.
2. It appears to the Court on a preliminary basis that the Settlement Agreement is likely to be found fair, adequate, and reasonable. It appears to the Court that adequate investigation

and research has been conducted such that counsel for the parties at this time are able to reasonably evaluate their respective positions. It further appears to the Court that settlement, at this time, will avoid substantial additional costs by all parties, as well as avoid the delay and risks that would be presented by the further prosecution of the Action. It further appears that the Settlement Agreement has been reached as the result of intensive, serious, and arms-length negotiations with the help of highly respected mediators, including the Honorable James F. Holderman (Ret.) of JAMS and Hunter Hughes, Esq.

3. The Court preliminarily finds that the Settlement Agreement appears to be within the range of reasonableness of a settlement that could ultimately be given final approval by this Court. Indeed, the Court has reviewed the monetary recovery that is being granted as part of the settlement and preliminarily finds that the monetary settlement awards made available to all putative class members are fair, adequate, and reasonable when balanced against the potential outcomes of further litigation.

4. For purposes of settlement only, the Court finds that the prerequisites for class action under Federal Rules of Civil Procedure 23(a) and 23(b)(3) have been preliminarily satisfied. The Court finds that the Class is so numerous that joinder of all Class Members is impracticable; Plaintiffs' claims are typical of the Class' claims; there are questions of law and fact common to the Class, which predominate over any questions affecting only individual Class Members; and class certification is superior to other available methods for the fair and efficient adjudication of the controversy. For purposes of settlement only, the Court hereby orders that notice issue to the following Class:

All persons

a. who were users or subscribers to a wireless or cellular telephone service within the

United States to which Wells Fargo made or initiated any Call in connection with the collection or servicing of a mortgage or home equity loan, credit card account, retail installment sale contract for an automobile, automobile loan, overdraft on a deposit account, student loan, or in connection with a fraud alert on a credit card or deposit account, using any automated dialing technology or artificial or prerecorded voice technology;

- b. who were not customers of Wells Fargo at the time of the Call; and,
- c. who were Called between January 20, 2013 and the entry of the Preliminary Approval Order for Calls placed in connection with automobile loans or fraud alerts on credit cards or deposit accounts; between September 18, 2014 and the entry of the Preliminary Approval Order for Calls placed in connection with credit card accounts; between December 20, 2015 and the entry of the Preliminary Approval Order for Calls placed in connection with student loans or overdrafts on deposit accounts; between March 1, 2016 and the entry of the Preliminary Approval Order for Calls placed in connection with mortgages or home equity loans; or between April 1, 2016 and the entry of the Preliminary Approval Order for Calls placed in connection with retail installment sale contracts for automobiles.
- d. Excluded from the Class are Defendant, any affiliate or subsidiary of Defendant, any entities in which such companies have a controlling interest, the Court and staff to whom this case is assigned, and any member of the Court's or staff's immediate family.

5. Plaintiffs Joseph Dunn, Helen Iehl, Albert Pieterston, John Hastings, Windie Bishop, Lisa Barnes, Angela Garr, and Myesha Prather are hereby preliminarily appointed and designated as Class Representatives.

6. The Court preliminarily appoints the following counsel to serve as Class Counsel on behalf of Plaintiffs and the Settlement Class: Myles McGuire, Evan M. Meyers and Eugene Y. Turin of McGuire Law, P.C.; Jonathan D. Selbin and Daniel M. Hutchinson of Lieff Cabraser Heimann & Bernstein, LLP; and Daniel C. Girard and Angelica M. Ornelas of Girard Sharp LLP.

7. The Court finds that the Plaintiffs and Class Counsel have and will fairly and adequately represent and protect the interests of the absent members of the Settlement Class in accordance with Rule 23 of the Federal Rules of Civil Procedure.

8. Class Counsel is authorized to act on behalf of Class Members with respect to all acts or consents required by, or which may be given pursuant to, the Settlement Agreement, and

such other acts reasonably necessary to consummate the Settlement Agreement. Any Class Member may enter an appearance through counsel of his or her own choosing and at his or her own expense. Any Class Member who does not enter an appearance or appear on his or her own will be represented by Class Counsel.

9. The Court approves, in form and content, the Short Form Notice, the Long Form Class Notice, and the Publication Notice attached to the Settlement Agreement as Exhibits 3, 4, and 5, respectively, and finds that they meet the requirements of Fed. R. Civ. P. 23 and satisfy Due Process. The Long Form Notice shall be posted on the Settlement Website.

10. The Court finds that the Notice Plan as set forth in the Settlement Agreement meets the requirements of Fed. R. Civ. P. 23 and constitutes the best notice practicable under the circumstances, including direct individual notice by mail to Settlement Class Members where feasible and publication notice by internet banner ads and print publication, and satisfies fully the requirements the Federal Rules of Civil Procedure, the U.S. Constitution, and any other applicable law, such that the Settlement Agreement and Final Order and Judgment will be binding on all Settlement Class Members. In addition, the Court finds that no notice other than that specifically identified in the Settlement Agreement is necessary in this action. The Parties, by agreement, may revise the Class Notice and Claim Form in ways that are not material, or in ways that are appropriate to update those documents for purposes of accuracy or formatting

11. Epiq Systems, Inc. is hereby appointed Settlement Administrator to supervise and administer the notice process, as well as to oversee the administration of the Settlement, as more fully set forth in the Settlement Agreement.

12. The Settlement Administrator may proceed with the distribution of Class Notice as set forth in the Settlement Agreement.

13. Settlement Class Members who wish to receive the monetary benefit under the Settlement Agreement must complete and submit a valid Claim Form in accordance with the instructions provided in the Class Notice on or before **December 23, 2019**. The Court hereby approves as to form and content the Claim Form attached to the Settlement Agreement as Exhibit 2.

14. All Claim Forms must be submitted either electronically, by U.S. Mail, or telephonically to the Settlement Administrator no later than **December 23, 2019**. Settlement Class Members who do not timely submit a Claim Form deemed to be valid in accordance with the Settlement Agreement shall not be entitled to receive any monetary benefit from the Settlement.

15. Settlement Class Members shall be bound by all determinations and orders pertaining to the Settlement, including the release of all claims to the extent set forth in the Settlement Agreement, whether favorable or unfavorable, unless such persons request exclusion from the Settlement Class in a timely and proper manner, as hereinafter provided. Settlement Class Members who do not timely and validly request exclusion shall be so bound even if they have previously initiated or subsequently initiate litigation or other proceedings against the Defendant or the Released Parties relating to the claims released under the terms of the Settlement Agreement.

16. Any Person within the Settlement Class may request exclusion from the Settlement Class by expressly stating his/her request in a written exclusion request. Such exclusion requests must be received by the Settlement Administrator electronically via the Settlement Website, or at the address specified in the Class Notice in written form, by U.S. Mail, postage prepaid and postmarked, no later than **November 6, 2019**.

17. In order to exercise the right to be excluded, a Person within the Settlement Class must timely send or electronically submit a written request for exclusion to the Settlement

Administrator providing the Class Member's name, address, telephone number, and the telephone number(s) at which any Calls (including any texts) from Wells Fargo were received; the name and number of this case; and a statement that he or she wishes to be excluded from the Settlement Class. Any request for exclusion submitted via U.S. Mail must be personally signed by the Person requesting exclusion. Any request for exclusion submitted online may be signed electronically, which will be binding for purposes of the perjury laws and shall contain a statement to that effect. No Person within the Settlement Class, or any Person acting on behalf of, in concert with, or in participation with that Person within the Settlement Class, may request exclusion from the Settlement Class of any other Person within the Settlement Class.

18. Any Person in the Settlement Class who elects to be excluded shall not: (i) be bound by any orders or the Final Order and Judgment; (ii) be entitled to relief under the Settlement Agreement; (iii) gain any rights by virtue of this Settlement Agreement; or (iv) be entitled to object to any aspect of this Settlement Agreement.

19. Class Counsel may file any motion seeking an award of attorneys' fees, costs and expenses, as well as an Incentive Award for the Class Representatives, no later than **October 7, 2019**.

20. Any Settlement Class Member who has not requested exclusion from the Settlement Class and who wishes to object to any aspect of the Settlement Agreement, including the amount of the attorneys' fees and expenses that Class Counsel intends to seek and the payment of any Incentive Awards, may do so, either personally or through an attorney, by filing a written objection, together with the supporting documentation set forth below in Paragraph 21 of this Order, with the Clerk of the Court, and served upon Class Counsel, Defendant's counsel, and the Settlement Administrator no later than **November 6, 2019**. Addresses for Class Counsel,

Defendant's Counsel, the Settlement Administrator, and the Clerk of Court are as follows:

Class Counsel:

Eugene Y. Turin
MCGUIRE LAW, P.C.
55 W. Wacker Dr., 9th Fl.
Chicago, IL 60601

Defendant's Counsel:

Rebecca S. Saelao
SEVERSON & WERSON
One Embarcadero Center, Suite 2600
San Francisco, CA 94111

Settlement Administrator:

Wells Fargo TCPA Settlement
PO Box 4540
Portland, OR 97208-4540

Clerk of Court:

Clerk of the Court
U.S. District Court, Northern District of
Illinois
219 S. Dearborn Street
Chicago, IL 60604

21. Any Settlement Class Member who has not requested exclusion and who intends to object to this Agreement must state, in writing, all objections and the basis for any such objection(s), and must also state in writing: the case name and case number(s) of this Litigation; his/her full name, current address and telephone number; the telephone number(s) at which he or she received an unauthorized call or text message from Defendant; the reasons why the objector objects to the Settlement along with any supporting materials; the identity of any lawyer who assisted, provided advice, or represents the objecting Settlement Class Member as to this case or such objection; and, the objector's signature. Objections not filed and served in accordance with this Order shall not be received or considered by the Court. Any Settlement Class Member who fails to timely file and serve a written objection in accordance with this Order shall be deemed to have waived, and shall be forever foreclosed from raising, any objection to the Settlement, to the fairness, reasonableness, or adequacy of the Settlement, to the payment of attorneys' fees, costs, and expenses, to the payment of an Incentive Award, and to the Final Approval Order and the right to appeal same.

22. A Settlement Class Member who has not requested exclusion from the Settlement Class and who has properly submitted a written objection in compliance with the Settlement Agreement, may appear at the Final Approval Hearing in person or through counsel to show cause why the proposed Settlement should not be approved as fair, reasonable, and adequate. Attendance at the hearing is not necessary; however, persons wishing to be heard orally in opposition to the approval of the Settlement and/or Plaintiffs' counsel's Fee and Expense Application and/or the request for an Incentive Award to the Class Representatives are required to indicate in their written objection their intention to appear at the Final Approval Hearing on their own behalf or through counsel. For any Settlement Class Member who files a timely written objection and who indicates his/her intention to appear at the Final Approval Hearing on their own behalf or through counsel, such Settlement Class Member must also include in his/her written objection the identity of any witnesses he/she may call to testify, and all exhibits he/she intends to introduce into evidence at the Final Approval Hearing, which shall be attached.

23. No Settlement Class Member shall be entitled to be heard, and no objection shall be considered, unless the requirements set forth in this Order and in the Settlement Agreement are fully satisfied. Any Settlement Class Member who does not make his or her objection to the Settlement in the manner provided herein, or who does not also timely provide copies to the designated counsel of record for the Parties at the addresses set forth herein, shall be deemed to have waived any such objection by appeal, collateral attack, or otherwise, and shall be bound by the Settlement Agreement, the releases contained therein, and all aspects of the Final Order and Judgment.

24. All papers in support of the final approval of the proposed Settlement shall be filed no later than fourteen (14) before the Final Approval Hearing.

25. Pending the final determination of the fairness, reasonableness, and adequacy of the proposed Settlement, no Settlement Class Member may prosecute, institute, commence, or continue any lawsuit (individual action or class action) with respect to the Released Claims against any of the Released Parties.

26. A hearing (the “Final Approval Hearing”) shall be held before the Court on **December 10, 2019 at 9:30 a.m.**, in Courtroom 1919 of the U.S. District Court for the Northern District of Illinois, 219 S. Dearborn Street, Chicago, Illinois 60604 (or at such other time or location as the Court may without further notice direct) for the following purposes:

- (a) to finally determine whether the applicable prerequisites for settlement class action treatment under Fed. R. Civ. P. 23 have been met;
- (b) to determine whether the Settlement is fair, reasonable and adequate, and should be approved by the Court;
- (c) to determine whether the judgment as provided under the Settlement Agreement should be entered, including a bar order prohibiting Settlement Class Members from further pursuing claims released in the Settlement Agreement;
- (d) to consider the application for an award of attorneys’ fees, costs and expenses of Class Counsel;
- (e) to consider the application for an Incentive Award to the Class Representatives; and
- (f) to rule upon such other matters as the Court may deem appropriate.

27. The Court may, for good cause, extend any of the scheduled dates or deadlines set forth in this Order without further notice to the members of the Settlement Class. The Final Approval Hearing may be postponed, adjourned, transferred or continued by order of the Court without further notice to the Settlement Class. At or following the Final Approval Hearing, the

Court may enter a judgment approving the Settlement Agreement and a Final Judgment and Order in accordance with the Settlement Agreement that adjudicates the rights of all Settlement Class Members.

28. Settlement Class Members do not need to appear at the Final Approval Hearing or take any other action to indicate their approval.

29. All discovery and other proceedings in the Litigation as between Plaintiffs and Defendant are stayed and suspended until further order of the Court except such actions as may be necessary to implement the Settlement Agreement and this Order.

30. The Court adopts the following deadlines pursuant to the Settlement Agreement:

Class Notice Mailed by:	September 23, 2019.
Settlement Website launched by:	September 23, 2019.
Fee and Expense Application:	October 7, 2019.
Deadline for Objections/Exclusions:	November 6, 2019.
Motion in Support of Final Approval	November 26, 2019.
Final Approval Hearing:	December 10, 2019 at 9:30 a.m.
Claims Deadline:	December 23, 2019.

IT SO ORDERED.

Dated: July 10, 2019



Honorable Manish S. Shah
United States District Court Judge