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15 *Counsel for Plaintiffs and the Class*

16 **UNITED STATES DISTRICT COURT FOR THE**
 17 **NORTHERN DISTRICT OF CALIFORNIA**

18 ALICIA HERNANDEZ et al., individually
 19 and on behalf of all others similarly situated,

20 Plaintiffs,

21 v.

22 WELLS FARGO BANK, N.A.,

23 Defendant.
 24

Case No. 3:18-cv-07354 -WHA

**PLAINTIFFS' REPLY IN SUPPORT
 OF MOTION FOR FINAL
 APPROVAL OF SUPPLEMENTAL
 CLASS ACTION SETTLEMENT
 AND FOR ATTORNEY'S FEES
 AND REIMBURSEMENT OF
 EXPENSES (UNOPPOSED)**

Date: January 6, 2021
 Time: 11 a.m.
 Dept: Courtroom 12
 Judge: Hon. William H. Alsup

1 **INTRODUCTION**

2 Having already addressed in their opening brief all of the final approval factors, including the
3 supplemental class members' positive reaction to the settlement—no class member objected and only
4 one opted out—Plaintiffs update the Court on (1) the final results of Special Master Cathy Yanni's
5 allocation of the severe emotional distress fund, and (2) the success of the notice program.

6 Ms. Yanni's work is now complete. She has ruled on all 104 initial claims from supplemental
7 class members and the 10 requests for reconsideration; she has allocated 100% of the \$1,450,000 severe
8 emotional distress fund.

9 Further, the notice plan was effective; after iterative efforts, there remain 52 of 741
10 supplemental class members whose notices were returned undeliverable and for whom JND and Class
11 Counsel were unable to find an updated address. Thus, it appears notice reached 689 supplemental class
12 members or approximately 93% of the class. Further, our research shows that at least 21 of the
13 remaining 52 class members are deceased, meaning that notice reached an even higher percentage of
14 living class members.

15 The supplemental class's positive reaction to the settlement and high level of engagement with
16 the severe emotional distress claims process militate in favor of final approval. No supplemental class
17 member objected to the settlement, and the sole supplemental class member who opted out did so not
18 because his award under the settlement was inadequate, but because he believed it was high enough to
19 potentially jeopardize his entitlement to government benefits. Dkt. 328-2 at ¶ 30.

20 **A. Ms. Yanni has completed her work**

21 Ms. Yanni reviewed the 104 claims for severe emotional distress from supplemental class
22 members, which included narratives sometimes supplemented with mental health or medical records
23 substantiating the severity of each injury. Consistent with her work on the original settlement, Ms.
24 Yanni exercised her discretion to accept late-filed claims from supplemental class members. Based on
25 her comparative analysis of these submissions, on November 15, 2021, Ms. Yanni initially allocated
26 either \$11,000 or \$22,000 to each claiming supplemental class member depending on her judgment of
27 the severity of the class member's emotional injury. JND mailed Ms. Yanni's decisions to supplemental
28 class members. These individuals had until December 6, 2021 to request reconsideration from Ms.

1 Yanni.

2 Ten supplemental class members requested reconsideration. Ms. Yanni reviewed these requests
3 and allocated \$11,620 in additional funds to each supplemental class member who requested
4 reconsideration. After completing this second review, on December 27, 2021, Ms. Yanni issued final
5 allocations. This included increasing all 104 claimants' base award to either \$11,400 or \$22,800.

6 In the end, each supplemental class member who applied for emotional distress funds received a
7 final allocation of between \$11,400 and \$34,420. JND communicated Ms. Yanni's final determinations
8 to the 10 supplemental class members who requested reconsideration on December 28, 2021. Ms.
9 Yanni has now allocated 100% of the \$1,450,000 emotional distress fund and her work is complete.

10 **B. The notice plan was effective**

11 JND effectively carried out the notice plan and after multiple efforts to update addresses for
12 supplemental class members whose notices were returned, notice reached an estimated 93% of
13 supplemental class members. The Court may recall that when the motion for final approval was filed,
14 JND had successfully delivered notice to all but 60 supplemental class members. Dkt. 328-1 at ¶ 14.
15 Since then, Class Counsel conducted Accurint searches for possible mailing addresses, phone numbers,
16 and e-mails; Google searches for information on where they may live, and also tried searching for and
17 contacting individuals who appear to be family members of the supplemental class members. These
18 searches are in addition to the work that JND did to find the most up-to-date mailing address for every
19 supplemental class member. This work resulted in JND and Class Counsel locating addresses for eight
20 of those 60 (or their next-of-kin if the supplemental class member is deceased). Therefore, it appears
21 that all but 52 supplemental class members have now received notice.

22 Class Counsel's research shows that at least 21 of the 52 unfound supplemental class members
23 are deceased. Class Counsel has been in contact with family members for three of these deceased
24 supplemental class members, and hope to locate next-of-kin for these three supplemental class
25 members.

26 **CONCLUSION**

27 For the reasons stated above, and for those detailed in Plaintiffs' opening brief, Plaintiffs
28 respectfully request that the Court grant final approval of the supplemental settlement and Plaintiffs'

1 motion for attorney's fees and reimbursement of expenses.

2
3 Dated: January 3, 2022

Respectfully submitted,

4 /s/ Michael L. Schrag

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