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WELLS FARGO BANK, NATIONAL ASSOCIATION

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF ALAMEDA

EUGENE FRITZ, on behalf of the State of
California and Aggrieved Employees,

Plaintiffs,

v.

WELLS FARGO & COMPANY,

Defendant.

Case No. RG20069677

(Assigned to the Hon. Patrick R. McKinney II
for All Purposes, Dept. 15)

PAGA SETTLEMENT AGREEMENT

Date Action Filed: August 4, 2020
Trial Date: March 27, 2023 (vacated)

1 This PAGA Settlement Agreement (“Agreement”) is entered into by and between plaintiff
2 Eugene Fritz (“Plaintiff”), individually and on behalf of the State of California and all PAGA
3 Group Members (defined below), and defendants Wells Fargo & Company (the “Parent”) and
4 Wells Fargo Bank, National Association (the “Bank”) (together, “Defendants”), subject to the
5 approval of the Court. In consideration of the promises and mutual covenants and agreements
6 herein contained, Plaintiff and Defendants (collectively, the “Parties”) hereby covenant and agree
7 as follows:

8 **1. RECITALS**

9 1.1 On August 4, 2020, Plaintiff filed a complaint under the Labor Code Private
10 Attorneys General Act of 2004 (PAGA, Lab. Code, § 2698, et seq.) (the “Complaint”) against the
11 Parent in the Superior Court of the State of California, County of Alameda, entitled *Eugene Fritz*
12 *v. Wells Fargo & Company*, Case No. RG20069677 (the “Action”). The Complaint contained
13 two causes of action for civil penalties pursuant to PAGA, premised on alleged (1) willful
14 independent contractor misclassification (Lab. Code, § 226.8), (2) failure to provide meal and rest
15 periods (Lab. Code, §§ 226.7, 512), (3) failure to provide accurate itemized wage statements
16 (Lab. Code, § 226, subd. (a), (e)), (4) unpaid wages (Lab. Code, § 558, subd. (a)), (5) unpaid
17 overtime (Lab. Code, § 510, subd. (a)), and (6) failure to reimburse necessary business expenses
18 (Lab. Code, § 2802), all premised on the theory that he and other real estate appraisers were
19 allegedly misclassified as independent contractors or exempt employees.

20 1.2 The Parent answered the Complaint on September 8, 2020, generally denying all
21 of the allegations therein and asserting a number of separate and additional defenses, including
22 without limitation that all real estate appraisers within the scope of the Action were and are
23 properly classified and that the Parent did not and does not have a relationship with any of them
24 and was improperly named as a defendant in the Action.

25 1.3 On May 17, 2021, Plaintiff filed a first amended complaint adding the Bank as a
26 defendant in the Action (the “First Amended Complaint”).
27
28

1 1.4 The Parent answered the First Amended Complaint on June 15, 2021, generally
2 denying all of the allegations therein and asserting the same separate and additional defenses
3 asserted in the Parent’s answer to the Complaint.

4 1.5 The Bank answered the First Amended Complaint on June 25, 2021, generally
5 denying all of the allegations therein and asserting a number of separate and additional defenses,
6 including without limitation that all real estate appraisers within the scope of the Action were and
7 are properly classified.

8 1.6 On January 11, 2022, the Court referred the Action to private mediation, to be
9 completed by July 12, 2022.

10 1.7 On July 5, 2022, Defendants filed a motion for summary judgment or, in the
11 alternative, summary adjudication. The motion was noticed to be heard on October 6, 2022.

12 1.8 The Parties have conducted the following discovery in the Action: Plaintiff has
13 propounded on the Parent, and the Parent has responded to, two sets of requests for production of
14 documents, one set of special interrogatories, and one set of general interrogatories—
15 employment. Plaintiff has propounded on the Bank, and the Bank has responded to, one set of
16 requests for production of documents, one set of special interrogatories, and one set of general
17 interrogatories—employment. Defendants have propounded on Plaintiff one set of requests for
18 production of documents and taken Plaintiff’s deposition. In addition, pursuant to a Court-
19 approved *Belaire-West* notice and opt-out procedure, the Bank provided the contact information
20 for commercial panel appraisers who performed commercial appraisal services for the Bank in
21 California from May 31, 2019 through October 8, 2021, and Plaintiff’s counsel used such
22 information to further investigate the claims alleged in the case.

23 1.9 In connection with the Court-ordered mediation, Plaintiff additionally asked for,
24 and the Bank provided, informal discovery including the number of commercial real estate panel
25 appraisers who performed commercial appraisal work for the Bank in California on an
26 independent contractor basis since May 31, 2019, according to the Bank’s records.

27 1.10 In these and other ways, the Parties investigated the facts and analyzed the relevant
28 legal issues with regard to the claims and defenses in the Action. Based on this investigation and

analysis, Plaintiff believes the Action has merit, while Defendants believe the Action has no merit.

1.11 On July 7, 2022, the Parties participated in a virtual mediation conducted by Deborah C. Saxe of JAMS, and after extensive negotiation facilitated by Ms. Saxe, the Parties agreed to a settlement of the Action.

1.12 The Parties have each considered the uncertainties of continued litigation and the benefits to be obtained under the proposed settlement, and have considered the costs, risks, and delays associated with the continued prosecution of the Action and the likely appeals of any rulings in favor of either Plaintiff or Defendants. At all times, the Parties' settlement negotiations have been non-collusive, adversarial, and at arm's length.

1.13 It is the Parties' intention and the objective of this Agreement to avoid the costs of further litigation and trial, and to settle and dispose of, fully and completely and forever, the claims released herein and described below.

2. DEFINITIONS

As used in this Agreement, the terms set forth in this Section 2 shall have the meanings ascribed to them below.

2.1 **Action.** "Action" means the above-captioned action entitled *Eugene Fritz v. Wells Fargo & Company*, Case No. RG20069677, currently pending in the Superior Court of the State of California, County of Alameda.

2.2 **Agreement.** "Agreement" means this PAGA Settlement Agreement, including all Exhibits referred to herein and attached hereto.

2.3 **Amended PAGA Notice.** "Amended PAGA Notice" means the PAGA notice filed by Plaintiff with the LWDA regarding Defendants on or about March 3, 2021.

2.4 **Appraisals.** "Appraisals" means commercial real estate appraisals performed for the Bank and associated with PAGA Group Members in the State of California during the PAGA Period, as determined by Defendants according to the Bank's records.

2.5 **Approval Date.** "Approval Date" means the date on which the Court enters the Order Approving Settlement and Judgment Thereon.

1 2.6 **Approval Order or Judgment.** “Approval Order” or “Judgment” means the
2 Order Approving Settlement and Judgment Thereon approving the Settlement and this
3 Agreement, which shall substantially conform to Exhibit B hereto.

4 2.7 **Bank.** “Bank” means defendant Wells Fargo Bank, National Association.

5 2.8 **Complaint.** “Complaint” means the complaint filed by Plaintiff in the Action on
6 August 4, 2020.

7 2.9 **Court.** “Court” means the Superior Court of the State of California, County of
8 Alameda.

9 2.10 **Defendants.** “Defendants” means defendants Wells Fargo & Company and Wells
10 Fargo Bank, National Association.

11 2.11 **Defendants’ Counsel.** “Defendants’ Counsel” means the law firm of Morrison &
12 Foerster LLP.

13 2.12 **Effective Date.** “Effective Date” means either (a) the date 60 days after entry of
14 the Approval Order and Judgment, if no motions for reconsideration and no appeals or other
15 efforts to obtain review have been filed, or (b) in the event a motion for reconsideration, an
16 appeal, or other effort to obtain review of the Approval Order and Judgment, the date 60 days
17 after such reconsideration, appeal, or review has been finally concluded and is no longer subject
18 to review, whether by appeal, petition for rehearing, petition for review, or otherwise.

19 2.13 **Fee and Expense Award.** “Fee and Expense Award” means such award of
20 attorneys’ fees and costs/expenses as the Court may authorize to be paid to Plaintiff’s Counsel for
21 the services they have rendered in the Action.

22 2.14 **First Amended Complaint.** “First Amended Complaint” means the first
23 amended complaint filed by Plaintiff in this Action on May 17, 2021.

24 2.15 **Gross Settlement Amount.** “Gross Settlement Amount” means Four Hundred
25 Sixty Thousand Dollars and No Cents (\$460,000.00), which is the maximum total amount that
26 Defendants shall be required to pay for any and all purposes under this Agreement. The
27 following shall be paid from the Gross Settlement Amount pursuant to the Plan of Allocation set
28 forth in Section 4.4, below: (a) the LWDA Payment, (b) the Settlement Payments to PAGA

Group Members, (c) the Fee and Expense Award, and (d) the Settlement Administration Costs.
Under no circumstances shall Defendants pay any sum in excess of the Gross Settlement Amount in connection with the Settlement.

2.16 **LWDA.** “LWDA” means the California Labor and Workforce Development Agency.

2.17 **LWDA Payment.** “LWDA Payment” means the portion of the Gross Settlement Amount to be paid to the LWDA under this Agreement, which shall equal 75 percent of the Net Settlement Sum.

2.18 **Net Settlement Sum.** “Net Settlement Sum” means the Gross Settlement Amount less the following: (a) Fee and Expense Award and (b) Settlement Administration Costs.

2.19 **Notice of Settlement.** “Notice of Settlement” means the notice to be mailed to PAGA Group Members with their Settlement Payments, which shall explain how the Settlement Payment was calculated and which shall substantially conform to Exhibit C hereto.

2.20 **PAGA.** “PAGA” means the Labor Code Private Attorneys General Act of 2004 (Lab. Code, § 2698, et seq.).

2.21 **PAGA Group Members or Members.** “PAGA Group Members” or “Members” means Plaintiff and all other commercial real estate panel appraisers who contracted with the Bank as independent contractors to perform one or more Appraisals in the State of California during the PAGA Period.

2.22 **PAGA Group Members Payment.** “PAGA Group Members Payment” means the aggregate sum of all Settlement Payments that the Settlement Administrator determines are owed to PAGA Group Members under this Agreement pursuant to Section 4.4, which shall equal 25 percent of the Net Settlement Sum.

2.23 **PAGA Period.** “PAGA Period” means the time period from May 31, 2019 to and including August 21, 2022.

2.24 **Parent.** “Parent” means defendant Wells Fargo & Company.

1 2.25 **Parties.** “Parties” means plaintiff Eugene Fritz, on behalf of himself, the State of
2 California, and all PAGA Group Members, and defendants Wells Fargo & Company and Wells
3 Fargo Bank, National Association.

4 2.26 **Plaintiff.** “Plaintiff” means plaintiff Eugene Fritz.

5 2.27 **Plaintiff’s Counsel.** “Plaintiff’s Counsel” means the law firm of Schneider
6 Wallace Cottrell Konecky LLP.

7 2.28 **Plan of Allocation.** “Plan of Allocation” means the manner in which the Net
8 Settlement Sum shall be paid to the LWDA and PAGA Group Members as set forth in
9 Section 4.4, below.

10 2.29 **Released Claims.** “Released Claims” means all claims under PAGA that are
11 alleged in the Second Amended Complaint and/or Amended PAGA Notice, or that could have
12 been alleged based on the facts alleged in the Second Amended Complaint and/or Amended
13 PAGA Notice, based on alleged violations of Labor Code sections 225.5, 226, 226.3, 226.7,
14 226.8, 256, 510, 512, 558, 2698 et seq., and 2802; and the applicable Wage Order(s) promulgated
15 by the Industrial Welfare Commission, that arose during the PAGA Period in connection with the
16 PAGA Group Members’ work with Defendants, or either of them. The Released Claims are
17 released by both the State of California and the PAGA Group Members as part of this Settlement.

18 2.30 **Released Parties.** “Released Parties” means Wells Fargo & Company and Wells
19 Fargo Bank, National Association; each of their respective present, former, or future parents,
20 subsidiaries, affiliates, divisions, corporations in common control, predecessors, successors and
21 assigns; each of their respective present, past, or future officers, directors, employees, partners
22 (both general and limited), shareholders, agents, attorneys, insurers, and any other successors,
23 assigns, or legal representatives.

24 2.31 **Second Amended Complaint.** “Second Amended Complaint” means the second
25 amended complaint attached as Exhibit A to be filed by Plaintiff in the Action for settlement
26 purposes only, as further described in Section 3.1, below.

27 2.32 **Settlement.** “Settlement” means this Agreement and all actions taken pursuant to
28 and in furtherance of this Agreement.

1 **2.33 Settlement Administration Costs.** “Settlement Administration Costs” means the
2 amount approved by the Court to be paid to the Settlement Administrator from the Gross
3 Settlement Amount for administration of the Settlement, not to exceed \$4,000.00.

4 **2.34 Settlement Administrator.** “Settlement Administrator” means Phoenix Class
5 Action Administration Solutions or such professional, third-party administrator as may be
6 approved by the Court, which shall be responsible for administering the Settlement pursuant to
7 the terms of this Agreement and the Judgment. The Settlement Administrator shall agree to
8 confidentiality terms as may be required by Defendants regarding any data provided to the
9 Settlement Administrator.

10 **2.35 Settlement Payment.** “Settlement Payment” means the amount that the
11 Settlement Administrator determines is owed to a PAGA Group Member pursuant to the Plan of
12 Allocation described in Section 4.4, below.

13 **2.36 Settlement Fund.** “Settlement Fund” means the fund established and
14 administered by the Settlement Administrator for the purpose of receiving and disbursing
15 amounts to be paid to the LWDA, the PAGA Group Members, Plaintiff, Plaintiff’s Counsel, and
16 the Settlement Administrator pursuant to this Agreement. The Settlement Fund shall be funded
17 by Defendants following the Effective Date in accordance with Section 4.6.1, below.

18 **2.37 Settlement Fund Amount.** “Settlement Fund Amount” means the total amount
19 that Defendants shall remit to the Settlement Administrator in accordance with Section 4.6.1,
20 below, which shall consist of the following amounts, the aggregate of which shall not exceed the
21 Gross Settlement Amount: (a) the LWDA Payment, (b) the PAGA Group Members Payment,
22 (c) the Fee and Expense Award, and (d) the Settlement Administration Costs.

23 **3. SETTLEMENT TERMS**

24 **3.1 Amended Complaint.** Plaintiff shall file the Second Amended Complaint
25 attached as Exhibit A hereto, for settlement purposes only. The Second Amended Complaint
26 shall assert individual claims on behalf of Plaintiff alleging independent contractor
27 misclassification, failure to provide meal and rest periods, failure to provide accurate itemized
28 wage statements, failure to reimburse necessary business expenses, unpaid wages, and unpaid

overtime. In all other respects, the Second Amended Complaint shall be the same as the First Amended Complaint. The Second Amended Complaint shall be deemed filed as of the Approval Date, and Defendants concurrently shall each be deemed to deny all of the allegations contained in it and to assert all the defenses the Parent asserted in its June 15, 2021 Answer to the First Amended Complaint and the Bank asserted in its June 25, 2021 Answer to the First Amended Complaint, without Defendants needing to file an answer to the Second Amended Complaint. Settlement of the individual claims in the Second Amended Complaint will proceed pursuant to the terms of a separate individual settlement agreement between Plaintiff, on the one hand, and Defendants, on the other, pursuant to which Plaintiff will be paid, separate and apart from his Settlement Payment paid from the Gross Settlement Amount pursuant to this Agreement, the sum of Twenty Thousand Dollars and No Cents (\$20,000.00) in exchange for Plaintiff's general release of all claims against Defendants, or either of them, including his waiver of Civil Code section 1542 with respect to each of them, among other terms and conditions specified in that separate agreement.

3.2 **Motion to Approve PAGA Settlement.** Promptly upon the Parties' execution of this Agreement, Plaintiff shall file a motion for an order approving the Settlement, including (without limitation) the LWDA Payment, the PAGA Group Members Payment, the Fee and Expense Award, and Settlement Administration Costs. Concurrently therewith, Plaintiff shall submit a copy of this Agreement to the LWDA, in accordance with Labor Code section 2699, subdivision (1)(2). Plaintiff will have sole responsibility for drafting and filing the motion for approval of the Settlement but will provide his proposed moving papers to Defendants for review and comment at least seven (7) calendar days before filing them with the Court.

3.3 **Attorneys' Fees and Costs.** Defendants agree not to oppose Plaintiff's application for attorneys' fees of up to One Hundred Fifty-Three Thousand Three Hundred Thirty-Three Dollars and Thirty-Three Cents (\$153,333.33) (one-third ($\frac{1}{3}$) of the Gross Settlement Amount) and actual costs, subject to the Court's approval. Plaintiff agrees not to apply for attorneys' fees of more than One Hundred Fifty-Three Thousand Three Hundred Thirty-Three Dollars and Thirty-Three Cents (\$153,333.33) (one-third ($\frac{1}{3}$) of the Gross Settlement

Amount) and actual costs, and in no event shall Defendants, or either of them, be liable for any attorneys' fees or costs in excess of these amounts. The Fee and Expense Award shall represent payment for all of Plaintiff's Counsel's attorneys' fees, costs, and expenses, past and future, incurred in the Action. The Fee and Expense Award shall be paid from the Gross Settlement Amount, and neither of the Defendants shall otherwise be required to pay for any portion of Plaintiff's Counsel's attorneys' fees, costs, or expenses. The Fee and Expense Award shall be paid to Plaintiff's Counsel following the Effective Date, in accordance with Section 4.6.2, below. An award by the Court of attorneys' fees or costs that is less than the amounts applied for will not be grounds for Plaintiff or Plaintiff's Counsel to challenge or withdraw from the Settlement, and any amounts not awarded in attorneys' fees or costs will be included in the Net Settlement Sum.

3.4 Delivery of Settlement Amount by Defendants. In full settlement of the Released Claims and following the Effective Date, Defendants shall deliver the Settlement Fund Amount to the Settlement Administrator for establishment of the Settlement Fund, in accordance with Section 4.6.1, below.

3.5 Interim Stay of Proceedings. Except as set forth in Section 3.1, above, the Parties agree to the entry of a formal stay of all proceedings in the Action, except such proceedings as may be necessary to implement and complete the Settlement.

4. SETTLEMENT PROCEDURES

4.1 Notification to the LWDA. Plaintiff shall submit to the LWDA a copy of the Judgment within ten (10) days after its entry, in accordance with Labor Code section 2699, subdivision (1)(3).

4.2 Information Regarding PAGA Group Members. Within ten (10) business days from the Effective Date, Defendants will provide in a secure fashion the Settlement Administrator the following information with respect to each PAGA Group Member, as reflected in the Bank's records: (i) name, (ii) last known mailing address, and (iii) the number of Appraisals performed for the Bank and associated with the PAGA Group Member during the PAGA Period, as determined by Defendants according to the Bank's records. The information Defendants provide to the Settlement Administrator, along with any updated contact information identified by the

1 Settlement Administrator as set forth in Section 4.3, below, shall be used solely to administer the
2 Settlement Payment process described herein, shall remain confidential, and shall not be
3 disclosed to anyone, except pursuant to the express written authorization of Defendants or the
4 individual in question, by order of the Court, or to the extent necessary to fulfill the Settlement
5 Administrator's reporting obligations hereunder.

6 **4.3 Settlement Administrator Duties.** The Settlement Administrator's duties shall
7 include, without limitation: (i) taking receipt of and safeguarding the Settlement Fund Amount
8 and establishing the Settlement Fund; (ii) calculating and distributing the LWDA Payment,
9 Settlement Payments to PAGA Group Members, and Fee and Expense Award, provided such
10 amounts are approved by the Court; (iii) issuing all tax forms required by law; (iv) filing reports
11 with the taxing authorities as required by law; and (v) establishing a toll-free number for PAGA
12 Group Members to call the Settlement Administrator with any questions regarding the Settlement,
13 together with such other tasks as the Parties may mutually agree or the Court may order the
14 Settlement Administrator to perform. The Settlement Administrator shall take all reasonable
15 steps to ensure, to the extent possible, that (a) the highest percentage of PAGA Group Members
16 receive their Settlement Payments and (b) it has the most current and accurate addresses for the
17 PAGA Group Members, including but not limited to performing an initial National Change of
18 Address database search on all PAGA Group Members. In addition, the Settlement Administrator
19 shall perform a standard search, also known as "batch," "skip trace," or "credit header" searches,
20 on all checks returned as undeliverable. The Settlement Administrator shall immediately re-mail
21 returned checks tendered to the PAGA Group Members to all updated addresses obtained through
22 its efforts to locate their most current and accurate addresses.

23 **4.4 Plan of Allocation: Calculation of Settlement Payments.** The Settlement
24 Administrator shall be responsible for the calculation of Settlement Payments to the PAGA Group
25 Members. The Settlement Payments will be paid on a pro-rata basis as follows:

26 **4.4.1** Before computing the amounts of any Settlement Payments to be paid to
27 PAGA Group Members, the Settlement Administrator shall determine the amount of the PAGA
28

1 Group Members Payment by deducting from the Gross Settlement Amount the following: (a) the
2 LWDA Payment, (b) the Fee and Expense Award, and (c) the Settlement Administration Costs.

3 4.4.2 The Settlement Payment for each PAGA Group Member shall be the
4 PAGA Group Member's pro-rata share of the PAGA Group Members Payment, calculated as
5 follows: The Settlement Administrator shall calculate the total number of Appraisals in
6 California associated with all PAGA Group Members during the PAGA Period. The Settlement
7 Administrator will then divide the PAGA Group Members Payment by the total number of
8 Appraisals, resulting in a dollar value per Appraisal. The Settlement Administrator will then take
9 this per Appraisal dollar value and multiply it by the number of Appraisals associated with each
10 individual PAGA Group Member in California during the PAGA Period.

11 4.4.3 The Settlement Administrator shall determine the Settlement Payment that
12 each PAGA Group Member is entitled to receive, pursuant to the formula set forth in
13 Section 4.4.2, above. In order to determine the amount of the Settlement Payment to which each
14 PAGA Group Member is entitled, the Settlement Administrator shall use the information
15 provided by Defendants pursuant to Section 4.2, above.

16 **4.5 Taxes.**

17 4.5.1 **PAGA Group Member Obligations.** Each PAGA Group Member shall
18 be individually responsible for paying applicable federal, state, and local taxes, if any, on all
19 amounts such person receives pursuant to this Agreement, and neither Defendant shall have any
20 liability therefor.

21 4.5.2 **Settlement Administrator Responsibilities Regarding Taxes.** It shall be
22 the responsibility of the Settlement Administrator or its designee to timely and properly prepare
23 and deliver the necessary tax documentation to all necessary parties and to report all necessary
24 information to the applicable government entities as required by law. All payments to the
25 LWDA, PAGA Group Members, Plaintiff, and Plaintiff's Counsel pursuant to this Agreement
26 shall be reported on IRS Form 1099-MISC, as required by law.

27 4.5.3 **No Claims.** No person shall have any claim against either of the
28 Defendants, Defendants' Counsel, Plaintiff, Plaintiff's Counsel, or the Settlement Administrator

1 based on mailings, distributions, and payments made in accordance with or pursuant to this
2 Agreement.

3 **4.6 Distribution of Settlement Payments.** After the Effective Date, the Settlement
4 Payments shall be distributed to PAGA Group Members in accordance with the procedures set
5 forth below:

6 **4.6.1 Remittance of Settlement Fund Amount.** Within ten (10) business days
7 from the Effective Date, Defendants will remit the Settlement Fund Amount to the Settlement
8 Administrator for the establishment of the Settlement Fund, which shall be in full and final
9 satisfaction of the following: the PAGA Group Members Payment, the LWDA Payment, the Fee
10 and Expense Award, and the Settlement Administration Costs.

11 **4.6.2 Delivery of Payments.** Within ten (10) business days after Defendants'
12 remittance to the Settlement Administrator of the Settlement Fund Amount, the Settlement
13 Administrator shall establish the Settlement Fund and distribute (a) the LWDA Payment, (b) the
14 Settlement Payments to PAGA Group Members with the accompanying Notice of Settlement,
15 (c) the Fee and Expense Award, and (d) the Settlement Administration Costs. Also within ten
16 (10) business days after Defendants' remittance of the Settlement Fund Amount, the Settlement
17 Administrator shall provide Plaintiff's Counsel and Defendants' Counsel a written report listing
18 each PAGA Group Member and the amount of the Settlement Payment to be made to each of
19 them. Plaintiff's Counsel shall hold the information contained in this report in strictest
20 confidence and not use or disclose it for any purpose, except on the written authorization of
21 Defendants' Counsel or by order of the Court. No payments shall be made until the Judgment is
22 final (meaning the right to appeal or otherwise seek review of the Judgment has expired) and on
23 the condition that no appeals from the Judgment have been filed.

24 **4.6.3 Negotiation of Settlement Checks.** Settlement checks tendered to PAGA
25 Group Members shall remain valid and negotiable for one hundred eighty (180) days following
26 the date of their issuance and shall thereafter be automatically voided if not cashed by the PAGA
27 Group Member within that time. Upon the voiding of a PAGA Group Member's check, the
28 PAGA Group Member's right to participate in the Settlement shall be extinguished, although the

1 individual shall remain a PAGA Group Member bound by the Judgment entered in the Action. In
2 the event any checks remain uncashed for any reason after this 180-day period, the Settlement
3 Administrator shall remit to the *cy pres* recipient the proceeds of all such checks. The parties
4 propose Legal Aid Association of California as the *cy pres* recipient. Administration of the
5 Settlement shall be completed no later than two hundred and seventy (270) days after the
6 Effective Date.

7 **4.7 Discharge of Defendants' Obligations.** Defendants shall fully discharge their
8 obligations to Plaintiff, the LWDA, and the PAGA Group Members after providing the
9 information on the PAGA Group Members to the Settlement Administrator as set forth in
10 Section 4.2, above, and following the remittance of the Settlement Fund Amount to the
11 Settlement Administrator as set forth in Section 4.6.1, above, regardless of whether checks
12 representing individual Settlement Payments are actually received and/or negotiated by PAGA
13 Group Members. Once Defendants have complied with their obligations set forth in Sections 4.2
14 and 4.6.1, above, they will be deemed to have satisfied all terms and conditions to which they are
15 subject under this Agreement, shall be entitled to all protections afforded to them under the
16 Agreement, and shall have no further obligations under the Agreement, regardless of what occurs
17 with respect to the further administration of the Settlement.

18 **4.8 Notification and Certification by Settlement Administrator.** The Settlement
19 Administrator shall keep Defendants' Counsel and Plaintiff's Counsel apprised of the status of the
20 settlement administration process and its distribution of Settlement Payments. Upon completion
21 of administration of the Settlement, the Settlement Administrator shall provide a detailed, written
22 certification of such completion to the Parties, including the amounts paid to the LWDA, PAGA
23 Group Members (in the aggregate), Plaintiff's Counsel, and the Settlement Administrator.

24 **4.9 Nullification of Settlement Agreement If Settlement Not Approved.** Should
25 the Court not approve the Settlement, the Parties shall meet and confer to negotiate and make
26 reasonable efforts to address any issues raised by the Court in order to obtain the Court's
27 approval, except that Defendants will not be required under any circumstances to increase the
28 Gross Settlement Amount. If the Parties cannot obtain approval from the Court, notwithstanding

1 their reasonable efforts described herein, this Agreement shall be null and void *ab initio* (with the
2 exception of this Section 4.9), the Second Amended Complaint shall be treated as withdrawn and
3 without any force or effect, and any order or judgment entered by the Court in furtherance of this
4 Settlement shall be treated as withdrawn or vacated by stipulation of the Parties. In such case, the
5 Parties shall be returned to their respective statuses as of July 7, 2022.

6 **4.10 No Right to Exclusion or Objection by PAGA Group Members.** Because this
7 Settlement resolves claims brought pursuant to PAGA by Plaintiff acting as a proxy and as a
8 Private Attorney General of, and for, the State of California and the LWDA, the Parties agree that
9 no PAGA Group Member has the right to exclude himself or herself from the Settlement. Upon
10 the Effective Date, PAGA Group Members and the State of California shall be bound by the
11 terms of the Settlement, including the PAGA Release contained herein, regardless of whether he
12 or she cashes his or her Settlement Payment. The Parties further agree that no PAGA Group
13 Member has standing to object to the Settlement or appeal any Judgment entered in connection
14 with the Settlement.

15 **5. RELEASE AND WAIVER OF CLAIMS**

16 **5.1 PAGA Release.** Effective upon the Effective Date, in exchange for the PAGA
17 Group Members Payment and the LWDA Payment, the State of California and all PAGA Group
18 Members (including Plaintiff) and the State of California shall be deemed to have, and by
19 operation of the Judgment shall have, expressly released, waived, and discharged the Released
20 Parties from the Released Claims, and they shall each be bound by the Approval Order and
21 Judgment and be forever barred from pursuing any of the Released Claims against any of the
22 Released Parties.

23 **6. ADDITIONAL PROVISIONS**

24 **6.1 No Admission of Liability.** Defendants contend that all of their practices
25 challenged in the Action comply and at all times have complied with all applicable law, that the
26 PAGA Group Members (including Plaintiff) are and have always been properly classified by the
27 Bank as independent contractors, and that the PAGA Group Members (including Plaintiff) do not
28 and have never had a contractual or other relationship whatsoever with the Parent. Defendants

1 further contend that their conduct was not willful, knowing and intentional, or otherwise unlawful
2 with respect to any of the claims alleged in the Action. Defendants deny any wrongdoing or
3 liability arising out of any of the facts or conduct alleged in the Action and contend that all of the
4 claims and allegations in the Action lack merit and Defendants have valid defenses to each of
5 them. This Agreement reflects the compromise and settlement of disputed claims between the
6 Parties, and its provisions and any and all drafts, communications, or discussions relating thereto
7 do not constitute, are not intended to constitute, and will not under any circumstances be deemed
8 to constitute an admission by Defendants, or either of them, as to the merits, validity, or accuracy
9 of any of the allegations or claims in the Action, nor a waiver of any defense.

10 **6.2 Parties Represented by Counsel.** The Parties hereby acknowledge that they have
11 been represented by independent counsel of their own choosing in negotiations for and in the
12 preparation of this Agreement, they have read this Agreement and have had it fully explained to
13 them by such counsel, and they are fully aware of the contents of this Agreement and of its legal
14 effect.

15 **6.3 Voluntary Agreement.** This Agreement is executed voluntarily and without
16 duress or undue influence on the part of or on behalf of any Party, or of any other person, firm, or
17 entity. Each Party has made such investigation of the facts pertaining to this Agreement and of
18 all other matters pertaining hereto as he or it deems necessary.

19 **6.4 No Public Comment.** Unless they first obtain the opposing Party's (or Parties')
20 express written consent, the Parties and their counsel shall not (a) discuss, reveal, disclose,
21 publicize, or promote the terms of this Settlement, or the negotiations leading to this Settlement,
22 to any third party (including but not limited to the media, the legal community, or the public at
23 large), or (b) issue any press releases or initiate any contact with the media regarding the
24 Settlement, or otherwise advertise or publicize the Settlement. Nothing in this Agreement is
25 intended to prevent the Parties from disclosing or discussing the terms of this Settlement with the
26 Court, the Settlement Administrator, or as otherwise required by law.

1 **6.5 Authorization.** The Parties hereto represent and warrant that each signatory
2 hereto has the full right and authority to enter into this Agreement and bind the Party on whose
3 behalf he or it has executed this Agreement.

4 **6.6 Agreement Binding on Successors in Interest.** This Agreement shall be binding
5 on and inure to the benefit of the respective successors, assigns, heirs, and personal
6 representatives of the Parties.

7 **6.7 Mutual Full Cooperation.** The Parties agree to cooperate fully with each other to
8 accomplish the terms of this Agreement, including but not limited to execution and delivery of
9 any and all additional papers, documents, and other assurances and taking such other action that
10 may be reasonably necessary to implement the terms of this Agreement. The Parties and their
11 counsel shall use their best efforts, including all efforts contemplated by this Agreement and any
12 other efforts that may become necessary by order of the Court, to effectuate this Agreement and
13 the terms set forth herein.

14 **6.8 Entire Agreement.** With the exception of the separate individual settlement
15 agreement referenced in Section 3.1, above, this Agreement contains the entire agreement
16 between the Parties and constitutes the complete, final, and exclusive embodiment of their
17 agreement with respect to the subject matter hereof. This Agreement is executed without reliance
18 upon any promise, representation, or warranty by either Party or any representative of a Party,
19 other than those expressly set forth herein.

20 **6.9 Headings.** The various headings used in this Agreement are solely for the
21 convenience of the Parties and shall not be used to interpret this Agreement.

22 **6.10 No Construction Against Drafter.** This Agreement shall be deemed to have been
23 drafted jointly by the Parties, and any rule that a document shall be interpreted against the drafter
24 shall not apply to this Agreement.

25 **6.11 Amendment and Modification.** This Agreement may not be amended, altered, or
26 modified except in writing and signed by the Parties hereto, their successors in interest, or their
27 duly authorized representatives, and approved by the Court.
28

1 6.12 **Governing Law.** This Agreement is entered into in accordance with the laws of
2 the State of California and shall be governed by and interpreted in accordance with those laws.

3 6.13 **Jurisdiction of the Court.** Any dispute regarding the interpretation or validity or
4 otherwise arising out of this Agreement, or relating to the Action or the Released Claims, shall be
5 subject to the exclusive jurisdiction of the Court. Following the entry of the Judgment but
6 without affecting the finality thereof, the Court shall retain jurisdiction solely with respect to the
7 interpretation, implementation, and enforcement of the terms of this Agreement and all orders and
8 judgments entered in connection therewith, and the Parties and their counsel shall submit to the
9 jurisdiction of the Court for purposes of interpreting, implementing, and enforcing the Settlement
10 embodied in this Agreement and all orders and judgments entered in connection therewith.

11 6.14 **Agreement Constitutes a Complete Defense.** To the extent permitted by law,
12 this Agreement may be pleaded as a full and complete defense to any action, suit, or other
13 proceeding that may be instituted, prosecuted, or attempted in breach of or contrary to this
14 Agreement.

15 6.15 **Signatures.** Any signature made and transmitted by facsimile or by a Portable
16 Document Format (“PDF”) attachment to an email shall have the same force and effect as original
17 signatures.

18 6.16 **Execution Date and Execution in Counterparts.** This Agreement shall be
19 deemed executed upon the last date of signature of all of the undersigned. The Parties may
20 execute this Agreement in counterparts, each of which shall constitute an original, but all of
21 which together shall constitute one and the same instrument having the same force and effect as if
22 all Parties had signed the same instrument.

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IN WITNESS WHEREOF, the Parties hereto have so agreed.

Dated: November __, 2022
11 / 10 / 2022

EUGENE FRITZ



On behalf of himself, the State of California,
and all PAGA Group Members

Dated: November __, 2022

WELLS FARGO & COMPANY

By: _____
Lester Owens

Dated: November __, 2022

WELLS FARGO BANK, NATIONAL
ASSOCIATION

By: _____
Lester Owens

APPROVED AS TO FORM:

SCHNEIDER WALLACE COTTRELL
KONECKY LLP

Dated: November 30, 2022



By: _____
Carolyn Cottrell

Attorneys for Plaintiff
EUGENE FRITZ

APPROVED AS TO FORM:

MORRISON & FOERSTER LLP

Dated: November __, 2022

By: _____
David P. Zins

Attorneys for Defendants
WELLS FARGO & COMPANY and WELLS
FARGO BANK, NATIONAL ASSOCIATION

1 IN WITNESS WHEREOF, the Parties hereto have so agreed.

2 Dated: November __, 2022

EUGENE FRITZ

3
4
5 On behalf of himself, the State of California,
and all PAGA Group Members

6 11/17/2022 | 1:52:15 PM PST

7 Dated: November __, 2022

WELLS FARGO & COMPANY

8 DocuSigned by:
9 *Lester Owens*
By: 2B327989A9FF4D5...
Lester Owens

10 11/17/2022 | 1:52:15 PM PST

11 Dated: November __, 2022

WELLS FARGO BANK, NATIONAL
ASSOCIATION

12 DocuSigned by:
13 *Lester Owens*
By: 2B327989A9FF4D5...
Lester Owens

14
15 APPROVED AS TO FORM:

SCHNEIDER WALLACE COTTRELL
KONECKY LLP

17 Dated: November __, 2022

18
19 By: _____
Carolyn Cottrell

20 Attorneys for Plaintiff
EUGENE FRITZ

21
22 APPROVED AS TO FORM:

MORRISON & FOERSTER LLP

23 Dated: November __, 2022

24 By: _____
David P. Zins

25 Attorneys for Defendants
26 WELLS FARGO & COMPANY and WELLS
27 FARGO BANK, NATIONAL ASSOCIATION
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IN WITNESS WHEREOF, the Parties hereto have so agreed.

Dated: November __, 2022 EUGENE FRITZ

On behalf of himself, the State of California,
and all PAGA Group Members

Dated: November __, 2022 WELLS FARGO & COMPANY

By: _____
Lester Owens

Dated: November __, 2022 WELLS FARGO BANK, NATIONAL
ASSOCIATION

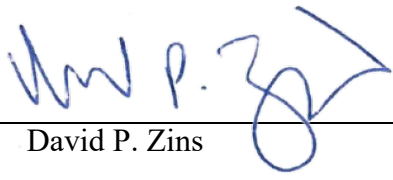
By: _____
Lester Owens

APPROVED AS TO FORM: SCHNEIDER WALLACE COTTRELL
KONECKY LLP

Dated: November __, 2022
By: _____
Carolyn Cottrell

Attorneys for Plaintiff
EUGENE FRITZ

APPROVED AS TO FORM: MORRISON & FOERSTER LLP

Dated: December 1, 2022
By:  _____
David P. Zins

Attorneys for Defendants
WELLS FARGO & COMPANY and WELLS
FARGO BANK, NATIONAL ASSOCIATION

EXHIBIT A

Carolyn Hunt Cottrell (SBN 166977)
Caroline N. Cohen (SBN 278154)
Andrew Weaver (SBN 318935)
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*Attorneys for Plaintiff, on behalf of
the State of California and Aggrieved
Employees*

**SUPERIOR COURT OF CALIFORNIA
COUNTY OF ALAMEDA**

EUGENE FRITZ, on behalf himself and on behalf
of the State of California and Aggrieved
Employees,

Plaintiffs,

v.

WELLS FARGO & COMPANY and WELLS
FARGO BANK, NATIONAL ASSOCIATION
D/B/A WELLS FARGO BANK, N.A.,

Defendants.

Case No. RG20069677

**SECOND AMENDED COMPLAINT FOR
PENALTIES PURSUANT TO SECTION
2699(a) AND (f) OF THE CALIFORNIA
LABOR CODE PRIVATE ATTORNEYS
GENERAL ACT AND DEMAND FOR
JURY TRIAL AND FOR DAMAGES
PURSUANT TO THE CALIFORNIA
LABOR CODE**

EXHIBIT A

SECOND AMENDED COMPLAINT FOR PENALTIES PURSUANT TO SECTION 2699(a) AND (f) OF THE
CALIFORNIA LABOR CODE PRIVATE ATTORNEYS GENERAL ACT AND DEMAND FOR JURY TRIAL

Fritz, et al. v. Wells Fargo & Company – Case No. RG20069677

1 Plaintiff Eugene Fritz (“Plaintiff”), on behalf of the State of California and Aggrieved
2 Employees, complains and alleges as follows:

3 **INTRODUCTION**

4 1. Plaintiff brings this enforcement action on behalf of the State of California against
5 Defendants Wells Fargo & Company and Wells Fargo Bank, National Association d/b/a Wells Fargo
6 Bank, N.A. (collectively “Wells Fargo” or “Defendants”) for their systemic violations of California
7 labor law with respect to Defendants’ current and former non-exempt employees, including but not
8 limited to those real estate appraisers who were misclassified as independent contractors or exempt
9 employees, who worked in California (the “Aggrieved Employees”).

10 2. Plaintiff also brings this case on behalf of himself for his individual wages and damages
11 due to Defendants alleged misclassification of Plaintiff as an independent contractor, as set forth
12 herein.

13 3. Defendants willfully misclassify Plaintiff and Aggrieved Employees as independent
14 contractors to avoid California wage and hour laws. Defendants’ willful misclassification of Plaintiff
15 and Aggrieved Employees results in violations of California laws as discussed herein.

16 4. Defendants maintain a longstanding policy and/or practice of failing to properly
17 compensate the Aggrieved Employees for work performed during meal and rest breaks, for missed
18 meal and rest breaks, and for reimbursement of necessary business expenses.

19 5. As appraisers, Plaintiff and Aggrieved Employees regularly work between 40 to 80
20 hours per workweek while on assignment with Defendants. When deadlines approach, Plaintiff and
21 Aggrieved Employees can be expected to work 12 or more hours in a day. Despite their long shifts,
22 Plaintiff and Aggrieved Employees are routinely unable to take compliant meal and rest periods.

23 6. In addition, Defendants fail to pay Plaintiff and Aggrieved Employees at the required
24 overtime rate for hours worked in excess of 8 in a day and 40 in a workweek.

25 7. Plaintiff and Aggrieved Employees must also pay work expenses out of pocket and
26 without reimbursement. For example, Plaintiff is not reimbursed for costs such as use of his
27

28 **EXHIBIT A**

cellular phone, software, license, liability insurance, computer, high speed internet connection, continuing education courses, mileage, and other travel expenses.

8. Further, Plaintiff and Aggrieved Employees do not receive accurate, itemized wage statements reflecting the hours they work and the amount of wages they are entitled to and for which they should be compensated.

9. Plaintiff and Aggrieved Employees bring this claim to challenge Defendants' policies and practices of (1) misclassifying Plaintiff and Aggrieved Employees as independent contractors instead of employees; (2) failing to authorize and permit Plaintiff and Aggrieved Employees to take meal and rest breaks to which they are entitled by law; (3) failing to pay Plaintiff and Aggrieved Employees overtime wages; (4) failing to provide Plaintiff and Aggrieved Employees accurate, itemized wage statements; and (5) failing to reimburse Plaintiff and Aggrieved Employees for necessary business expenses.

10. Plaintiff and Aggrieved Employees seek penalties under the Labor Code Private Attorneys General Act of 2004 ("PAGA"). Plaintiff also seeks wages and damages pursuant to the Labor Code.

JURISDICTION AND VENUE

11. This Court has jurisdiction over Plaintiff's claims for penalties pursuant to PAGA and damages pursuant to the Labor Code. The Court also has general jurisdiction over Defendants because they do business in California, have their corporate headquarters in California, and because they are authorized to do business in the State of California and are registered with the California Secretary of State.

12. Venue is proper in this judicial district pursuant to Code of Civil Procedure §§ 393 and/or 395.5. Defendants conduct business and employ Aggrieved Employees in this County.

PARTIES

13. Plaintiff Eugene Fritz is an individual over the age of eighteen, and at all times relevant to this Complaint has been a resident of the State of California, County of Los Angeles. Plaintiff has

EXHIBIT A

1 worked as an appraiser for Defendants from approximately 1989 through the present.

2 14. Plaintiff is informed, believes, and thereon alleges that Defendant Wells Fargo &
3 Company is a Delaware corporation with its principal place of business located in San Francisco,
4 California, and is registered to do business in California. Defendant Wells Fargo & Company may be
5 served with process by serving its registered agent for service, CSC – Lawyers Incorporating Service,
6 2710 Gateway Oaks Drive, Suite 150N, Sacramento, California 95833.

7 15. Plaintiff is informed, believes, and thereon alleges that Defendant Wells Fargo Bank,
8 National Association is a United States corporation with its principal place of business Sioux Falls,
9 South Dakota, and is registered to do business in California. Defendant Wells Fargo Bank, National
10 Association may be served with process by serving its registered agent for service, CSC – Lawyers
11 Incorporating Service, 2710 Gateway Oaks Drive, Suite 150N, Sacramento, California 95833.

12 16. Plaintiff is informed, believes, and thereon alleges that Defendants are a financial
13 services company. Defendants hire individuals such as Plaintiff and Aggrieved Employees to
14 formulate appraisals to assist them in the securitization of properties, namely, to evaluate collateral
15 or to support a real estate loan.

16 17. Defendants, each of them, are solely, jointly, and severally liable for penalties for
17 violating the Labor Code with respect to the employment of and services that Plaintiff and Aggrieved
18 Employees performed for the benefit of Defendants.

19 18. Throughout this Complaint, any reference to “Defendant” or “Defendants” is intended
20 to refer to Defendants Wells Fargo & Company and Wells Fargo Bank, National Association d/b/a
21 Wells Fargo Bank, N.A. jointly.

22 19. At all relevant times, Defendants have done business under the laws of California, have
23 had places of business in California, including in this district, and have employed Aggrieved
24 Employees throughout California. Defendants are each a “person” as defined in Labor Code § 18 and
25 an “employer” as that term is used in the Labor Code and the IWC Wage Orders regulating wages,
26 hours, and working conditions.

27
28 **EXHIBIT A**

1 **FACTUAL ALLEGATIONS**

2 20. At all relevant times, Defendants were Plaintiff's "employer," within the meaning of
3 California law.

4 21. Throughout the time period, beginning one year and 65 days prior the filing of this
5 lawsuit, through the present, Defendants have employed numerous real estate appraisers in
6 California.

7 22. Defendants employ real estate appraisers to complete appraisals for the securitization
8 of properties, namely, to evaluate collateral or to support a real estate loan.

9 23. Defendants' appraisers typically work remotely and receive their appraisal assignment
10 electronically through two online platforms for bidding and delivery of appraisal assignments: EDR
11 Platform and Exactbid.

12 24. A commercial appraisal requires that the appraiser visit the subject property to conduct
13 an inspection and then complete a narrative report based on guidelines and procedures provided by
14 Defendants. The reports are submitted electronically to Defendants and are reviewed by Defendants'
15 job managers or other employees.

16 25. For their labor, Defendants pay Plaintiff and Aggrieved Employees a fixed amount per
17 assignment based on the scope of work, timing, and bid. The assignments consist of traveling to and
18 from the property, reviewing and analyzing comparable market data, and preparing the appraisal
19 report. Plaintiff is generally paid in the range of \$2,500 to \$4,500 per assignment. Commercial
20 assignments take approximately 40 to 80 hours to complete from start to finish, and Plaintiff and
21 Aggrieved Employees generally have anywhere from 7 to 21 days to complete each assignment.
22 Defendants do not have a bonus structure, but the bid amount can increase if the scope of work
23 expands during the course of the assignment.

24 26. On average, Plaintiff completes approximately one-to-two appraisal per week, and
25 earns approximately \$1,200 per week as an appraiser with Defendants.

26 27. Plaintiff regularly works 40 to 80 hours per week while on assignment. When deadlines
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28 **EXHIBIT A**

1 are imminent, he often works 12 or more hours in a day. Defendants are aware that Plaintiff works
2 such hours because Defendants are in possession of time-stamped emails, assignment logs and other
3 time-tracked activity through the online platforms that Plaintiff is required to use. Likewise,
4 Defendants are aware of the hours that Aggrieved Employees work by way of these time-stamped
5 remote activities.

6 28. Despite working more than 8 hours per day and more than 40 hours per week a majority
7 of the weeks while on assignment, Defendants fail to pay Plaintiff for any of his overtime hours at a
8 rate of one-and-one-half his regular hourly rate of pay, and have failed to properly reimburse Plaintiff
9 for his necessary business expenses, because Defendants have improperly classified Plaintiff and
10 Aggrieved Employees as independent contractors when they are, in fact, employees.

11 29. However, appraisers like Plaintiff and Aggrieved Employees are not independent
12 contractors. Defendants exercises substantial control over the appraisers, including Plaintiff,
13 establishing that they are in fact employees. Significantly, appraisers have little discretion with
14 regard to the manner in which their work is performed because they are required to strictly adhere to
15 Defendants' internal policies and procedures in preparing their reports.

16 30. The reports created by the appraisers are based on pre-established guidelines and
17 procedures provided by Defendants. Through the EDR Platform, Defendants send alerts to Plaintiff
18 and Aggrieved Employees with a Request for Proposal, brief description of the assignment, address,
19 and type of report needed. Plaintiff and Aggrieved Employees then provide quotes and an assignment
20 is awarded. Defendants send the appraiser an Engagement Letter that contains the scope of work,
21 and other relevant documents. Defendants also provide Appraisal General Requirements, which
22 includes a detailed list of information that must be incorporated into the appraisal report. Among
23 these requirements is a condition that each appraisal must be signed by an approved Wells Fargo
24 panel member and the "panel member signing the report assumes full responsibility of the appraisal,
25 must be actively engaged in the appraisal process and analysis, and be the final authority of all value
26 conclusions." Upon submission of their assignments, the job manager, or other employee of
27

28 **EXHIBIT A**

1 Defendants, must review the report to ensure it meets Wells Fargo's compliance standards and
2 procedures. These policies and procedures illustrate that Plaintiff and Aggrieved Employees are
3 subject to substantial control and direction from Defendants in connection with the performance of
4 their work.

5 31. Furthermore, as a lending institution, the appraisals generated by Defendants'
6 appraisers are the very product Defendants requires for the securitization of properties. Defendants
7 also employ their own staff appraisers, not as independent contractors, within their businesses. As
8 such, work performed by Plaintiff and Aggrieved Employees is work that is within the usual course
9 of Defendants' business.

10 32. Additionally, Plaintiff and Aggrieved Employees work almost exclusively as
11 appraisers for Defendants. For example, Plaintiff has been an appraiser with Defendants since 1989,
12 and while he has occasionally undertaken appraisal work for other entities, the vast majority of his
13 appraisal work during this time period has been for Defendants.

14 33. Defendants also require that their real estate appraisers be state certified general
15 appraisers, which is a low bar. The initial licensing requirements for a state certified general appraiser
16 are met through Basic Education (300 hours in various modules), California Education (approved
17 state and federal law courses), and college education (Bachelor's degree or higher from an accredited
18 college or university in any field of study). Appraisers must also meet an experience requirement,
19 which can be learned while on-the-job.

20 34. Plaintiff and Aggrieved Employees are not afforded meal or rest breaks because there
21 are simply too many tasks to complete within a single day for these workers to be afforded fully
22 compliant meal and rest breaks, and because they are required to be available for calls and emails
23 from Defendants continuously throughout the day. Once an appraiser takes an assignment, there is a
24 short window to make contact with the borrower. And once the report is submitted, the appraiser
25 must be available to make revisions to the report within a short window of time. Defendants are
26 aware that Plaintiff and Aggrieved Employees routinely work through, skip, are interrupted, or are
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28 **EXHIBIT A**

1 otherwise on-duty during statutorily required meal and rest periods because all of their work is time-
2 stamped. Moreover, Defendants do not undertake any effort to ensure these workers are afforded
3 statutorily mandated meal and rest breaks, but leave it up to chance whether Defendants' appraisers
4 receive these breaks.

5 35. Further, Plaintiff and Aggrieved Employees do not receive accurate, itemized wage
6 statements reflecting the hours they work and the amount of wages they are entitled to and for which
7 they should be compensated, including overtime pay and penalty pay for missed breaks.

8 36. Defendants also fail to pay Plaintiff and Aggrieved Employees for necessary business
9 expenses, such as use of their cellular phone, software, license, liability insurance, computer, high
10 speed internet connection, continuing education courses, mileage and other travel expenses.

11 37. Defendants' unlawful conduct has been widespread, repeated, and consistent
12 throughout their operations in California. Defendants knew or should have known that their policies
13 and practices have been unlawful and unfair.

14 38. Defendants' conduct is willful, carried out in bad faith, and caused, and continues to
15 cause, significant damages to Plaintiff and Aggrieved Employees in an amount to be determined at
16 trial.

17 **FIRST CAUSE OF ACTION**
18 **Penalties Pursuant to Labor Code § 2699(a)**
19 **(Against All Defendants On Behalf of the State of California and Aggrieved Employees)**

20 39. Plaintiff re-alleges and incorporates the foregoing paragraphs as though fully set forth
21 herein.

22 40. Labor Code § 2699(a) provides:

23 Notwithstanding any other provision of law, any provision of this code
24 that provides for a civil penalty to be assessed and collected by the Labor
25 and Workforce Development Agency or any of its departments,
26 divisions, commissions, boards, agencies or employees, for a
27 violation of this code,
28 may, as an alternative, be recovered through a civil action brought by an
aggrieved employee on behalf of himself or herself and other current or
former employees.

41. Labor Code § 226.7 provides:

EXHIBIT A

- 1 (a) No employer shall require any employee to work during any meal or
2 rest period mandated by an applicable order of the Industrial Welfare
3 Commission.
4 (b) If an employer fails to provide an employee a meal period or rest
5 period in accordance with an applicable order of the Industrial
6 Welfare Commission, the employer shall pay the employee one
7 additional hour of pay at the employee's regular rate of compensation
8 for each work day that the meal or rest period is not provided.

9
10 42. Labor Code § 226(a) provides:

11 Every employer shall, semimonthly or at the time of each payment of
12 wages, furnish each of his or her employees, either as a detachable part of
13 the check, draft, or voucher paying the employee's wages, or separately
14 when wages are paid by personal check or cash, an accurate itemized
15 statement in writing showing (1) gross wages earned, (2) total hours worked
16 by the employee, except for any employee whose compensation is solely
17 based on a salary and who is exempt from payment of overtime under
18 subdivision (a) of Section 515 or any applicable order of the Industrial
19 Welfare Commission, (3) the number of piece-rate units earned and any
20 applicable piece rate if the employee is paid on a piece-rate basis, (4) all
21 deductions, provided that all deductions made on written orders of the
22 employee may be aggregated and shown as one item, (5) net wages earned,
23 (6) the inclusive dates of the period for which the employee is paid, (7) the
24 name of the employee and his or her social security number, (8) the name
25 and address of the legal entity that is the employer, and (9) all applicable
26 hourly rates in effect during the pay period and the corresponding number
27 of hours worked at each hourly rate by the employee.

28 43. Labor Code § 512(a) provides:

An employer shall not employ an employee for a work period of
more than five hours per day without providing the employee with
a meal period of not less than 30 minutes, except that if the total
work period per day of the employee is no more than six hours, the
meal period may be waived by mutual consent of both the employer
and employee. An employer shall not employ an employee for a
work period of more than 10 hours per day without providing the
employee with a second meal period of not less than 30 minutes,
except that if the total hours worked is no more than 12 hours, the
second meal period may be waived by mutual consent of the
employer and the employee only if the first meal period was not
waived.

44. Labor Code § 558(a) provides:

Any employer or other person acting on behalf of an employer who
violates, or causes to be violated, a section of this chapter or any
provision regulating hours and days of work in any order of the
Industrial Welfare Commission shall be subject to a civil penalty as
follows:

EXHIBIT A

(1) For any initial violation, fifty dollars (\$50) for each underpaid employee for each pay period for which the employee was underpaid in addition to an amount sufficient to recover underpaid wages.

(2) For each subsequent violation, one hundred dollars (\$100) for each underpaid employee for each pay period for which the employee was underpaid in addition to an amount sufficient to recover underpaid wages.

(3) Wages recovered pursuant to this section shall be paid to the affected employee.

45. Labor Code § 226.8(b)-(c) provides:

(b) If the Labor and Workforce Development Agency or a court issues a determination that a person or employer has engaged in any of the enumerated violations of subdivision (a), the person or employer shall be subject to a civil penalty of not less than five thousand dollars (\$5,000) and not more than fifteen thousand dollars (\$15,000) for each violation, in addition to any other penalties or fines permitted by law.

(c) If the Labor and Workforce Development Agency or a court issues a determination that a person or employer has engaged in any of the enumerated violations of subdivision (a) and the person or employer has engaged in or is engaging in a pattern or practice of these violations, the person or employer shall be subject to a civil penalty of not less than ten thousand dollars (\$10,000) and not more than twenty-five thousand dollars (\$25,000) for each violation, in addition to any other penalties or fines permitted by law.

46. Plaintiff seeks civil penalties pursuant to Labor Code § 2699(a) for each failure by Defendants, alleged above, to provide Plaintiff and Aggrieved Employees an accurate, itemized wage statement in compliance with Labor Code § 226(a) in the amounts established by Labor Code § 226(e). Plaintiff seeks such penalties as an alternative to the penalties available under Labor Code § 226(e), as prayed for herein.

47. Plaintiff also seeks civil penalties pursuant to Labor Code § 2699(a) for each failure by Defendants, alleged above, to provide Plaintiff and Aggrieved Employees compliant meal and rest periods in compliance with Labor Code §§ 226.7 and 512 Sections.

48. Plaintiff also seeks civil penalties pursuant to Labor Code § 226.8 for Defendants' willful misclassification of Plaintiff and Aggrieved Employees as independent contractors.

EXHIBIT A

49. Pursuant to Labor Code § 2699.3(a)(1) and (2), Plaintiff provided the Labor and Workforce Development Agency (“LWDA”) with notice of his intention to file this claim against Defendant Wells Fargo & Company, and later sent a supplemental letter to include Defendant Wells Fargo Bank, National Association. Sixty-five calendar days have passed without notice from the LWDA. Plaintiff satisfied the administrative prerequisites to commence this civil action in compliance with § 2699.3(a).

50. Plaintiff seeks the aforementioned penalties on behalf of the State, other Aggrieved Employees, and himself as set forth in Labor Code § 2699(g)(i).

51. Defendants are liable to Plaintiff, Aggrieved Employees, and the State of California for the civil penalties set forth in this Complaint, with interest thereon. Plaintiff is also entitled to an award of attorneys' fees and costs as set forth below.

52. Wherefore, Plaintiff requests relief as hereinafter provided.

SECOND CAUSE OF ACTION
Penalties Pursuant to Labor Code § 2699(f)
(Against All Defendants On Behalf of the State of California and Aggrieved Employees)

53. Plaintiff re-alleges and incorporates the foregoing paragraphs as though fully set forth herein.

54. Defendants do not properly compensate Aggrieved Employees with appropriate overtime premiums, including time and a half premiums based on their regular rate of pay, as required by California law.

55. Labor Code § 510(a) provides as follows:

Eight hours of labor constitutes a day's work. Any work in excess of eight hours in one workday and any work in excess of 40 hours in any one workweek and the first eight hours worked on the seventh day of work in any one workweek shall be compensated at the rate of no less than one and one-half times the regular rate of pay for an employee. Any work in excess of 12 hours in one day shall be compensated at the rate of no less than twice the regular rate of pay for an employee.

56. IWC Wage Order 4-2001(3)(A)(1), & (3) states that employees:

...shall not be employed more than eight (8) hours in any workday

EXHIBIT A

1 or more than 40 hours in any workweek unless the employee
2 receives one and one-half (1 ½) times such employee's regular rate
3 of pay for all hours worked over 40 hours in the workweek. Eight
4 (8) hours of labor constitutes a day's work. Employment beyond
5 eight (8) hours in any workday or more than six (6) days in any
6 workweek is permissible provided the employee is compensated for
such overtime at not less than ... [o]ne and one-half (1½) times the
employee's regular rate of pay for all hours worked in excess of
eight (8) hours up to and including 12 hours in any workday, and for
the first eight (8) hours worked on the seventh (7th) consecutive day
of work in a workweek....

7 57. Labor Code § 200 defines wages as "all amounts of labor performed by employees of
8 every description, whether the amount is fixed or ascertained by the standard of time, task, piece,
9 commission basis or other method of calculation." All such wages are subject to California's overtime
10 requirements, including those set forth above.

11 58. Labor Code § 2699(f) provides:

12 For all provisions of this code except those for which a civil penalty
13 is specifically provided, there is established a civil penalty for a
14 violation of these provisions, as follows: . . . (2) If, at the time of the
15 alleged violation, the person employs one or more employees, the
16 civil penalty is one hundred dollars (\$100) for each aggrieved
employee per pay period for the initial violation and two hundred
dollars (\$200) for each aggrieved employee per pay period for each
subsequent violation.

17 59. Defendants' policies and practices in misclassifying Plaintiff and Aggrieved
18 Employees as independent contractors result in overtime violations, business expense
19 reimbursement violations, and violations of Labor Code § 226.8

20 60. To the extent than any violation alleged herein does not carry penalties under Labor
21 Code § 2699(a), Plaintiff seeks civil penalties pursuant to Labor Code § 2699(f) for Plaintiff and
22 Aggrieved Employees each pay period in which he or she was aggrieved, in the amounts established
23 by Labor Code § 2699(f). Plaintiff seeks civil penalties under Labor Code § 2699(f) for Defendants'
24 violations of Labor Code §§ 510 and 2802.

25 61. Pursuant to Labor Code § 2699.3(a)(1) and (2), Plaintiff has provided the LWDA with
26 notice of his intention to file this claim against Defendant Wells Fargo & Company, and later sent
27 a supplemental letter to include Defendant Wells Fargo Bank, National Association. Sixty-five

28 **EXHIBIT A**

1 calendar days have passed without notice from the LWDA. Plaintiff satisfied the administrative
2 prerequisites to commence this civil action in compliance with § 2699.3(a).

3 62. Plaintiff seeks the aforementioned penalties on behalf of the State, other Aggrieved
4 Employees, and themselves as set forth in Labor Code § 2699(g)(i).

5 63. Defendants are liable to Plaintiff, Aggrieved Employees, and the State of California
6 for the civil penalties set forth in this Complaint, with interest thereon. Plaintiff is also entitled to
7 an award of attorneys' fees and costs as set forth below.

8 64. Wherefore, Plaintiff requests relief as hereinafter provided.

9
10 **THIRD CAUSE OF ACTION**
Misclassification Pursuant to Labor Code § 226.8
(Against All Defendants On Behalf of the Plaintiff Only)

11 65. Plaintiff re-alleges and incorporates the foregoing paragraphs as though fully set forth
12 herein.

13 66. At all relevant times, Defendants were required to properly classify their employees.
14 Labor Code § 226.8 makes it unlawful to willfully misclassify an individual as an independent
15 contractor.

16 67. Plaintiff alleges that Defendants classified him as an independent contractor when in
17 fact he should have been classified as an employee. Plaintiff alleges that he was misclassified because
18 Defendants exercised sufficient control over his work as to make him an employee.

19 68. Due to Defendants' misclassification of Plaintiff, Plaintiff was denied numerous
20 benefits of employment as set forth herein.

21 69. Wherefore, Plaintiff requests relief as hereinafter provided.

22
23 **FOURTH CAUSE OF ACTION**
Failure to Pay Overtime Wages Pursuant to California Labor Code §§ 510, 1194
(Against All Defendants On Behalf of the Plaintiff Only)

24 70. Plaintiff re-alleges and incorporates the foregoing paragraphs as though fully set forth
25 herein.

26 71. At all relevant times, Defendants were required to compensate their appraisers for all
27

28 **EXHIBIT A**

1 hours worked. Since at least four years prior to the filing of this lawsuit, Defendants were required
2 to compensate their appraisers at a rate of one and one-half their regular rate of pay for hours worked
3 in excess of 8 hours per day or 40 hours per workweek, and double-time for hours worked in excess
4 of 12 hours per day.

5 72. Defendants do not compensate Plaintiff with appropriate overtime, including time and
6 a half and double time, as required by California Labor Code § 510 and Wage Order No. 4-2001.

7 73. Labor Code § 510 provides as follows:

8 Eight hours of labor constitutes a day's work. Any work in excess
9 of eight hours in one workday and any work in excess of 40 hours
10 in any one workweek and the first eight hours worked on the seventh
11 day of work in any one workweek shall be compensated at the rate
12 of no less than one and one-half times the regular rate of pay for an
13 employee. Any work in excess of 12 hours in one day shall be
14 compensated at the rate of no less than twice the regular rate of pay
15 for an employee. In addition, any work in excess of eight hours on
16 any seventh day of a workweek shall be compensated at the rate of
17 no less than twice the regular rate of pay of an employee.

18 74. The IWC Wage Order 4-2001(3)(A)(1) states:

19 The following overtime provisions are applicable to employees 18
20 years of age or over and to employees 16 or 17 years of age who are
21 not required by law to attend school and are not otherwise prohibited
22 by law from engaging in the subject work. Such employees shall not
23 be employed more than eight (8) hours in any workday or more than
24 40 hours in any workweek unless the employee receives one and
25 one-half (1 ½) times such employee's regular rate of pay for all
26 hours worked over 40 hours in the workweek. Eight (8) hours of
27 labor constitutes a day's work. Employment beyond eight (8) hours
28 in any workday or more than six (6) days in any workweek is
permissible provided the employee is compensated for such
overtime at not less than: . . . One and one-half (1 ½) times the
employee's regular rate of pay for all hours worked in excess of
eight (8) hours up to and including 12 hours in any workday, and for
the first eight (8) hours worked on the seventh (7th) consecutive day
of work in a workweek; and ... [d]ouble the employee's regular rate
of pay for all hours worked in excess of 12 hours in any workday
and for all hours worked in excess of eight (8) hours on the seventh
(7th) consecutive day of work in a workweek.

EXHIBIT A

1 75. Labor Code § 1194(a) provides as follows:

2 Notwithstanding any agreement to work for a lesser wage, any
3 employee receiving less than the legal minimum wage or the legal
4 overtime compensation applicable to the employee is entitled to
5 recover in a civil action the unpaid balance of the full amount of this
6 minimum wage or overtime compensation, including interest
7 thereon, reasonable attorneys' fees, and costs of suit.

8 76. Labor Code § 200 defines wages as "all amounts for labor performed by employees
9 of every description, whether the amount is fixed or ascertained by the standard of time, task, piece,
10 commission basis or other method of calculation." All such wages are subject to California's
11 overtime requirements, including those set forth above.

12 77. Defendants regularly require Plaintiff to work in excess of 8 hours per day and 40
13 hours per week, but do not compensate him at an overtime rate for all of this work. Furthermore,
14 Defendants regularly do not compensate Plaintiff at a double time rate for hours worked in excess
15 of 12 hours each day.

16 78. Plaintiff has worked overtime hours for Defendants without being paid overtime
17 premiums in violation of the Labor Code, applicable IWC Wage Orders, and other applicable law.

18 79. Defendants have knowingly and willfully refused to perform their obligations to
19 compensate Plaintiff for all premium wages for overtime work. As a proximate result of the
20 aforementioned violations, Defendants have damaged Plaintiff in amounts to be determined
21 according to proof at the time of trial.

22 80. Defendants are liable to Plaintiff for the unpaid overtime with interest thereon.
23 Furthermore, Plaintiff is entitled to an award of attorneys' fees and costs. Plaintiff is also entitled to
24 declaratory relief.

25 81. Wherefore, Plaintiff requests relief as hereinafter provided.

26 **FIFTH CAUSE OF ACTION**
27 **Failure to Authorize and Permit and/or Make Available Meal and Rest Periods**
28 **Pursuant to California Labor Code §§ 226.7 and 512**
 (Against All Defendants On Behalf of the Plaintiff Only)

 82. Plaintiff re-alleges and incorporates the foregoing paragraphs as though fully set forth

EXHIBIT A

1 herein.

2 83. Throughout the relevant time period, Defendants have operated under a policy and
3 practice of failing to provide Plaintiff at least one half-hour meal period in which they are relieved
4 of all duties after five hours worked, and a second meal period after ten hours of work, as required
5 by IWC Wage Order No. 4-2001 and Labor Code §§ 226.7 and 512.

6 84. Plaintiff was regularly expected to work during meal and rest breaks.

7 85. Labor Code §§ 226.7 and 512 and the applicable Wage Orders require Defendants to
8 authorize and permit meal and rest periods to their employees. Labor Code §§ 226.7 and 512 and
9 the Wage Orders prohibit employers from employing an employee for more than five hours without
10 a meal period of not less than thirty minutes, and from employing an employee more than ten hours
11 per day without providing the employee with a second meal period of not less than thirty minutes.
12 Labor Code § 226.7 and the applicable Wage Orders also require employers to authorize and permit
13 employees to take ten minutes of net rest time per four hours or major fraction thereof of work, and
14 to pay employees their full wages during those rest periods. Unless the employee is relieved of all
15 duty during the thirty-minute meal period and ten-minute rest period, the employee is considered
16 “on duty” and the meal or rest period is counted as time worked under the applicable Wage Orders.

17 86. Under Labor Code § 226.7(b) and the applicable Wage Orders, an employer who fails
18 to authorize, permit, and/or make available a required meal period must, as compensation, pay the
19 employee one hour of pay at the employee’s regular rate of compensation for each workday that the
20 meal period was not authorized and permitted. Similarly, an employer must pay an employee denied
21 a required rest period one hour of pay at the employee’s regular rate of compensation for each
22 workday that the rest period was not authorized and permitted and/or not made available.

23 87. Despite these requirements, Defendants have knowingly and willfully refused to
24 perform their obligations to authorize and permit and/or make available to Plaintiff the ability to
25 take the off-duty meal and rest periods to which they are entitled. Defendants have also failed to
26 pay Plaintiff one hour of pay for each off-duty meal and/or rest periods that they are denied.
27

28 **EXHIBIT A**

Defendants' conduct described herein violates Labor Code §§ 226.7 and 512. Therefore, pursuant to Labor Code § 226.7(b), Plaintiff is entitled to compensation for the failure to authorize and permit and/or make available meal and rest periods, plus interest, attorneys' fees, expenses and costs of suit. Plaintiff is also entitled to declaratory relief.

88. Wherefore, Plaintiff requests relief as hereinafter provided.

SIXTH CAUSE OF ACTION
Failure to Reimburse for Necessary Expenditures Pursuant to California Labor Code § 2802
(Against All Defendants On Behalf of the Plaintiff Only)

89. Plaintiff re-alleges and incorporates the foregoing paragraphs as though fully set forth herein.

90. Defendants have an established practice of not reimbursing Plaintiff for all necessary business expenditures.

91. Throughout the relevant time period, Plaintiff was required to drive his personal vehicle on behalf of Defendants in the course and scope of their employment with Defendants, to visit assigned properties and conduct inspections. Plaintiff was not reimbursed for mileage and other expenses related to the use of his personal vehicle.

92. Likewise, Defendants fail to reimburse Plaintiff for use of his cellular phone, software, license, liability insurance, computer, high speed internet connection, continuing education courses, supplies, and expenses incurred when appraising properties that are farther away, such as mileage, flights, lodging, and food. All of these expenses were required for the appraisers to complete their assignments.

93. At all relevant times, Defendants were subject to Labor Code § 2802, which states that "an employer shall indemnify his or her employees for all necessary expenditures or losses incurred by the employee in direct consequence of the discharge of his or her duties, or his or her obedience to the directions of the employer...".

94. Plaintiff has been damaged by Defendants' violation of Labor Code § 2802.

95. Plaintiff is also entitled to declaratory relief, attorneys' fees, expenses, and costs

EXHIBIT A

1 related to the suit, pursuant to Labor Code § 2802(c).

2 96. Pursuant to Labor Code § 2802(b), any action brought for the reimbursement of
3 necessary expenditures under this section shall carry interest at the same rate as judgments in civil
4 actions. Interest shall accrue from the date on which the employee incurred the necessary
5 expenditure. Plaintiff is entitled to said interest.

6 **SEVENTH CAUSE OF ACTION**
7 **Failure to Provide Accurate Itemized Wage Statements Pursuant to California Labor Code §**
8 **226**
9 **(Against All Defendants On Behalf of the Plaintiff Only)**

10 97. Plaintiff re-alleges and incorporates the foregoing paragraphs as though fully set forth
11 herein.

12 98. Defendants knowingly and intentionally failed to furnish and continue to fail to furnish
13 Plaintiff with timely, itemized statements that accurately reflect – among other things – the total
14 number of hours worked and wages earned, as mandated by the California Labor Code § 226(a).

15 99. Labor Code § 226(a) provides:

16 An employer, semimonthly or at the time of each payment of wages,
17 shall furnish to his or her employees, either as a detachable part of
18 the check, draft, or voucher paying the employee's wages, or
19 separately if wages are paid by personal check or cash, an accurate
20 itemized statement in writing showing: (1) gross wages earned, (2)
21 total hours worked by the employee, except as provided in
22 subdivision (j), (3) the number of piece-rate units earned and any
23 applicable piece rate if the employee is paid on a piece-rate basis,
24 (4) all deductions, provided that all deductions made on written
25 orders of the employee may be aggregated and shown as one item,
26 (5) net wages earned, (6) the inclusive dates of the period for which
27 the employee is paid, (7) the name of the employee and only the last
28 four digits of his or her social security number, (8) the name and
address of the legal entity that is the employer and, if the employer
is a farm labor contractor, as defined in subdivision (b) of Section
1682, the name and address of the legal entity that secured the
services of the employer, and (9) all applicable hourly rates in effect
during the pay period and the corresponding number of hours
worked at each hourly rate by the employee The deductions
made from payments of wages shall be recorded in ink or other
indelible form, properly dated, showing the month, day, and year,
and a copy of the statement or a record of the deductions shall be

EXHIBIT A

kept on file by the employer for at least three years at the place of employment or at a central location within the State of California.

100. IWC Wage Order 4-2001(7) establishes similar wage statement requirements.

101. Labor Code § 226(e) provides:

An employee suffering injury as a result of a knowing and intentional failure by an employer to comply with subdivision (a) is entitled to recover the greater of all actual damages or fifty dollars (\$50) for the initial pay period in which a violation occurs and one hundred dollars (\$100) per employee for each violation in a subsequent pay period, not exceeding an aggregate penalty of four thousand dollars (\$4,000), and is entitled to an award of costs and reasonable attorney's fees.

102. Defendants are liable to Plaintiff for the amounts described above in addition to the civil penalties set forth below, with interest thereon. Plaintiff is also entitled to declaratory relief. Furthermore, Plaintiff is entitled to an award of attorneys' fees and costs as set forth below, pursuant to Labor Code § 226(e).

103. Wherefore, Plaintiff requests relief as hereinafter provided.

EIGHTH CAUSE OF ACTION
Failure to Pay Regular and Minimum Wages Pursuant to California Labor Code §§ 1182.11, 1182.12, 1194, 1197, and 1197.1
(Against All Defendants On Behalf of the Plaintiff Only)

104. Plaintiff re-alleges and incorporates the foregoing paragraphs as though fully set forth herein.

105. During the applicable statutory period, California Labor Code §§ 1182.12 and 1197, and the Minimum Wage Order were in full force and effect and required that Defendant's hourly employees receive no less than the minimum wage for all hours worked.

106. Defendant maintains, and has maintained, policies and procedures which create a working environment where hourly employees are routinely compensated at a rate that is less than the statutory minimum wage because they are classified as independent contractors. Plaintiff frequently worked time off-the-clock, which is time worked that is uncompensated.

EXHIBIT A

107. As a direct and proximate result of the unlawful acts and/or omissions of Defendant, Plaintiff has been deprived of regular and minimum wages in an amount to be determined at trial, and are entitled to a recovery of such amount, plus liquidated damages, plus interest thereon, attorneys' fees, costs of suit pursuant to Labor Code §§ 1194, 1194.2 and 1197.1.

108. Wherefore, Plaintiff requests relief as hereinafter provided.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff, on behalf of the State of California and Aggrieved Employees, requests the following relief:

1. For an order awarding civil penalties to the full extent provided for by the PAGA;
2. For an award of reasonable attorneys' fees as provided by the California Labor Code, including Labor Code § 2699(g)(1); California Code of Civil Procedure §1021.5; and/or any other applicable law;
3. For all costs of suit;
4. For interest on any penalties awarded, as provided by applicable law; and
5. For such other and further relief as this Court deems just and proper.

WHEREFORE, Plaintiff, on behalf of himself, requests the following further relief:

6. Damages and restitution according to proof at trial for all unpaid wages and other injuries, as provided by the California Labor Code;
7. For a declaratory judgment that Defendants violated the California Labor Code, California law, and public policy as alleged herein;
8. For an order awarding Plaintiff compensatory damages, including lost wages, earnings, liquidated damages, and other employee benefits, restitution, recovery of all money/property, actual damages, and all other sums of money owed to Plaintiff, together with interest on these amounts according to proof;
9. For an order awarding Plaintiff civil penalties pursuant to the California Labor Code, and the laws of the State of California, with interest thereon;

EXHIBIT A

- 1 10. For an order awarding reasonable attorneys' fees as provided by the California Labor
2 Code, California Code of Civil Procedure § 1021.5, the laws of the State of California,
3 and/or other applicable law;
4 11. For all costs of suit;
5 12. For interest on any penalties awarded, as provided by applicable law; and
6 13. For such other and further relief as this Court deems just and proper.

7
8
9 Respectfully submitted,

10 Date: November 4, 2022

11 _____
12 Carolyn H. Cottrell
13 Caroline N. Cohen
14 Andrew Weaver
15 SCHNEIDER WALLACE
16 COTTRELL KONECKY LLP

17 Attorneys for Plaintiff, on behalf of the State of
18 California and Aggrieved Employee

19 **DEMAND FOR JURY TRIAL**

20 Plaintiff hereby demands a jury trial on all claims and issues for which Plaintiff is entitled to
21 a jury.

22 Respectfully submitted,

23 Date: November 4, 2022

24 _____
25 Carolyn H. Cottrell
26 David C. Leimbach
27 Caroline N. Cohen
28 Kristabel Sandoval
29 SCHNEIDER WALLACE
30 COTTRELL KONECKY LLP

31 Attorneys for Plaintiff, on behalf of the State of
32 California and Aggrieved Employees

33 **EXHIBIT A**

EXHIBIT B

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SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF ALAMEDA

EUGENE FRITZ, on behalf of the State of
California and Aggrieved Employees,

Plaintiffs,

v.

WELLS FARGO & COMPANY,

Defendants.

Case No. RG20069677

(Assigned to Hon. Patrick R. McKinney II
for All Purposes, Dept. 15)

**ORDER APPROVING PRIVATE
ATTORNEYS GENERAL ACT
("PAGA") SETTLEMENT AND
JUDGMENT THEREON**

Date Action Filed: August 4, 2020
Trial Date: March 27, 2023 (vacated)

The motion of Plaintiff Eugene Fritz for an order approving the PAGA settlement of the
above-captioned action and entering judgment thereon ("Motion") having come before the Court,
the Court being duly apprised of the premises, and good cause appearing,

IT IS HEREBY ORDERED that the Motion shall be and hereby is granted and the
settlement of this action is hereby approved, and

IT IS FURTHER ORDERED as follows:

1. Capitalized terms in this Approval Order shall have the same meaning they are
given in the PAGA Settlement Agreement attached as Exhibit [X] to the Declaration of
[PLAINTIFF'S COUNSEL] filed in support of the Motion;

EXHIBIT B

2. The Second Amended Complaint attached as Exhibit A to the PAGA Settlement Agreement is deemed filed as of the date of this Order and Defendants, without needing to file a formal answer, are concurrently deemed to deny all of the allegations contained in it and to raise all the defenses that Defendant Wells Fargo & Company raised in its June 15, 2021 Answer to the First Amended Complaint and that Defendant Wells Fargo Bank, National Association raised in its June 25, 2021 Answer to the First Amended Complaint.

3. Phoenix Settlement Administrators is approved to serve as the Settlement Administrator and is hereby authorized to perform all of the duties assigned to it in the Settlement Agreement and to disburse the following from the Settlement Fund Amount in accordance with the terms of the PAGA Settlement Agreement:

- a. The LWDA Payment in the amount of \$_____;
- b. The Settlement Payments to PAGA Group Members in the aggregate amount of \$_____;
- c. The Fee and Expense Award in the amount of \$_____; and
- d. The Settlement Administration Costs in the amount of \$_____.

4. The State of California and all PAGA Group Members (including Plaintiff) are hereby deemed to have, and by operation of this Approval Order and Judgment shall have, expressly released, waived, and discharged the Released Parties from the Released Claims, and they shall be bound by this Approval Order and Judgment and be forever barred from suing the Released Parties on any of the Released Claims.

5. Judgment shall be entered forthwith in accordance with the foregoing, with each side to pay his or its own attorneys' fees and costs except as expressly set forth in the Settlement Agreement.

IT IS SO ORDERED, ADJUDGED AND DECREED.

Dated: _____, 2022

Hon. Patrick R. McKinney II
Judge of the Superior Court

EXHIBIT B

EXHIBIT C

NOTICE OF SETTLEMENT

Enclosed is a check representing your share of the proceeds of the settlement of the *Eugene Fritz v. Wells Fargo & Company* lawsuit brought in the Superior Court of the State of California, County of Alameda, Case No. RG20069677, under the Labor Code Private Attorneys General Act of 2004. The lawsuit alleged that Defendants Wells Fargo & Company and Wells Fargo Bank, N.A. (the Bank) misclassified commercial real estate panel appraisers as independent contractors under California law. The lawsuit is now settled. The settlement is not an admission of liability by Defendants, who have denied any liability or wrongdoing throughout this case and contend that commercial real estate panel appraisers are and have always been properly classified as independent contractors. The Bank's records identify you as having contracted to perform one or more commercial real estate appraisals in California as an independent contractor during the period from May 31, 2019 to August 21, 2022. The enclosed payment was calculated based on the total number of appraisals associated with you during that period, as reflected by the Bank's records, multiplied by the per appraisal value derived from the settlement. The settlement has been approved by the court and no further action is required on your part. You should cash your check by **[180 DAYS AFTER ISSUANCE]**, after which the check will be void and you will no longer be able to cash it. If you have questions about the settlement, you may call the settlement administrator, **[NAME]** at **[TOLL-FREE NUMBER]**, or review the case file by searching the case number listed above at <https://eportal.alameda.courts.ca.gov/>.