

**BEFORE THE UNITED STATES  
JUDICIAL PANEL ON MULTIDISTRICT LITIGATION**

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In re: WELLS FARGO FRAUDULENT  
ACCOUNT OPENING LITIGATION

MDL No. 2766

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**NOTIFICATION OF DEVELOPMENT AND SUPPLEMENTAL RESPONSE OF  
DEFENDANTS WELLS FARGO BANK N.A. AND WELLS FARGO & COMPANY TO  
MITCHELL PLAINTIFFS' MOTION TO TRANSFER ACTIONS PURSUANT TO 28  
U.S.C. § 1407**

Defendants Wells Fargo Bank, N.A. and Wells Fargo & Company (collectively, “Wells Fargo”) further respond to the pending motion to transfer related putative class actions pending against Wells Fargo to MDL No. 2766 (Dkt. No. 2), by providing notice that Wells Fargo has reached a national class-wide settlement in principle with the named plaintiffs in the first-filed class action, *Jabbari, et al. v. Wells Fargo & Co., et al.*, No. 3:15-cv-02159-VC (N.D. Cal., filed May 13, 2015) (“*Jabbari* Action”). The parties in the *Jabbari* Action have filed a notice with the Honorable Vince Chhabria, the judge overseeing the *Jabbari* Action in the United States District Court for the Northern District of California, a copy of which is attached hereto as Exhibit A. The proposed settlement class will encompass all persons who claim that Wells Fargo opened an account in their name without consent, enrolled them in a product or service without consent, or submitted an application for a product or service in their name without consent during the period from January 1, 2009 through the date of the settlement agreement. In light of this settlement, Wells Fargo believes that creation of an MDL at this juncture would be disruptive to settlement proceedings and the orderly resolution of these actions, and thus run counter to the “just and efficient conduct of such actions.” 28 U.S.C. § 1407(a). Wells Fargo therefore asks the Panel

either to defer ruling on the pending motion to transfer until the Panel's next hearing session on May 25, 2017, or to deny the motion without prejudice to the parties later seeking centralization, if appropriate, following resolution of settlement proceedings. If the Panel is inclined to proceed with the creation of an MDL now, Wells Fargo continues to believe that the greatest efficiency would be gained by transferring the actions to Judge Chhabria in the Northern District of California.

In similar situations, where a class-wide settlement has been reached that has potential to resolve actions that are the subject of a pending motion to transfer, the Panel has denied the motion to transfer, reasoning that “[c]entralization at this time could delay those proceedings and result in additional expense for the litigants and the courts in establishing an MDL proceeding with little or no benefit.” *In re: JPMorgan Chase Bank, N.A., Mortgage Corp. Force-Placed Hazard Ins. Litig.*, 959 F. Supp. 2d 1372, 1373 (J.P.M.L. 2013) (denying centralization after notice of “settlement in principle” for nationwide class); *see also In re: Healthtap Inc. Tel. Consumer Prot. Act (TCPA) Litig.*, 26 F. Supp. 3d 1389, 1390 (J.P.M.L. 2014) (“It appears that these actions are close to settlement and, therefore, we find that centralization at this time will not serve the convenience of the parties and witnesses or promote the just and efficient conduct of the litigation.”); *In re: Power Balance, LLC, Mktg. & Sales Practices Litig.*, 777 F. Supp. 2d 1345, 1346 (J.P.M.L. 2011) (denying centralization in light of recent motion for preliminary approval of nationwide class settlement). If Judge Chhabria grants preliminary approval to the settlement in the *Jabbari* Action, the plaintiffs in the related actions will have the opportunity to opt out of the settlement or to object, and direct their concerns to Judge Chhabria at a final fairness hearing concerning the settlement. As this Panel has observed, “[i]f the claims do not

settle and centralization is otherwise necessary, the parties are free to move for centralization at that time.” *In re. Healthtap*, 26 F. Supp. 3d at 1390.

Dated: March 28, 2017

MUNGER, TOLLES & OLSON LLP

By: /s/ Erin J. Cox

Erin J. Cox

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