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UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
OAKLAND BRANCH

JASMIN GERLACH and REGGIE PLACE, on behalf of themselves and all others similarly situated,

Plaintiffs,

v.

WELLS FARGO & CO., WELLS FARGO BANK, N.A., and WELLS FARGO SERVICES COMPANY,

Defendants.

Case No. 05-CV-00585-CW

**NOTICE OF PROPOSED CLASS ACTION SETTLEMENT AND SETTLEMENT HEARING**

**JUDGE CLAUDIA WILKEN**

WELLS FARGO BANK, N.A.,

Counterclaimant,

v.

JASMIN GERLACH,

Counterdefendant.

**TO: PERSONS WHO HAVE WORKED OR CONTINUE TO WORK FOR WELLS FARGO BANK N.A., WELLS FARGO & CO., WELLS FARGO SERVICES CO., OR RELATED SUBSIDIARIES AS A BUSINESS SYSTEMS CONSULTANT (“BSC”) OR E-BUSINESS SYSTEMS CONSULTANT (“E-BSC”), LEVELS 2-6 FROM AUGUST 29, 2001 TO SEPTEMBER 2, 2006 IN CALIFORNIA OR FROM FEBRUARY 9, 2002 TO SEPTEMBER 2, 2006 IN ANY OTHER STATE.**

*PLEASE READ THIS NOTICE CAREFULLY*

1 **Based on information in Wells Fargo’s records, you may be a class member who is entitled to**  
2 **receive money under this proposed settlement. In order to participate in the settlement, you**  
3 **should read this notice carefully.**

4 **Plaintiffs and Wells Fargo encourage all class members to participate in this proposed class**  
5 **action settlement. Wells Fargo will not retaliate in any way against current or former Wells**  
6 **Fargo employees who accept their share of this \$12,800,000 settlement. Your participation will**  
7 **not affect the total amount that Wells Fargo will pay under the settlement, because Wells**  
8 **Fargo will pay the fixed amount of \$12,800,000 regardless of the number of current and**  
9 **former Wells Fargo employees who participate.**

10 **IMPORTANT LEGAL NOTICE**

11 **PLEASE READ THIS NOTICE CAREFULLY**

12 **• Important Deadlines**

- 13 ○ **Last Day To Challenge Your Employment Data: December 5, 2006**
- 14 ○ **Last Day To Object To The Settlement: December 5, 2006**
- 15 ○ **Last Day To Opt Out Of The Settlement Class: December 11, 2006**

16 **To participate in the settlement, you do not need to take any further action. A check**  
17 **representing your settlement share, based upon Wells Fargo’s existing data of your**  
18 **employment, will be mailed to you once the Court has issued final approval of the Settlement**  
19 **Agreement. However, if your employment information listed on pg. 13 of this Notice is**  
20 **incorrect and you wish to challenge the information, you must do so no later than December 5,**  
21 **2006. See pg. 12 for instructions on how to challenge the information.**

22 **INTRODUCTION**

23 A proposed settlement of the class action claims for: 1) overtime compensation; 2)  
24 claims under the Employee Retirement Income Security Act (“ERISA”), and; 3) claims for  
25 compensation for missed meal periods for California employees, raised in the above class action has  
26 been reached by the Parties in this case. Judge Claudia Wilken of the United States District Court  
27 for the Northern District of California has granted preliminary approval of the proposed settlement.  
28 This notice informs you about the terms of that settlement and about your rights and options under  
the settlement.

The proposed settlement will resolve all the claims for overtime compensation that  
were made in this lawsuit. A hearing will be held on **January 19, 2007, at 10:00 a.m.**, before the

1 Honorable Claudia Wilken, United States District Judge of the United States District Court for the  
2 Northern District of California, Oakland Division, in Courtroom 2 at 1301 Clay Street, 4th Floor,  
3 Oakland, California, to address whether a proposed settlement of claims against defendants Wells  
4 Fargo Bank N.A., Wells Fargo & Co., and Wells Fargo Services Co. (together, “Defendants” or  
5 “Wells Fargo”) is fair and reasonable and should be approved. You should read this Notice very  
6 carefully because your rights may be affected by the settlement.

7 If you worked for Wells Fargo or its subsidiaries as a BSC level(s) 2-6 or e-BSC  
8 level(s) 2-6 at any time from August, 29, 2001 to September 2, 2006 , in California, or from  
9 February 9, 2002 to September 2, 2006 in any other state, you will be mailed a check representing  
10 the amount of your share of the Settlement Fund, unless you opt-out of the Settlement (for opt-out  
11 instructions see pgs. 7-8). Upon the signing and cashing of your check, you agree to opt-in to and  
12 accept the terms of the Settlement. **Please note:** If you do not timely or properly opt-out of the  
13 Settlement Class (see pg. 7 for who is in the Settlement Class) and do not cash your Settlement  
14 check, you will still be bound by the terms of the Settlement. The Settlement check will remain  
15 valid and negotiable for at least one hundred eighty (180) days from the date of mailing.

#### 16 WHAT IS A CLASS ACTION?

17 A class action is a lawsuit in which the claims and rights of many similarly situated  
18 people are decided in a single court proceeding. One or more representative plaintiffs, also known  
19 as “class representatives,” file a lawsuit asserting claims on behalf of the entire class. If appropriate  
20 to the circumstances of the case, the judge decides to “certify” the case as a class action, which  
21 means that all class members’ claims will be decided together. Plaintiffs believe that by resolving  
22 many people’s common claims simultaneously, the class action mechanism provides efficiency and  
23 allows individuals who may not be able to find or afford an attorney to assert their claims in court.

#### 24 WHAT IS THE PURPOSE OF THIS NOTICE?

25 Judge Claudia Wilken, of the United States District Judge of the United States  
26 District Court for the Northern District of California has ordered that this Notice be sent to you  
27 because, according to Wells Fargo’s records, you may be a Class Member. The purpose of this  
28 Notice is to inform you of the proposed settlement and of your rights under it, including:

- 1 • To inform you that you may be entitled to money from this Settlement;
- 2 • To inform you of the information upon which your share of the Settlement is
- 3 based and the process for disputing such information;
- 4 • To inform you about the certification of the Settlement Classes by the Court
- 5 and inform you that if you do not “opt out” of the Settlement Classes you will be bound by the terms
- 6 of the Settlement Agreement, meaning that you will release your right to sue Wells Fargo and its
- 7 related subsidiaries for overtime wages and for pension benefits under the Wells Fargo Cash Balance
- 8 Plan related to those wages during the time you were a Class Member;
- 9 • To inform you of your right to “opt out” of the Settlement Classes, and not be
- 10 bound by the Court’s judgment in this matter and the terms of the Settlement Agreement;
- 11 • To inform you of your right to file objections to the settlement.

12 **WHAT IS THIS CASE ABOUT?**

13 Two former employees of Wells Fargo, Jasmin Gerlach and Reggie Place, brought  
14 this lawsuit, claiming that Wells Fargo has violated federal and state laws by 1) not paying overtime  
15 to Wells Fargo Business Systems Consultants, Levels 2-6, and e-Business Systems Consultants,  
16 Levels 2-6, 2) by not crediting that overtime when calculating benefits under the Wells Fargo Cash  
17 Balance Plan, 3) by failing to provide meal periods as required under California law. The lawsuit  
18 alleges that Wells Fargo unlawfully classified these workers as exempt from receiving overtime pay  
19 and that Wells Fargo did not pay, or keep track of, overtime hours for those workers. The lawsuit  
20 claims that Wells Fargo’s actions violated the Fair Labor Standards Act (“FLSA” a federal wage and  
21 hour law), and the Employee Retirement Income Security Act (“ERISA” a federal pension law), as  
22 well as the laws of California, including the Unfair Competition Law, Business and Professions  
23 Code Section 17200 (“UCL”), a law prohibiting businesses from engaging in unfair competition.

24 Wells Fargo denies all of Plaintiffs’ claims and has raised various factual and legal  
25 defenses to those claims, and has agreed to the settlement without any admission of wrongdoing.

26 **WHAT ARE THE TERMS OF THE SETTLEMENT AGREEMENT?**

27 The parties have agreed to settle this matter for the sum of \$12,800,000 (including  
28 attorneys’ fees and expenses, costs of settlement administration, and a service payment to the class

1 representative), plus the employer's share of applicable payroll taxes.

2 **Monetary Payment**

3 If this Settlement Agreement is given final approval by the Court, the settlement will  
4 result in a payment by Wells Fargo of \$12,800,000, plus the employer's share of payroll taxes. All  
5 of that money will be used to pay the Settlement Class Members, to pay attorneys' fees and costs, to  
6 pay the Class Representative's service payment, and to pay the costs of administration. None of that  
7 money will return to Wells Fargo. Your decision to cash your check or not will not result in Wells  
8 Fargo paying any more, or any less, in connection with this settlement. If the Court also approves  
9 the payments set forth below, the following expenses will be deducted from the \$12,800,000 prior to  
10 distribution of the settlement funds to the class members:

11 • **Settlement Administration Fees:** If the Court approves such payment,  
12 approximately \$70,000 will be used to administer the Settlement. This is an estimate of the  
13 Settlement Administration Fees; the amount could be lower or higher subject to Court approval.  
14 These fees will pay for mailing, processing and hearing challenges to the employment information  
15 provided by Wells Fargo in this Notice, and providing information to the Class Members.

16 • **Payment to the Class Representative:** If the Court approves such payment, the  
17 Representative Plaintiff will receive \$15,000. This payment is made because the Class  
18 Representative provided many hours of service to the class by helping Class Counsel formulate  
19 claims, by providing documents, and by having his deposition taken to support the Plaintiffs' claim  
20 that Wells Fargo did not pay overtime to certain employees in violation of the law.

21 • **Attorneys' Fees:** Class Counsel will apply to the Court for attorneys' fees in  
22 the amount of 25% of the total class recovery, for a total of \$3,200,000. This amount will be  
23 requested given the thousands of hours Class Counsel spent in pursuing this case on behalf of the  
24 Class Members without pay, given the risks that Class Counsel took that no fees would be recovered,  
25 and given the result achieved for the Class Members. Class Counsel will also seek reimbursement in  
26 expenses they incurred out of pocket which will not exceed \$178,500.

27 • **The Settlement Class Members shall receive all settlement compensation in**  
28 **the form of cash. The Class Members release any claim that the alleged failure to pay overtime gave**

1 rise to certified compensation under any benefit plan including any retirement plan maintained by  
2 Wells Fargo and that monies received from the Settlement Payment are or should be treated as  
3 certified compensation under the Wells Fargo Cash Balance Plan or any other Wells Fargo  
4 retirement plan.

5 After these costs are deducted, a “Net Settlement Fund” of approximately nine million  
6 dollars will remain.

### 7 **Dismissal Of Case And Released Claims**

8 In exchange for the monetary payment set forth above, this action will be dismissed  
9 with prejudice, and the Class Members will fully release and discharge the Defendants from any  
10 claims for unpaid wages, including claims for unpaid overtime, unlawful deduction of wages,  
11 record-keeping violations, failure to provide meal periods, and claims for additional pension benefits  
12 that were asserted in the case under the FLSA, ERISA, state wage and hours laws, and the UCL, up  
13 to and including September 2, 2006 for the time periods which Class Members worked in a BSC or  
14 e-BSC Levels 2-6 position.

15 The exact terms of the Release in the Settlement Agreement reads: Upon Effective  
16 Final Approval and payment of amounts set forth herein, and except as to such rights or claims as  
17 may be created by this Settlement Agreement, the Settlement Class Members who do not opt out,  
18 fully release and discharge Wells Fargo, its parent, subsidiary, and affiliated corporations and  
19 entities, and each of their respective officers, directors, agents, employees, partners, attorneys,  
20 insurers, and shareholders, and their respective predecessors, successors, and assigns (the “Released  
21 Parties”), from any and all claims, debts, liabilities, demands, obligations, guarantees, costs,  
22 expenses, attorneys’ fees, damages, liquidated damages, interest, penalties, action or causes of action  
23 whatever kind or nature, including Unknown Claims, that were averred or could have been averred  
24 relating to or arising from weeks worked in a Covered Position during the Covered Period based  
25 upon the facts alleged in the Second Amended Complaint, including all claims related to  
26 misclassification of exempt status, missed meal periods; failure to provide timely accurate wage  
27 statements and maintain required payroll records; waiting time penalties; interest and other penalties  
28 under federal and state law, including but not limited to the California Labor Code, California

1 Business and Professions Code section 17200 *et seq.*, the Fair Labor Standards Act, as amended, and  
2 the Employee Retirement Income Security Act of 1974 (“Released Claims”).

3 When the overtime claims are dismissed with prejudice, that means that the Court  
4 will not consider the claims any further; and the case is over. When claims are released, that means  
5 that no one covered by the release can sue Wells Fargo over those claims for the time period covered  
6 by the release.

7 **ARE YOU A CLASS MEMBER FOR PURPOSES OF THE SETTLEMENT?**

8 You may be a Class Member if you meet all of the following criteria:

- 9 1. Wells Fargo’s records identify you as a BSC Level 2-6 or E-BSC Level 2-6  
10 who;
- 11 2. Worked at Wells Fargo or its related subsidiaries at any time:
- 12 a. From August, 29, 2001 to September 2, 2006, in California, or  
13 b. From February 9, 2002 to September 2, 2006 in any other state.

14 **WHAT ARE YOUR OPTIONS?**

15 You have several options. In order to protect your rights, it is very important that you  
16 read this section carefully. If you do nothing, you will release your right to sue Wells Fargo for the  
17 claims asserted in this matter and you will be mailed a check with your share of the Net Settlement  
18 Fund if the Court issues final approval of the Settlement Agreement. If you wish to Opt-out, object  
19 to the Settlement, or challenge your employment data, you must do so by the deadlines in this  
20 Notice.

21 **Choosing Not To Participate in the Settlement**

22 If you do not wish to participate in the Settlement, you must complete an Opt-out  
23 Form. However, if you Opt-out of the Settlement, you will be prohibited from objecting to the  
24 Settlement. To be valid, the Opt-out Form must be completed and signed by you under penalty of  
25 perjury, accompanied by a photocopy of your driver’s license or other form of government issued  
26 picture identification (*e.g.*, passport), and returned to:

27 Gerlach v. Wells Fargo Settlement  
28 Claims Administration Center



1 c/o Settlement Services Inc.  
2 P.O. Box 10230  
3 Tallahassee, FL 32302-2230  
4 1-866-854-8532

5 The Opt-out Form must be postmarked no later than **December 11, 2006**. If the Opt-  
6 out Form is sent from within the United States it must be sent through the United States Postal  
7 Service. A Class Member who fails to mail an Opt-out Form in the manner and by the deadline  
8 specified above will be bound by all terms and conditions of the Settlement, if the Settlement is  
9 approved by the Court, and the Judgment, regardless of whether he or she has objected to the  
10 Settlement or received any share of the Settlement proceeds.

11 Any person who files a complete and timely Opt-out Form will, upon receipt, no  
12 longer be a member of the Class, will be barred from participating in any portion of the Settlement,  
13 and will receive no money from the Settlement.

14 **Objecting To The Settlement**

15 If you do not opt-out of the Settlement you may object to the terms of the Settlement  
16 before final approval, either by filing a written objection or filing a notice of your intent to appear  
17 and object at the final approval hearing. However, if the Court rejects your objection, you still will  
18 be bound by the terms of the Settlement unless you also submit an Opt-out Form. To object, you  
19 must send a written notice of objection or a written notice of your intent to appear and object at the  
20 final approval hearing to the Court and to all counsel. The Court's address and Counsel's addresses  
21 are shown below. **DO NOT TELEPHONE THE COURT.**

22 Any written objections and/or notice of your intent to appear at the final approval  
23 hearing must state each specific reason for your objection and any legal support for each objection.  
24 Your written objection and/or notice of your intent to appear at the final approval hearing must also  
25 state your full name, address, date of birth, and the dates of your employment at Wells Fargo. To be  
26 valid and effective, the Court, Class Counsel, and Counsel for Wells Fargo must receive any written  
27 objections and/or notices of intent to appear at the hearing not later than December 5, 2006. A Class  
28 Member who fails to timely file and serve a written objection in the manner described above by the



1 specified deadline will be deemed to have waived any objections and will be foreclosed from  
2 making any objection (whether by appeal or otherwise) to the Settlement and will not be allowed to  
3 appear before the Court at the final approval hearing.

4 **Commenting In Favor Of The Settlement**

5 If you wish, you may comment in favor of the Settlement in writing in advance of the  
6 final approval hearing, which will be held on January 19, 2007. To do so, not later than December 5,  
7 2006, you must submit a written notice of your comments in favor of the Settlement, which will be  
8 relayed to the Court at or before the final approval hearing. Your notice and comments should  
9 include your full name, address, date of birth, and dates of your employment at Wells Fargo. Send  
10 your notice and comments to THE COURT AS FOLLOWS:

11 Office of the Clerk  
12 United States District Court, Northern District of California  
13 1301 Clay Street, Suite 400 S,  
14 Oakland, CA 94612-5212

14 A COPY OF YOUR NOTICE MUST ALSO BE SENT TO CLASS COUNSEL AS FOLLOWS:

15 Todd F. Jackson  
16 LEWIS, FEINBERG, RENAKER & JACKSON, P.C.  
17 1330 Broadway, Suite 1800  
18 Oakland, CA 94612

18 or

19 Steven G. Zieff  
20 RUDY, EXELROD & ZIEFF, LLP  
21 351 California Street, Suite 700  
22 San Francisco, CA 94104

22 A COPY OF YOUR NOTICE MUST ALSO BE SENT TO COUNSEL FOR WELLS FARGO AS  
23 FOLLOWS:

24 Nancy E. Pritikin  
25 Littler Mendelson  
26 A Professional Corporation  
27 650 California Street  
28 20th Floor  
San Francisco, CA 94108.2693

**DO NOT TELEPHONE THE COURT.**

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**HOW WILL MY SHARE BE CALCULATED?**

Each Class Member will receive a share of the approximately nine million dollars in Settlement Funds that remain after the deductions of settlement costs, the class representative payment, and attorneys’ fees and costs listed above. Each share will depend on factors that attempt to weigh the strength of that type of Class Member’s claim. **As explained below, these factors may have a significant effect on the percentage of the Settlement Funds you receive. If you do not want to participate in the Settlement because of the factors that will be applied to your claim, you may choose to opt out of the Settlement Class.**

These factors are:

1. **BSC or E-BSC Job Level within Wells Fargo.** This factor gives different values to the time employees worked in different job grades, Levels 2-6 at Wells Fargo and is based on Class Counsel’s assessment that employees in lower levels may have stronger arguments that their jobs were non-exempt.

2. **Time Worked in California.** This factor gives a different value to the time employees worked in California as opposed to time spent in other parts of the United States because of the effects of what law applies to your claim. California has laws that provide more damages or longer statutes of limitations to employees who were improperly denied overtime pay.

**Calculation of Share.**

Unless you Opt-out, your share of the approximately nine million dollars in the Net Settlement Fund is calculated by multiplying your Base Earnings (weekly salary) by three numeric factors: (1) length of service (number of weeks) during the Class Period; (2) the value assigned to job level (BSC or E-BSC level 2-6); and (3) the value assigned to the state in which you worked.

To calculate your share, the Claim Administrator will start with your Base Earnings (“BE”) for each week in which you were employed by Wells Fargo in a Class Position (see list of Class Positions above). Then, your BE is multiplied by several numbers based on the other factors listed above. The result of this calculation is called your “Settlement Share Points.” The Settlement Share Points for each approved claim will be divided by the sum of Settlement Share Points for all class

1 members who do not opt out to determine the Settlement Share Percentage. The Settlement Share  
 2 Percentage for each class member who does not opt out will be multiplied by the Net Settlement  
 3 Fund to determine the amount of the settlement to be awarded to each class member.

<b>Job Level:</b>	<b>Multiplier</b>
BSC or E-BSC Level 2	<b>8</b>
BSC or E-BSC Level 3	<b>7</b>
BSC or E-BSC Level 4	<b>4</b>
BSC or E-BSC Level 5	<b>2</b>
BSC or E-BSC Level 6	<b>1</b>

9 These factors mean, for example, that if a BSC Level 2 and a BSC Level 6 worked at the  
 10 same salary in the same state for a week, the BSC Level 6 would receive only 1/8 of the amount of  
 11 the Settlement Fund that the BSC Level 2 would receive for that week of work.

<b>State You Worked In:</b>	<b>Multiplier</b>
California	<b>1.6</b>
Other States:	<b>1</b>

16 This factors mean, for example, that if a California employee and a Minnesota employee  
 17 worked at the same salary and in the same job position for a week, the California employee would  
 18 receive 60% more of the Settlement Fund as the Minnesota employee for that week of work because  
 19 of the fact that California law is stronger than the law in other states.

**Example of the Calculation Formula.**

21 For example, if your **Base Earnings** were **\$500** per week for **32 weeks**, and you  
 22 worked in **BSC Level 2** in **California**, your share of the Net Settlement Fund would be calculated as  
 23 follows:

- 24 1.  $500 \times 32 \times 8 \times 1.6 = 204,800 =$  Your Settlement Share Points
- 25 2. Your 204,800 Settlement Share Points will be added to the Settlement Share  
 26 Points for all other class members who do not opt out to determine the Total  
 Settlement Share Points.
- 27 3. The 204,800 Settlement Share Points will be divided by the Total Settlement  
 28 Share Points to determine your Settlement Share Percentage.

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**Uncashed Checks.**

If, after the payment of attorneys' fees and costs, the Representative Plaintiff's service payment, and the cost of administration, any money remains unpaid as a result of Class Members failing to cash their Settlement checks, the parties will redistribute the left over money to Class Members (in accordance with the calculation formula above) if the leftover amount together with any non-awarded attorneys' fees is more than \$200,000. If the total leftover amount is \$200,000 or less, those funds will be distributed to the San Francisco Legal Aid Society – Employment Law Center.

**How to Challenge the Employment Data Used to Calculate Your Share.**

If you believe that the employment dates, job position or level, salary, and/or location listed below are incorrect, you may challenge the data by submitting a written statement to the Claims Administrator by December 5, 2006. The Claims Administrator's Address is:

Gerlach v. Wells Fargo Settlement  
Claims Administration Center  
c/o Settlement Services Inc.  
P.O. Box 10230  
Tallahassee, FL 32302-2230  
1-866-854-8532

You may not challenge the formula used to calculate your share, but you may challenge the data provided by Wells Fargo that is used in the formula.

Any challenge must state what you believe are your correct dates of employment, job position and level, salary, or location. You must also include documentary evidence you have that supports your claim (such as pay stubs reflecting relevant dates of employment and/or salary). Your challenge will not be considered unless you enclose documentary evidence. You may contact the Settlement Administrator regarding the necessary documentary evidence at the above number. Please keep in mind that only base compensation earned while working in a Class Position for the time period set forth on page 6 of the enclosed Notice, through September 2, 2006, will be considered.

By submitting a written challenge, you will authorize the Claims Administrator to review

Wells Fargo’s records and make a determination based on Wells Fargo’s records and any records you submit. This determination may increase or decrease the amount of your settlement share. All such determinations are final and binding with no opportunity for further appeal to the Court.

**If you wish to challenge the employment data below, you must submit your challenge by December 5, 2006.**

***[ALL DATA TO BE PREFILLED BY THE CLAIMS ADMINISTRATOR FROM WF RECORDS]***

**EMPLOYMENT DATA USED TO CALCULATE SETTLEMENT SHARE:**

Wells Fargo’s records show that within the Class Period (**August 29, 2001 or February 9, 2002** through **September 2, 2006**), you worked in the following Class Positions during the following time periods:

<u>DATES</u>	<u>JOB POSITION &amp; LEVEL</u>	<u>SALARY</u>	<u>STATE</u>

**Changes of Address.**

It is your responsibility to keep a current address on file with the Claims Administrator. Please make sure to notify the Claims Administrator of any change of address.

**ATTORNEYS’ FEES AND COSTS**

As their fee for services rendered on behalf of the Class Members, Class Counsel will ask the Court to award as attorneys’ fees a total of 25 percent from the Settlement Fund, which amounts to \$3,200,000. In addition to attorneys’ fees, Class Counsel will seek reimbursement of litigation costs and expenses that they have incurred since the beginning of this litigation in early 2005, which will not exceed \$178,500. The amount of any award of attorneys’ fees and costs will be considered and must be approved by the Court. In prosecuting this case on behalf of Class Members, Class Counsel spent almost two years and thousands of hours investigating the case,

1 reviewing tens of thousands of Wells Fargo documents, deposing Wells Fargo corporate  
2 representatives, reviewing damages information, interviewing class members about their job duties,  
3 and filing numerous documents with an impartial mediator. Under the common fund doctrine, Class  
4 Counsel will therefore apply for 25% of the money recovered on behalf of the Class. Class  
5 Members will not be required to pay Class Counsel for any attorneys' fees, costs or expenses out of  
6 their own pockets if the Settlement Agreement and the attorneys' fee and costs requests are approved  
7 by the Court.

8 **HEARING REGARDING THE SETTLEMENT**

9 On **January 19, 2007, at 10:00 a.m.**, or as soon thereafter as practicable, the  
10 Honorable Claudia Wilken, United States District Judge, will hold a hearing at the United States  
11 District Court for the Northern District of California, Oakland Division, Courtroom 2, 1301 Clay  
12 Street, 4th Floor, Oakland, California, for the purpose of determining whether the proposed  
13 Settlement and Plan of Allocation are fair, reasonable, and adequate and should be approved. The  
14 Court will also consider Class Counsel's application for fees and costs. The time and date of this  
15 hearing may be continued or adjourned, so please contact Class Counsel prior to the date of the  
16 hearing if you plan to attend.

17 Any Class Member (or the attorney for any Class Member) may appear at the hearing  
18 to comment on or object to the Settlement, or to enter an appearance for any other reason in  
19 accordance and if she or he has complied with the procedures described above.

20 **EXAMINATION OF PLEADINGS AND PAPERS / ADDITIONAL INFORMATION**

21 This Notice does not contain all of the terms of the proposed Settlement or all of the  
22 details of these proceedings. For more detailed information, you may refer to the underlying  
23 documents and papers on file with the Court. This file may be inspected during the hours of each  
24 Court business day at the Office of the Clerk of the Court, United States District Courthouse, United  
25 States District Court for the Northern District of California, Oakland Division, 1301 Clay Street,  
26 Oakland, California, 94612.

27 If you have questions about this Notice, or want additional information, you can  
28 contact the Settlement Administrator at 1-866-854-8532. **Again, the important deadlines are:**

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**Last Day To Challenge Your Employment Data: December 5, 2006**

**Last Day To Object To The Settlement: December 5, 2006**

**Last Day To Opt Out Of The Settlement Class: December 11, 2006**

Dated: October 6, 2006

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Honorable Claudia Wilken  
United States District Judge