

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DISTRICT

CS WANG & ASSOCIATE, *et al.*,)
)
 Plaintiffs,) Case No. 1:16-cv-11223
)
 v.) Chief Judge Rebecca R. Pallmeyer
)
 WELLS FARGO BANK, N.A., *et al.*,)
)
 Defendants.)
)
 _____)

**MOTION FOR FINAL APPROVAL OF CLASS ACTION
SETTLEMENT WITH THE WELLS FARGO DEFENDANTS**

Dated: November 29, 2021

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Plaintiffs CS Wang & Associate and Jay Schmidt Insurance Agency, Inc. (collectively, “Plaintiffs”) move for final approval of their class-wide settlement with Defendants Wells Fargo Bank, N.A. (“Wells Fargo”) and First Data Merchant Services, LLC (“First Data”) (collectively, the “Wells Fargo Defendants”). In support of this motion, Plaintiffs state as follows:

I. INTRODUCTION

The \$28 Million settlement reached with the Wells Fargo Defendants represents the largest settlement ever in a case brought under the California Invasion of Privacy Act (“CIPA”). In fact, the settlement here far exceeds the previous largest CIPA settlement of \$18 Million. As a result, members of the class are in line to receive substantial settlement payments. As shown below, the average settlement payment—even after payment of the requested attorneys’ fees and costs, incentive awards, and administration costs—is approximately \$774.19 per class member. Nearly 5,000 class members are in line to receive settlement checks in the amount of \$1,000 or more. One class member, who received multiple calls, will receive a settlement payment of approximately \$11,725.86.

Not surprisingly, the reaction to the settlement amongst the class has been overwhelmingly positive. Of 192,836 class members, only 27—approximately one one-hundredth of one percent (.014%) of the class—elected to opt-out of the settlement. More significantly, *not a single class member objected* to the settlement or the requested attorneys’ fees and incentive awards. The number of class members who actively participated in the settlement, on the other hand, was substantial: 23,648 valid claims were submitted that covered 59,331 Eligible Calls—a response rate that is significantly higher than what is typically achieved in class action settlements. Despite this high claims rate, class members will still receive

settlement payments in the hundreds or thousands of dollars each due to the substantial settlement fund negotiated by Class Counsel.

For these reasons, and those that follow, Plaintiffs respectfully request the Court to grant final approval to this settlement.

II. FACTUAL AND PROCEDURAL BACKGROUND

This lawsuit was filed on December 9, 2016 on behalf of a proposed class of small businesses in California who received sales appointment setting calls from International Payment Services, LLC (“IPS”) or Ironwood Financial, LLC (“Ironwood”). The lawsuit alleges, among other things, that the Wells Fargo Defendants were in a principal-agent relationship with IPS and that, in the scope of that relationship, IPS violated CIPA by recording telemarketing calls to California businesses without any warning that the recording was occurring. The Wells Fargo Defendants deny any liability and have vigorously defended the suit.¹

On March 29, 2018, the Court denied several motions to dismiss filed by the various defendants, including the Wells Fargo Defendants. For the past five years, the parties engaged in substantial discovery, including responding to hundreds of written discovery requests, the production of hundreds of thousands of documents, conducted depositions and expert discovery, and engaged in motion practice. On September 4, 2020, the Court denied several motions for judgment on the pleadings filed by the defendants, including the Wells Fargo Defendants. The parties have also fully briefed Plaintiffs’ motion for class certification, twice.

¹ The lawsuit also alleged that defendants Fifth Third Bank, N. A., Vantiv, Inc., and National Processing Corporation (the “Vantiv Defendants”) similarly had a principal-agent relationship with IPS, as well as with Ironwood. None of the claims asserted with respect to phone calls for which the Vantiv Defendants have potential liability are part of the current settlement. All claims against the Vantiv Defendants will continue to be prosecuted.

The parties conferred on numerous occasions over the past several years in an effort to reach a settlement but were always unsuccessful. On February 26, 2021, the parties participated in a full day mediation before the Honorable Layn R. Phillips (ret.) during which the parties were also unable to reach a settlement. Plaintiffs and the Wells Fargo Defendants thereafter engaged in settlement discussions to resolve only the claims asserted against those defendants. These efforts involved multiple meetings over several weeks that ultimately resulted in a settlement, the terms of which were memorialized in the Settlement Agreement attached as **Ex. A**.

III. SUMMARY OF SETTLEMENT TERMS

The Settlement Agreement provides for the creation of a non-reversionary common fund of \$28 Million (the “Settlement Fund”) for the benefit of the class. *See* Settlement Agreement at ¶ 1. Each class member who does not elect to be excluded shall be eligible for a cash payment (the “Settlement Class Member Payment”) for each call that is covered under the settlement class definition (“Eligible Call”). To receive a Settlement Class Member Payment, all class members needed to do was submit a claim form either by mail or online. *Id.* at ¶ 2. The claim form was simple, non-cumbersome, and included a pre-paid return envelope to mail it to the Settlement Administrator at no cost to the class member. *Id.* at ¶ 3 and Ex. 2.

Each Settlement Class Member Payment will be in an amount equal to the “Net Settlement Fund” divided by all Eligible Calls that were made to class members who timely and validly submit a claim up to a maximum of \$5,000 for each Eligible Call. *Id.* at ¶ 2.² “Net Settlement Fund” means the Settlement Fund less the amount of attorneys’ fees and costs awarded to Class Counsel, incentive awards, and settlement administration costs. *Id.* Class

² CIPA provides for statutory damages up to \$5,000 per violation. *See* Cal. Penal Code § 637.2(a)(1).

members who received multiple Eligible Calls are entitled to a Settlement Class Member Payment for each Eligible Call. *Id.*

The settlement includes several features designed to ensure that the entire Net Settlement Fund is distributed to the class. For example, if the initial claims rate was insufficient to exhaust the entire net settlement fund at the maximum payment of \$5,000 per Eligible Call, then an additional opportunity for class members to submit a claim will be provided. *Id.* at ¶ 27. All reasonable efforts will be used to ensure that class members who submit a claim receive and cash their settlement checks, including the reissuance of uncashed checks and, after 18 months, remittance to the State of California’s unclaimed property fund. *Id.* at ¶ 15.

In the unlikely event that funds remain after all of these efforts have been exhausted then any such remainder will be remitted to the Electronic Frontier Foundation (“EFF”) as a *cy pres* recipient, whose mission includes protecting privacy interests and “fight[ing] illegal surveillance.” See Electronic Frontier Foundation website, <https://www.eff.org/about>; see also *McCabe v. Six Continents Hotels, Inc.*, No. 12-CV-04818 NC, 2016 WL 491332, at *2 (N.D. Cal. Feb. 8, 2016) (approving EFF as *cy pres* recipient in CIPA settlement). Under no circumstances will any of the Settlement Fund revert to the Wells Fargo Defendants. See Settlement Agreement at ¶¶ 15, 27.

Class members had an opportunity to opt-out of the class and the settlement. *Id.* at ¶ 18. Class members who did not opt-out also had the opportunity to object to the proposed settlement and/or the attorneys’ fees and costs requested by Class Counsel. *Id.* at ¶ 19. The Settlement Agreement contains standard release language, but specifically excludes the non-settling defendants and the claims asserted against them. *Id.* at ¶ 21.

IV. SETTLEMENT ADMINISTRATION

Pursuant to the Settlement Agreement, the parties retained KCC, LLC (the “Settlement Administrator”) to administer the settlement. *See* Settlement Agreement at ¶ 4. The Settlement Administrator implemented the notice plan in accordance with the Settlement Agreement and the Court’s Preliminary Approval Order. *See* Supplemental Declaration of Lana Lucchesi (“Lucchesi Decl.”) at ¶¶ 10-13, attached as **Ex. B**. Notice was sent by direct mail to each class member’s last known address. *Id.* at ¶ 10. The Settlement Administrator also published a website that included a copy of the notice and other important documents and had the capability to accept claims online, established a toll-free settlement hotline, and caused to be delivered notice of this settlement through approximately 1,335,875 impressions on various websites targeting those who likely own, make decisions for, or work in small businesses in California. *Id.* at ¶¶ 11-13.³

The class includes approximately 192,836 potential members who received approximately 450,121 recorded phone calls during the period covered by the settlement with the Wells Fargo Defendants (*i.e.*, from March 7, 2011 through May 7, 2014). *Id.* at ¶ 9. 23,648 class members submitted a valid claim, which collectively cover 59,331 Eligible Calls. *Id.* at ¶¶ 14-16. Thus, class members are entitled to receive approximately \$308.57 per Eligible Call and the average settlement payment is \$774.19 per class member.⁴

³ The Settlement Administrator also sent out all notices required under the Class Action Fairness Act (“CAFA”). *Id.* at ¶¶ 3-5. The Settlement Administrator received no objection or other response from any of the notified governmental entities. *Id.* at ¶ 5.

⁴ These average amounts are calculated as follows: Settlement Fund of \$28,000,000 less settlement administration costs of \$403,091.88, less incentive awards of \$10,000, less attorneys’ fees of \$9,195,636, and less costs of \$83,191.45 = Net Settlement Fund of \$18,308,080.67. *See* Lucchesi Decl. at ¶ 19. $\$18,308,080.67 / 59,331$ Eligible Calls covered by claims = \$308.57 per Eligible Call. $\$18,308,080.67 / 23,648$ claims = \$774.19 per class member. *Id.* at ¶ 20. The amount each class member will receive, of course, will vary depending on how many Eligible Calls it received and final processing by the Settlement Administrator, but these examples are illustrative of the approximate average per call recovery and average per class member recovery. *Id.*

Nearly 5,000 class members will receive settlement payments equal to or greater than \$1,000 with the highest settlement payment of \$11,725.86 to a single class member. *Id.* at ¶ 20. There were enough claims submitted during the initial claims period to exhaust the entire Settlement Fund and, therefore, no additional claims period is necessary under the Settlement Agreement. The Settlement Administrator estimates that settlement administration costs will be approximately \$403,091.88. *See* Declaration of Myron M. Cherry (“Cherry Decl.”) at ¶ 12, attached as **Ex. C**.

Only 27 class members elected to opt-out of the settlement, which represents approximately one one-hundredth of one percent (.014%) of the class. *See* Lucchesi Decl. at ¶ 21. Not a single class member objected to the settlement or the requested attorneys’ fees and incentive awards. *Id.* at ¶ 22.

V. ARGUMENT

A. **The settlement is fair, reasonable, and adequate and should be approved.**

The settlement here is more than fair, reasonable, and adequate and should be granted final approval. “Federal courts naturally favor the settlement of class action litigation.” *Isby v. Bayh*, 75 F.3d 1191, 1196 (7th Cir. 1996). A district court should approve a class action settlement “if it determines after a hearing that the proposed settlement is ‘fair, reasonable, and adequate.’” *In re AT & T Mobility Wireless Data Servs. Sales Tax Litig.*, 789 F. Supp. 2d 935, 958 (N.D. Ill. 2011) (quoting FED. R. CIV. P. 23(e)(3)). “To evaluate the fairness of a settlement, a court must consider ‘the strength of plaintiffs’ case compared to the amount of defendants’ settlement offer, an assessment of the likely complexity, length and expense of the litigation, an evaluation of the amount of opposition to settlement among affected parties, the opinion of competent counsel, and the stage of the proceedings and the amount of discovery completed at

the time of settlement.” *Id.* (quoting *Synfuel Techs., Inc. v. DHL Express (USA), Inc.*, 463 F.3d 646, 653 (7th Cir. 2006)). Because each of these factors favors approval of the settlement reached here, the Court should find the settlement fair, reasonable, and adequate, and grant final approval.

1. The strength of Plaintiffs’ case compared to the terms of the proposed settlement.

The first, and most important, factor favors approval because the terms of the settlement are commensurate with the strength of Plaintiffs’ claims. *See Wong v. Accretive Health, Inc.*, 773 F.3d 859, 863-64 (7th Cir. 2014) (“We have deemed the first factor to be the most important”). While Plaintiffs believe strongly in the merits of their case, the Wells Fargo Defendants vigorously disputed Plaintiffs’ claims on several grounds. While the Court already ruled on several substantive motions prior to the settlement, including a motion to dismiss and a motion for judgment on the pleadings, the Wells Fargo Defendants would still have likely filed a motion for summary judgment at the conclusion of discovery. Among other things, the Wells Fargo Defendants have maintained throughout this suit that there was no principal-agent relationship with IPS and, even if there were such a relationship, that IPS acted outside the scope of its authority by illegally recording calls.

Plaintiffs strongly believe that the evidence does not support these defenses. Whether these complex issues would have been decided at summary judgment or at trial, they were nonetheless uncertain for either side. *See Charvat v. Valente*, No. 12-CV-05746, 2019 WL 5576932, at *7 (N.D. Ill. Oct. 28, 2019) (“[A]bsent a settlement, each of the parties would face very real litigation risk at trial. [Plaintiff], for instance, may well have failed to prevail at trial, as his claims were predicated on the notion that the Cruise Defendants were vicariously liable for RMG’s actions in sending the telemarketing calls. Should the Court or a jury have found that

RMG was not acting as an agent for the Cruise Defendants, not a single member of the class would have received any payment.”). The Wells Fargo Defendants have also raised a host of other defenses to the claims asserted against them, the resolution of which—either before this Court or on appeal—also remain uncertain.

The settlement, on the other hand, provides a substantial recovery for the class that may not otherwise be obtained. As noted above, this settlement far exceeds the previous largest CIPA settlement of \$18 Million in the *Marenco* case. *See* Cherry Decl. at ¶ 6. The settlement here also compares favorably to the five next largest CIPA settlements found by Class Counsel, all of which—along with the *Marenco* case—settled for far less than what Plaintiffs achieved here:

- *Marenco v. Visa, Inc.*, C.D. Cal. Case No. 2:10-cv-08022: \$18 Million settlement of CIPA class action on behalf of approximately 600,000 class members or \$30 per class member.
- *Mirkarimi v. Nevada Prop. 1, LLC*, 2015 WL 5022327 (S.D. Cal. Aug. 24, 2015): \$14.5 Million settlement of CIPA class action on behalf of 150,000 class members or \$96.67 per class member.
- *Medeiros v. HSBC Card & Retail Services, Inc.*, C.D. Cal. Case No. 2:15-cv-09093: \$13 Million settlement of CIPA class action on behalf of over 1,700,000 class members or \$7.54 per class member.
- *McCabe v. Six Continents Hotels, Inc.*, N.D. Cal. Case No. 3:12-cv-04818: \$11,700,000 settlement of CIPA class action on behalf of 698,000 class members or \$16.76 per class member.
- *Reed v. 1-800 Contacts, Inc.*, 2014 WL 29011 (S.D. Cal. Jan. 2, 2014): \$11.7 Million settlement of CIPA class action on behalf of 99,884 class members or \$117.14 per class member.
- *Batmanghelich v. Sirius XM Radio, Inc.*, C.D. Cal. Case No. 09-cv-9190: \$9,480,000 settlement of CIPA class action on behalf of over 1,700,000 class members or \$5.77 per class member.

The settlement here is \$10 Million larger than the previous record CIPA settlement and approximately double the size or larger than the five next largest CIPA settlements. *See Charvat*,

2019 WL 5576932, at *6 (approving class action settlement, noting that “[w]hile the average consumer payout of \$22.17 is not anywhere the statutory maximum, it is also not out of line with other approved TCPA class action settlements.”); *Kolinek v. Walgreen Co.*, 311 F.R.D. 483, 495 (N.D. Ill. 2015) (“In light of the significant possibility that [plaintiff] would recover nothing for the class if he proceeded with litigation and the fact that the per-claimant recovery under this settlement is comparable to the per-claimant recoveries in other [comparable] cases, the Court finds that this factor weighs in favor of approval.”).

Even after deducting the requested attorneys’ fees and costs, administration costs, and incentive awards, class members are in line to receive average settlement payments in the amount of \$774.19 each. “It must also be remembered that ‘a dollar today is worth a great deal more than a dollar ten years from now,’ and a major benefit of the settlement is that Class Members may obtain these benefits much more quickly than had the parties not settled.” *Schulte v. Fifth Third Bank*, 805 F. Supp. 2d 560, 583 (N.D. Ill. 2011) (citations omitted). Moreover, “[t]he expected value of litigation must be discounted to account for the risk of failure.” *Leung v. XPO Logistics, Inc.*, 326 F.R.D. 185, 197 (N.D. Ill. 2018) (granting final approval to class action settlement, noting that “plaintiffs forfeit their chance at the full ... statutory damages award, but gain certainty, avoid litigation costs, and recover now instead of years later”). In short, the settlement provides substantial and certain relief for hotly contested claims. The first factor, therefore, supports final approval of the settlement.

2. The likely complexity, length, and expense of continued litigation.

Trying a class action lawsuit of this magnitude to conclusion would have been a complex, lengthy, and expensive endeavor. As noted above, the Wells Fargo Defendants have vigorously contested vicarious liability and a trial on that issue alone would have been time-consuming and

expensive. Moreover, significant additional discovery—including potentially dozens of depositions, as well as additional experts—would have been needed prior to any trial. And appeals almost certainly would have followed any judgment. The second factor, therefore, clearly favors final approval of the settlement. *See Schulte*, 805 F. Supp. 2d at 586 (“Settlement allows the class to avoid the inherent risk, complexity, time, and cost associated with continued litigation.”); *Charvat*, 2019 WL 5576932, at *7 (“[I]t is reasonable to assume that summary judgment and pretrial issues would be hotly contested. As a result, any relief to class members would still be far down the road and may ultimately be entirely denied.”); *Leung*, 326 F.R.D. at 197 (finding second factor favors approval of class action settlement because “there would still be substantial motion practice on ... a possible summary judgment motion, plus trial and appeal. Both the class members and the defendant benefit from avoiding these expenses through a definite and immediate settlement.”).

3. *The amount of opposition and the reaction of class members to the settlement.*

There was virtually no opposition to the settlement amongst class members. Of the 192,836 class members, only 27 opted out. *See* Lucchesi Decl. at ¶ 21. In other words, 99.986% did not opt out of the settlement. *See In re Mexico Money Transfer Litig. (W. Union & Valuta)*, 164 F. Supp. 2d 1002, 1021 (N.D. Ill. 2000), *aff’d sub nom. In re Mexico Money Transfer Litig.*, 267 F.3d 743 (7th Cir. 2001) (“99.9% of class members have neither opted out nor filed objections to the proposed settlements. This acceptance rate is strong circumstantial evidence in favor of the settlements.”).⁵ More significantly, there was not a single objection to the settlement or the requested attorneys’ fees, costs, and incentive awards. *See* Lucchesi Decl. at ¶ 22.

⁵ A list of all class members who elected to opt out is attached as Ex. E to the Lucchesi Decl.

The lack of any opposition to the settlement, therefore, favors final approval of the settlement. *See Isby*, 75 F.3d at 1200 (affirming approval of class action settlement of class action despite the fact that 13% of the class submitted written objections to the settlement); *see also Am. Int'l Grp., Inc. v. ACE INA Holdings, Inc.*, 07-cv-2898, 2012 WL 651727, *6 (N.D. Ill. Feb. 28, 2012) (holding that 3 objectors out of 1,300 class members “indicates that the class members consider the settlement to be in their best interest”).

In contrast to the non-existent opposition to the settlement, tens of thousands of class members affirmatively participated in the settlement by submitting a claim. *See Lucchesi Decl.* at ¶¶ 14-16 (stating that 23,648 class members—12.26% of the class—submitted a claim, which covered 59,331—or 13.18% of—Eligible Calls). This robust response rate is further evidence that the settlement was received favorably by class members, particularly considering that class “settlements regularly yield response rates of 10 percent or less.” *Sylvester v. CIGNA Corp.*, 369 F. Supp. 2d 34, 52 (D. Me. 2005).

The high claims rate coupled with the low number of opt-outs and no objections demonstrates that the notice program was successful, and the class believes the settlement is fair, reasonable, and adequate. Indeed, large class actions will inevitably draw objections and opt-outs and, for that reason, courts routinely recognize a positive class member reaction despite opposition similar to or greater than the 27 opt-outs and no objections here. *See In re: Sears, Roebuck & Co. Front-loading Washer Prod. Liab. Litig.*, No. 06 C 7023, 2016 WL 772785, at *11 (N.D. Ill. Feb. 29, 2016) (“[O]f approximately 542,000 class members, only three objected to the settlement ... and only 59 chose to opt out.... The small number of class members who objected or opted out further supports the fairness and reasonableness of the settlement.”); *Schulte*, 805 F. Supp. 2d at 586 (“A very small percentage of affected parties have opposed the

settlement. *** [O]nly 342 Class Members excluded themselves from the settlement and only 15 Class Members submitted documents that could be considered objections.”); *Mangone v. First USA Bank*, 206 F.R.D. 222, 227 (S.D. Ill. 2001) (approving class action settlement where of the 18.5 million class members there were 19,637 opt-outs and 97 objections, finding “such overwhelming support by class members is strong circumstantial evidence supporting the fairness of the Settlement.”). The favorable reaction of class members to the settlement weighs in favor of granting final approval.

4. *The opinion of competent counsel.*

In connection with this factor, Plaintiffs submit the Declaration of Myron M. Cherry, a lawyer with over 50 years of experience in complex and class action litigation. *See* Cherry Decl. at ¶¶ 1-5. Based on his extensive experience, Mr. Cherry opines that the settlement is fair, reasonable, and adequate and provides a significant benefit to the class. *Id.* at ¶¶ 6-8; *see also Schulte*, 805 F. Supp. 2d at 586-87 (concluding that class counsel’s opinion that settlement was fair supported approval of the proposed settlement where counsel had extensive experience in class actions and complex litigation); *Clesceri v. Beach City Investigations & Protective Servs., Inc.*, 10-cv-3873, 2011 WL 320998, at *10 (C.D. Cal. Jan. 27, 2011) (“Courts give weight to counsels’ opinions regarding the fairness of a settlement, when it is negotiated by experienced counsel.”). The opinion of Class Counsel provides additional support to the final approval of the settlement.

5. *The stage of the proceedings and the amount of discovery completed.*

The last factor clearly weighs in favor of final approval. The case settled only after the parties engaged in substantial discovery and litigated and obtained rulings from the Court on several substantive and potentially dispositive issues in the case. *See* Cherry Decl., ¶¶ 9-11. Due

to the extensive investigation and discovery that occurred, as well as receiving several substantive rulings from the Court, both parties were able to fully assess the strengths and weaknesses of the claims and defenses in negotiating this settlement. Accordingly, “the advanced stage of the proceedings weighs heavily in favor of approving the settlement.” *Hispanics United of DuPage Cty. v. Vill. of Addison, Ill.*, 988 F. Supp. 1130, 1170-71 (N.D. Ill. 1997); *see also Am. Int’l Grp.*, 2012 WL 651727, *8 (approving settlement that was reached “after over three years of vigorous litigation [and] substantial discovery had been completed”).

B. The proposed form and method of class notice satisfies Rule 23 and due process.

Rule 23(e)(1) of the Federal Rules of Civil Procedure provides that when the parties reach a proposed class action settlement, “[t]he court must direct notice in a reasonable manner to all class members who would be bound by the proposal.” FED. R. CIV. P. 23(e)(1). Rule 23 further provides that “the court must direct to class members the best notice that is practicable under the circumstances, including individual notice to all members who can be identified through reasonable effort. The notice may be by one or more of the following: United States mail, electronic means, or other appropriate means.” FED. R. CIV. P. 23(c)(2)(B).

Here, the parties provided direct notice of the settlement by first class mail to each class member’s last known address. *See Mullins v. Direct Digital, LLC*, 795 F.3d 654, 665 (7th Cir. 2015) (“When class members’ names and addresses are known or knowable with reasonable effort, notice can be accomplished by first-class mail.”); *Bogges v. Hogan*, 410 F. Supp. 433, 442 (N.D. Ill. 1975) (“The United States Supreme Court has stated that individualized notice by mail to the last known address best satisfies the requirements of notice in class action[s].”) (citing *Eisen v. Carlisle & Jacquelin*, 417 U.S. 156, 174-77 (1974)).

The notice was collaboratively written by the parties in plain English and clearly provided information to class members about the nature of the action, the definition of the class certified, the benefits of the settlement, how to be excluded from the class or object to the settlement, and how class members' legal rights are affected by remaining in or opting out of the class. A settlement website was created that included a copy of the notice, the lawsuit, and other relevant information, as well the capability to accept claims online. Notice of the settlement was also published via the internet, which included approximately 1,335,875 impressions on various websites targeted in California. A toll-free settlement hotline was also established to answer frequently asked questions.

The notice plan implemented here was the best notice practicable and afforded class members with all due process protections required by Rule 23. *See Schulte*, 805 F. Supp. 2d at 591 (“The parties’ use of a settlement website and toll free number suggests that the claims process was designed to encourage—not discourage—the filing of claims.”); *In re: Sears, Roebuck*, 2016 WL 772785, *5 (“[D]efendants’ databases allowed the Claims Administrator to stream-line the claims submission process. Whenever possible, class members were sent postcard notices that contained a specific, individualized code; when the class member entered this code in the online claim form, many fields ‘auto-populated,’ making claim submission easier.”).

WHEREFORE, Plaintiffs’ request the Court to grant final approval of the class action settlement with the Wells Fargo Defendants. A proposed Final Approval Order, approved by Plaintiffs and the Wells Fargo Defendants, will be submitted to chambers.

Dated: November 29, 2021

Respectfully submitted,

By: /s/ Jacie C. Zolna
One of Plaintiffs’ Attorneys

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that he served the foregoing **Motion for Final Approval of Class Action Settlement With the Wells Fargo Defendants** upon:

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via the electronic filing system, on the 29th day of November, 2021.

/s/ Jacie C. Zolna

Ex. A

SETTLEMENT AGREEMENT

THIS SETTLEMENT AGREEMENT (the “Agreement”) is made and entered into between CS Wang & Associate and Jay Schmidt Insurance Agency, Inc. (collectively, “Plaintiffs”), individually and in their representative capacity on behalf of the settlement class defined below, and Wells Fargo Bank, N.A. (“Wells Fargo”) and First Data Merchant Services, LLC (“First Data”) (collectively, “Wells Fargo Defendants”), subject to Court approval as required by Rule 23 of the Federal Rules of Civil Procedure. Plaintiffs and the Wells Fargo Defendants are sometimes individually referred to herein as a “Party” and collectively as the “Parties.”

I. RECITALS

WHEREAS, on December 9, 2016, Plaintiffs filed a class action lawsuit against, among others, the Wells Fargo Defendants, in the United States District Court for the Northern District of Illinois (the “Court”), which is now entitled *CS Wang & Associate, et al. v. Wells Fargo Bank, N.A., et al.*, Case No. 1:16-cv-11223 (the “Lawsuit”). The Lawsuit alleges, among other things, that the Wells Fargo Defendants were in a principal-agent relationship with International Payment Services, LLC (“IPS”) and that, in the scope of that relationship, IPS violated Sections 632 and 632.7 of the California Invasion of Privacy Act (“CIPA”) by recording certain telephone calls to California businesses;

WHEREAS, on March 29, 2018, the Court denied the Wells Fargo Defendants’ motion to dismiss the First Amended Complaint;

WHEREAS, on February 12, 2019, Plaintiffs filed a second amended complaint (the “Second Amended Complaint”);

WHEREAS, on September 4, 2020, the Court denied the Wells Fargo Defendants’ motion for judgment on the pleadings;

WHEREAS, Plaintiffs have moved the Court for certification of six putative classes of businesses that received certain calls from either IPS or Ironwood Financial, LLC (“Ironwood”) on a telephone in California during time periods when Plaintiffs allege that (i) IPS was acting as an agent of First Data and Wells Fargo (the “Putative Wells Fargo-IPS Classes”); (ii) IPS was acting as an agent of Vantiv, Inc. (“Vantiv”), Fifth Third Bank (“Fifth Third”), and National Processing Company (“NPC”) (the “Putative Fifth Third-IPS Classes”); or (iii) Ironwood was acting as an agent of Vantiv, Fifth Third, and NPC (the “Putative Fifth Third-Ironwood Classes”). Plaintiffs contend that each such telephone call falls exclusively within either (x) the Putative Wells Fargo-IPS Classes, or (y) the Putative Fifth Third-IPS Classes and Putative Fifth Third-Ironwood Classes. In other words, Plaintiffs do not assert that there are any phone calls for which both First Data and/or Wells Fargo, on the one hand, and Vantiv, Fifth Third, NPC, and/or Ironwood, on the other hand, have potential joint liability;

WHEREAS, the Parties have fully briefed Plaintiffs’ motion for class certification, conducted written discovery, exchanged voluminous document productions, engaged in motion

practice, conducted depositions, and engaged in other substantial litigation on the merits of the Lawsuit;

WHEREAS, the Parties have conferred over the past several years in an effort to reach a settlement of this dispute;

WHEREAS, on February 26, 2021, the Parties participated in a mediation before the Honorable Layn R. Phillips (ret.) during which the Parties were unable to reach a settlement;

WHEREAS, the terms and conditions of the settlement set forth herein were reached after extensive, *bona fide*, arm's-length negotiations among the Parties by their respective attorneys and other representatives;

WHEREAS, the Parties have investigated the facts and have analyzed the relevant legal issues with regard to the claims and defenses asserted in the Lawsuit. Based on this investigation, Plaintiffs believe the Lawsuit has merit while the Wells Fargo Defendants believe the Lawsuit has no merit, deny all liability, and deny that the Putative Wells Fargo-IPS Classes should be certified as litigation classes in the Lawsuit. The Parties also have each considered the uncertainties of trial and the benefits to be obtained under the proposed settlement, and have considered the costs, risks, and delays associated with the continued prosecution of this complex litigation, and the likely appeals of any rulings in favor of either Plaintiffs or the Wells Fargo Defendants. After undertaking this investigation and analysis, counsel for Plaintiffs ("Settlement Class Counsel," as identified in Paragraph 46 below) believe that it is in the best interest of Settlement Class Members (as defined below in Paragraph 22) to enter into this Agreement;

NOW, THEREFORE, in consideration of the representations, covenants, and promises contained in this Agreement and other good and valuable consideration, the receipt and sufficiency of which are hereby confessed and acknowledged as evidenced by the execution of this Agreement, the Parties agree, subject to Court approval, as follows:

II. SETTLEMENT CLASS RELIEF

1. Settlement Fund: In exchange for the mutual promises and covenants in this Agreement, including without limitation, the releases as set forth in Paragraph 21 and the dismissal of the Lawsuit with respect to the Wells Fargo Defendants as set forth in Paragraph 20, the Wells Fargo Defendants shall pay an amount of Twenty-Eight Million Dollars (\$28,000,000) (the "Settlement Payment") to create a fund on behalf of Settlement Class Members (the "Settlement Fund"). The Settlement Payment shall be made as forth in Paragraph 12. The Settlement Payment represents the total extent of the Wells Fargo Defendants' monetary obligations under this Agreement. In no event shall the Wells Fargo Defendants' total monetary obligation with respect to this Agreement exceed the Settlement Payment.

2. Settlement Class Member Payments: Each Settlement Class Member who does not elect to be excluded as set forth below in Paragraph 18 shall be eligible under this Agreement for a cash payment (the "Settlement Class Member Payment") for each call that was received between March 7, 2011 through May 7, 2014 that is covered under the settlement class definition

set forth below in Paragraph 22 (an “Eligible Call”). Each Settlement Class Member Payment will be in an amount equal to the “Net Settlement Fund” divided by all Eligible Calls that were made to Settlement Class Members who timely and validly submit a claim as described below in Paragraph 3, up to a maximum of Five Thousand Dollars (\$5,000) for each Eligible Call. “Net Settlement Fund” means the Settlement Fund less the amount of attorneys’ fees and costs awarded to Settlement Class Counsel, incentive awards awarded to Plaintiffs, and Settlement Administration Costs (as defined in Paragraph 9). Settlement Class Members who received multiple Eligible Calls are entitled to a Settlement Class Member Payment for each Eligible Call and the Settlement Administrator may include all Settlement Class Member Payments for any such Settlement Class Member in a single settlement check.

3. Claims Process: In order to receive a Settlement Class Member Payment, a Settlement Class Member must complete the Claim Form sent with the Notice as described below or submit a claim online at the Settlement Website described below. Only one Claim Form is required for each Settlement Class Member even if the Settlement Class Member received and is eligible for payment for several Eligible Calls. The “Claims Deadline” for Settlement Class Members to submit a claim for a Settlement Class Member Payment shall be fifty-six (56) days after the Notice Date as set forth below. A claim shall be timely filed if postmarked or submitted online on or before the Claims Deadline. Claims postmarked or submitted online within seven (7) days after the Claims Deadline shall also be deemed timely and shall be eligible for a Settlement Class Member Payment.

III. SETTLEMENT CLASS NOTICE AND SETTLEMENT ADMINISTRATION

4. Retention of Settlement Administrator: KCC, LLC (the “Settlement Administrator”) will be retained as the settlement administrator. If KCC, LLC is unable or unwilling to be the settlement administrator then the Parties will jointly select a reputable settlement administrator to administer the notice and settlement or, absent an agreement by the Parties, one will be appointed by the Court. Because the costs and expenses of settlement administration will affect each Settlement Class Member’s share of the Settlement Fund, the costs and expenses of claims administration shall be overseen by Settlement Class Counsel. The Wells Fargo Defendants’ counsel may also oversee the claims administration process as they deem necessary. The Parties will use good faith efforts to minimize the costs of settlement administration. The Settlement Administrator will file a declaration with the Court, as part of the final approval papers, stating that the notice procedures set forth in this Part III of the Agreement and the Preliminary Approval Order (defined below) were followed.

5. Settlement Class Member Data: No later than seven (7) days after entry of an order granting preliminary approval of this settlement that is without material change to this Agreement or the Proposed Preliminary Approval Order (defined below) (the “Preliminary Approval Order”), (i) Settlement Class Counsel shall provide all information reasonably requested by the Settlement Administrator in order for it to identify Settlement Class Members’ names, addresses, and other available contact information, as well as information that will assist in identifying Eligible Calls and the total number of Eligible Calls each Settlement Class Member received; and (ii) the Wells Fargo Defendants shall provide information identifying merchants who enrolled in the First Data-Wells Fargo merchant processing program through

IPS, including available phone numbers of all such merchants. The Settlement Administrator shall use commercially reasonable efforts to ensure the accuracy of Settlement Class Member addresses to use for purposes of sending notice as set forth below. As a condition to receiving information concerning the Settlement Class Members, the Settlement Administrator must execute Attachment A of the Agreed Confidentiality Order entered by the Court on August 11, 2017. The Settlement Administrator will treat the information regarding the Settlement Class Members in a confidential manner pursuant to said Agreed Confidentiality Order.

6. Settlement Class Notice:

a. Mailing of Settlement Class Notice: Within twenty-one (21) days after entry of the Preliminary Approval Order, the Settlement Administrator shall mail notice of this settlement to the Settlement Class Members via First Class Mail in the form attached hereto as **Ex. A** (the “Notice”). The Notice shall also include a claim form in the form attached hereto as **Ex. B** (the “Claim Form”), as well as a pre-paid, self-addressed return envelope that Settlement Class Members can use to mail their Claim Form to the Settlement Administrator.

b. Follow-Up Mailings: For any Notice that is returned with a forwarding address, the Settlement Administrator shall update that Settlement Class Member’s address for purposes of administering this settlement and re-mail the Notice and Claim Form to the updated address. For any Notice that is returned without forwarding address information, the Settlement Administrator shall use commercially reasonable efforts to locate a new address for the Settlement Class Member. If such a search produces an updated address, the Settlement Administrator shall update that Settlement Class Member’s address for purposes of administering this settlement and re-mail the Notice and Claim Form to the updated address.

c. Publication Notice: Within twenty-one (21) days after entry of the Preliminary Approval Order, the Settlement Administrator shall publish on the internet the publication notice (“Publication Notice”). The impressions of the Publication Notice will be distributed on desktop and mobile devices via various websites in the manner recommended by the Settlement Administrator. The form and content of the Publication Notice shall be substantially as follows:

If you received a call from International Payment Services, LLC between March 7, 2011 and May 7, 2014 in an effort to set an in-person sales appointment you may be eligible for a cash payment from a class action settlement.

CLICK HERE FOR MORE
INFORMATION OR TO
SUBMIT A CLAIM
[link to Settlement Website]

7. Settlement Administration Website: Within twenty-one (21) days after entry of the Preliminary Approval Order, the Settlement Administrator shall develop and activate a settlement administration website (the “Settlement Website”). The Settlement Website shall post a copy of the Second Amended Complaint, the Wells Fargo Defendants’ Answer to the Second Amended Complaint, the Notice, this Agreement, and any other materials the Parties agree to include, and shall be designed and constructed to electronically accept Claim Forms from Settlement Class Members for a Settlement Class Member Payment. The Settlement Administrator shall secure a URL for the Settlement Website approved by the Parties. The content and format of the website will be agreed upon by the Parties. Ownership of the Settlement Website URL shall be transferred to First Data within ten (10) days of the date on which operation of the Settlement Website ceases.

8. Settlement Call Center: The Settlement Administrator shall designate a toll-free number for receiving calls related to the settlement (the “Settlement Call Center”). Anyone may call the Settlement Call Center from anywhere in the United States to ask questions of the Settlement Administrator about the settlement. The Parties shall jointly resolve any dispute that may arise regarding the operation of the Settlement Call Center. The Settlement Call Center shall be maintained from the date that is twenty-one (21) days after entry of the Preliminary Approval Order until thirty-five (35) days after the Final Settlement Date as defined below.

9. Cost of Settlement Administration: All costs and expenses of settlement administration shall be paid exclusively from the Settlement Fund. Such costs shall include, but not be limited to: (i) preparing, mailing, and monitoring all necessary notices and related documents; (ii) developing, maintaining, and operating the Settlement Website; (iii) communicating with and responding to Settlement Class Members; (iv) processing claims submitted by Settlement Class Members and computing settlement payments for Settlement Class Members; (v) distributing payments to Settlement Class Members; (vi) postage costs; (vii) costs associated in locating Settlement Class Members and reissuing checks; (viii) fees and costs incurred for any vendors or other third parties in the administration of the settlement; (ix) tax obligations in connection with interest earned on the Settlement Fund; (x) the costs of the CAFA Notice (as defined in Paragraph 10); (xi) costs of establishing and maintaining an escrow account for the Settlement Payment; and (xii) other fees and costs reasonably incurred in administering the settlement contemplated herein (collectively, the “Settlement Administration Costs”).

10. CAFA Notice: The Wells Fargo Defendants shall comply with and timely send all notices required under 28 U.S.C. § 1715 (the “CAFA Notice”), but may delegate that responsibility to the Settlement Administrator.

11. Processing Submitted Claims and the Settlement Class Member Report: The Settlement Administrator shall employ reasonable procedures to process each claim submitted by a Settlement Class Member and to determine whether it is a valid claim that was submitted in accordance with the directions on the Claim Form or Settlement Website and satisfies the conditions of eligibility for a Settlement Class Member Payment as set forth in this Agreement. Within twenty-one (21) days after the Claims Deadline (*i.e.*, seventy-seven (77) days after the Notice Date), the Settlement Administrator shall provide Settlement Class Counsel and counsel for the Wells Fargo Defendants with a report setting forth the identity of all Settlement Class

Members who validly and timely submitted a claim for a Settlement Class Member Payment and for each such Settlement Class Member: (i) the total number of Eligible Calls for which the Settlement Class Member submitted a claim to receive a Settlement Class Member Payment, and (ii) the total amount of the Settlement Class Member Payment for that Settlement Class Member (the “Settlement Class Member Report”). The Settlement Class Member Report shall also state the total amount of all Settlement Class Member Payments.

IV. FUNDING AND TIMING OF SETTLEMENT

12. Funding of Settlement: Within fourteen (14) days after the entry of the Preliminary Approval Order, the Wells Fargo Defendants shall remit to the Settlement Administrator the entire amount of the Settlement Payment (\$28,000,000). The Settlement Administrator shall hold these funds in escrow and shall disburse them in accordance with the terms of this Agreement. If this Settlement is deemed or declared invalid or void *ab initio* for any reason, including the reasons set forth below in Paragraphs 25 and 26, the Settlement Administrator shall immediately refund the Settlement Payment to the Wells Fargo Defendants less any amounts already expended by the Settlement Administrator on Settlement Administration Costs.

13. Timing of Settlement Class Member Payments: The Settlement Administrator shall begin mailing the Settlement Class Member Payments to Settlement Class Members within twenty-one (21) days after the Final Settlement Date (as defined in Paragraph 14) and all such mailings shall be completed no later than fourteen (14) days thereafter.

14. Final Settlement Date: The “Final Settlement Date” shall be the thirty-first (31st) day after the Court enters a final and appealable order and/or judgment approving this Agreement that is without material change to this Agreement or the Proposed Final Approval Order (defined below) (the “Final Approval Order”), but only if there is no appeal taken from the Final Approval Order. If an appeal is taken from the Final Approval Order, the Final Settlement Date shall be the date on which a reviewing court affirms the Final Approval Order, dismisses the appeal, or denies review and (i) all avenues of appeal and/or rehearing have been exhausted, or (ii) the time for seeking further appeals and/or a petition for rehearing has expired. If an appeal is taken from the Final Approval Order, then within fourteen (14) days of the filing of any such appeal the Settlement Administrator shall deposit the Net Settlement Fund into a separate, interest-bearing account, which account must be reasonably acceptable to Settlement Class Counsel. If the Final Settlement Date occurs, the interest earned on this account shall serve to increase the Net Settlement Fund and, thus, individual Settlement Class Member Payments. If the Settlement is deemed or declared invalid or void *ab initio* for any reason, then the interest earned on this account shall be included in the refund to the Wells Fargo Defendants in accordance with Paragraph 12.

15. Reissuance of Checks for Settlement Class Member Payments: Settlement Class Members shall have ninety (90) days from the date a Settlement Class Member Payment check is dated in which to cash or deposit the check. Checks for Settlement Class Member Payments shall be dated no more than three (3) days prior to the date they are actually mailed. Upon expiration of the ninety (90) day period set forth in the first sentence of this Paragraph 15,

the Settlement Administrator shall re-issue checks to all Settlement Class Members who failed to cash or deposit their initial Settlement Class Member Payment check. These checks shall also be dated no more than three (3) days prior to the date they are actually mailed and shall also have a ninety (90) day expiration period. The funds for Settlement Class Member Payment checks that remain uncashed or undeposited after this expiration date shall be maintained by the Settlement Administrator for a period of at least eighteen (18) months from the Final Settlement Date during which period of time Settlement Class Members who did not timely cash or deposit their Settlement Class Member Payment check shall be allowed to request the Settlement Administrator to re-issue the check upon reasonable verification that it is the actual Settlement Class Member or heir, successor, or executor to the Settlement Class Member. If, at the expiration of the eighteen (18) month period after the Final Settlement Date, Settlement Class Member Payment checks still remain uncashed or undeposited then any remaining funds shall, if possible, be turned over to the State of California's unclaimed property fund. The Settlement Administrator shall be authorized to take whatever steps are necessary, including, but not limited to, making additional efforts to ensure Settlement Class Member Payments are received and cashed by Settlement Class Members, in order to comply with any requirements for turning these funds over to the State of California. In the event turning these funds over to the State of California becomes impossible or impracticable, then any such remaining amounts will be paid to the Electronic Frontier Foundation. Under no circumstances will any of these amounts revert to any of the Wells Fargo Defendants.

V. INCENTIVE AWARDS AND SETTLEMENT CLASS COUNSEL'S FEES AND COSTS

16. Named Plaintiffs' Incentive Award: Settlement Class Counsel may petition the Court for incentive awards in the amount of Five Thousand dollars (\$5,000) each to Plaintiffs CS Wang & Associate and Jay Schmidt Insurance Agency, Inc. Within three (3) business days after the Final Settlement Date, the Settlement Administrator shall deliver to Settlement Class Counsel separate checks in the name of CS Wang & Associate and Jay Schmidt Insurance Agency, Inc. in the amount of their respective incentive awards awarded by the Court.

17. Settlement Class Counsel's Attorneys' Fees and Costs: Settlement Class Counsel will petition the Court for an award of attorneys' fees from the Settlement Fund not to exceed one-third (33.33%) of the Settlement Fund, as well as an additional amount to be paid from the Settlement Fund for actual costs. Settlement Class Counsel shall file such motion or petition supporting their request for attorneys' fees and costs with the Court no later than twenty-one (21) days prior to the deadline for Settlement Class Members to object to the settlement as set forth below in Paragraph 19. The Wells Fargo Defendants will not oppose this motion or petition. Within three (3) business days after the Final Settlement Date, the Settlement Administrator shall remit to Settlement Class Counsel the entire amount of the attorneys' fees and costs awarded by the Court. If an appeal is taken from the Final Approval Order, however, then (i) within fourteen (14) days of the filing of any such appeal the Settlement Administrator shall deposit the amount of attorneys' fees and costs awarded by the Court from the Settlement Fund into a separate, interest-bearing account, which account must be reasonably acceptable to Settlement Class Counsel; and (ii) the attorneys' fees and costs awarded to Settlement Class Counsel shall be disbursed from this interest-bearing account, including all interest, to Settlement Class Counsel within three (3) days after the Final Settlement Date. If the Settlement is deemed

or declared invalid or void *ab initio* for any reason, then the interest earned on this account shall be included in the refund to the Wells Fargo Defendants in accordance with Paragraph 12.

VI. RIGHT TO OPT-OUT OR OBJECT

18. Exclusion/Opt-Out Elections: Settlement Class Members may elect not to be part of the Lawsuit and not to be bound by this Agreement (*i.e.*, “opt-out”). To make this election, Settlement Class Members must mail a written “Opt-Out Election” to the Settlement Administrator at an address specified in the Notice stating: (i) the name and case number of the Lawsuit: *CS Wang & Associate, et al. v. Wells Fargo Bank, N.A., et al.*, Case No. 1:16-cv-11223; (ii) the full name, address, telephone number, and email address of the Settlement Class Member electing exclusion; (iii) a statement that the Settlement Class Member elects to be excluded from the Lawsuit and elects not to participate in the settlement; (iv) the full name, title, business address, business telephone number, and business email address of the person submitting the written election for the Settlement Class Member; and (v) a representation that the person submitting the written election has the authority to do so on behalf of the Settlement Class Member. Opt-Out Elections must be postmarked no later than forty-nine (49) days after the Notice Date (the “Opt-Out Deadline”). Except for those Settlement Class Members who have properly and timely mailed an Opt-Out Election, all Settlement Class Members will be bound by this Agreement and the Final Approval Order. Within three (3) business days of receiving an Opt-Out Election, the Settlement Administrator shall provide counsel for the Wells Fargo Defendants and Settlement Class Counsel with a copy of the election and a report indicating the number of Eligible Calls associated with the Settlement Class Member who made the election.

19. Objections: Any Settlement Class Member who has not submitted a timely Opt-Out Election and who wishes to object to the fairness, reasonableness, or adequacy of the proposed settlement, to the attorneys’ fees and costs requested by Settlement Class Counsel, or the requested incentive awards, must do so by filing a written objection with the Court no later than forty-nine (49) days after the Notice Date (the “Objection Deadline”) and serving a copy of the objection on Settlement Class Counsel and counsel for the Wells Fargo Defendants. It shall be the objector’s responsibility to ensure timely receipt of any objection by the Court, Settlement Class Counsel, and the counsel for the Wells Fargo Defendants. To be considered by the Court, the objection must include: (i) the name and case number of the Lawsuit: *CS Wang & Associate, et al. v. Wells Fargo Bank, N.A., et al.*, Case No. 1:16-cv-11223; (ii) the Settlement Class Member’s name, address, telephone number, and email address; (iii) the full name, title, business address, business telephone number, and business email address of the person submitting the objection for the Settlement Class Member; (iv) a representation that the person submitting the objection has the authority to do so on behalf of the Settlement Class Member; (v) a statement of each objection and the relief that the Settlement Class Member is requesting; and (vi) a statement of whether the Settlement Class Member intends to appear at the final approval hearing. Any Settlement Class Member who files and serves a written objection as described in this Paragraph 19 has the option to appear at the final approval hearing to object to the fairness, reasonableness, or adequacy of this proposed settlement, to the attorneys’ fees and costs requested by Settlement Class Counsel, or the requested incentive awards. However, Settlement Class Members intending to make an appearance at the final approval hearing must include a statement of intention to appear in the written objection filed with the Court and delivered to Settlement Class Counsel

and counsel for the Wells Fargo Defendants, and only those Settlement Class Members who include such a statement may speak at the final approval hearing. Settlement Class Members may retain counsel to object to the settlement and/or appear at the final approval hearing. If a Settlement Class Member is not a sole proprietorship or is otherwise a separate business entity, it may be required to make its objection or appear at the final approval hearing through an attorney. If a Settlement Class Member makes an objection or appears at the final approval hearing through an attorney, the Settlement Class Member will be responsible for his or her personal attorney's fees and costs. Any Settlement Class Member who fails to file a timely objection shall have waived any right to object to this Agreement and shall not be permitted to object at the final approval hearing and shall be foreclosed from seeking any review of this settlement by appeal or other means.

VII. DISMISSAL AND RELEASE

20. Dismissal: In connection with the motion for final approval of the settlement, the Parties, through counsel, shall submit to the Court a proposed order granting final approval of the settlement and dismissal of the Lawsuit as it relates to claims against the Wells Fargo Defendants with prejudice. The Parties shall jointly agree on the contents of the proposed order, which shall, among other things, provide that the Court will retain jurisdiction with respect to the implementation and enforcement of the terms of this Agreement (the "Proposed Final Approval Order"). All Parties hereto submit to the jurisdiction of the Court for purposes of implementing and enforcing the settlement embodied in this Agreement.

21. Plaintiffs and Settlement Class Member Release.

a. Release Upon Final Approval Order: Upon entry of the Final Approval Order, Plaintiffs and each Settlement Class Member who has not timely submitted an Opt-Out Election, on behalf of themselves and each of their respective agents, administrators, employees, representatives, successors, assigns, trustees, joint venturers, partners, legatees, heirs, personal representatives, predecessors, and attorneys (collectively the "Releasing Parties"), hereby jointly and severally release and forever discharge the Wells Fargo Defendants and each of their respective former, present, and future direct and indirect parents, affiliates, subsidiaries, successors, and predecessors and all of their respective former, present, and future officers, directors, shareholders, indemnitees, employees, agents, representatives, attorneys, accountants, auditors, independent contractors, successors, trusts, trustees, partners, associates, principals, divisions, insurers, reinsurers, members, brokers, consultants, and vendors and all persons acting by, through, under, or in concert with them, or any of them (collectively, and except as specifically provided in Paragraph 21.b. below, the "Released Parties"), from any and all manner of actions, causes of action, claims, demands, rights, suits, obligations, debts, contracts, agreements, promises, liabilities, damages, charges, penalties, losses, costs, expenses, and attorneys' fees, of any nature whatsoever, known or unknown, in law or equity, fixed or contingent, which they have or may have arising out of, relating to, or in connection with the recording of calls as alleged in the Second Amended Complaint, including but not limited to claims based on the Eligible Calls or claims for violation of CIPA, including but not limited to Section 632 and Section 632.7,

or any other federal, state, or local statute, regulation, or common law relating to the recording of telephone calls (the “Released Claims”).

b. Claims Not Released: Notwithstanding Paragraph 21.a. above, and for the avoidance of doubt, this release does not apply to or limit any action based on telephone calls other than Eligible Calls, whether pursued through the Lawsuit or any other claim or proceeding, by any Plaintiffs or Settlement Class Members against Fifth Third Bank, N.A., Vantiv, Inc., National Processing Company, Fidelity National Information Services, Inc., Worldpay, Inc. (collectively, the “Vantiv Defendants”), Ironwood Financial, LLC, John Lewis, Dewitt Lovelace, International Payment Services, LLC, Brian Bentley, Adam Bentley, or Andrew Bentley.

c. No Joint Liability Claims: For the further avoidance of doubt, Plaintiffs and Settlement Class Counsel acknowledge and agree that Plaintiffs have not asserted and will not assert any claims of joint liability among any of the Wells Fargo Defendants, on the one hand, and any of the Vantiv Defendants, on the other hand, with respect to any telephone calls at issue in this Lawsuit. Discovery in this matter established that, on May 8, 2014, IPS entered into an agreement with NPC and Fifth Third. Plaintiffs’ theory of liability in this case is that the Wells Fargo Defendants have vicarious liability for the calls at issue in the Lawsuit made through May 7, 2014, while the Vantiv Defendants have vicarious liability for the calls at issue in the Lawsuit made after May 7, 2014. Based upon this theory, the Wells Fargo Defendants and the Vantiv Defendants could never be found jointly liable for any particular call. Plaintiffs and Settlement Class Counsel further acknowledge and agree, based upon the claims asserted and discovery conducted in this matter, that the Wells Fargo Defendants could not have any liability for any call at issue in the Lawsuit placed after May 7, 2014, and that the Final Approval Order will contain a confirmation of this agreement.

d. Unknown Claims: Each Releasing Party acknowledges that it may hereafter discover facts different from, or in addition to, those which it now claims or believes to be true with respect to the Released Claims, and agrees that this Agreement shall remain effective in all respects notwithstanding the discovery of such different, additional, or unknown facts. With respect to any and all Released Claims, each Releasing Party hereby expressly waives, and shall be deemed to have waived, to the fullest extent permitted by law, the provisions, rights and benefits conferred by California Civil Code Section 1542, which section reads as follows:

A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS THAT THE CREDITOR OR RELEASING PARTY DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE, AND THAT, IF KNOWN BY HIM OR HER, WOULD HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR.

Each Releasing Party further shall be deemed to have, and shall have, expressly waived any and all provisions, rights, and benefits conferred by any law of any state or territory

of the United States, or principle of common law, or the law of any jurisdiction outside of the United States, which is similar, comparable, or equivalent to California Civil Code Section 1542. This release applies to any claim any Releasing Party may have arising out of, relating to, or in connection with the recording of calls as alleged in the Second Amended Complaint, whether that claim arises under CIPA or any other legal theory or cause of action relating to the recording of phone calls. For example, if a Settlement Class Member believes that a call as described in the Second Amended Complaint violated some law other than CIPA or breached a contract, such a claim would be barred by this release. The Parties acknowledge, and the Settlement Class Members shall be deemed by operation of the Final Approval Order to have acknowledged, that the foregoing waivers are a material element of the Agreement of which this release is a part.

VIII. MISCELLANEOUS PROVISIONS

22. Settlement Class Definition: For settlement purposes, the Parties have agreed to define the settlement class as follows:

All businesses that received a telephone call from a call center operated by International Payment Services, LLC or one of its affiliates between March 7, 2011 through May 7, 2014, while the call recipient was physically present in California, and who did not sign a contract for merchant processing services with First Data Merchant Services, LLC.

Excluded from the class are (i) the Judge and Magistrate Judge presiding over this Lawsuit and members of their immediate families, and (ii) the Wells Fargo Defendants and their employees, subsidiaries, parent companies, successors, and predecessors.

Any business meeting the definition of this class shall be referred to herein as a “Settlement Class Member” and, collectively, as the “Settlement Class” or “Settlement Class Members.”

The Wells Fargo Defendants dispute that the Putative Wells Fargo-IPS Classes would be manageable or that issues common to the Putative Wells Fargo Classes predominate over individual issues and deny that the Putative Wells Fargo-IPS Classes should be certified on the claims asserted in the Lawsuit. However, solely for the purposes of avoiding the expense and inconvenience of further litigation, the Wells Fargo Defendants do not oppose the certification of the Settlement Class, *for settlement purposes only*, pursuant to Federal Rule of Civil Procedure 23(b)(3). Preliminary certification of the Settlement Class for settlement purposes shall not be deemed a concession that certification of the Putative Wells Fargo-IPS Classes or any litigation class is appropriate, nor would the Wells Fargo Defendants be precluded from opposing class certification in further proceedings in the Lawsuit if this Agreement does not receive final approval. If the Final Settlement Date does not occur for any reason whatsoever, the certification of the Settlement Class will be void, and no doctrine of waiver, estoppel, or preclusion will be asserted in any proceedings involving the Wells Fargo Defendants. No agreements made by or entered into by the Wells Fargo Defendants in connection with this Agreement may be used by Plaintiffs, any Settlement Class Member, or any other persons or entities to establish any of the elements of class certification in any other proceedings against the Wells Fargo Defendants.

23. Preliminary Approval Motion: Upon full execution of this Agreement, Plaintiff will file a motion for preliminary approval of this class action settlement in accordance with the terms of this Agreement. The Wells Fargo Defendants will not oppose a motion to certify the Settlement Class in accordance with the terms of this Agreement. The motion for preliminary approval shall submit to the Court a proposed order granting preliminary approval of the settlement and certification of the Settlement Class for settlement purposes. The Parties shall jointly agree on the contents of the proposed order (the “Proposed Preliminary Approval Order”).

24. Final Approval Hearing: Contemporaneously with the motion for preliminary approval of the settlement of the Lawsuit, the Parties shall request that the Court schedule a final approval hearing no earlier than thirty-five days (35) days after the Claims Deadline. No later than seven (7) days prior to the final approval hearing, Plaintiffs shall file a motion for final approval of the settlement and entry of the Proposed Final Approval Order. Plaintiffs shall include with this motion a list of all Settlement Class Members who validly and timely submitted an Opt-Out Election.

25. Status of Lawsuit If Settlement Is Not Approved: This Agreement is being entered into for settlement purposes only. There is no settlement if (i) the Court conditions the preliminary or final approval of this settlement on any substantive modifications of this Agreement (other than modifications to the time periods and dates described herein, additional notice to the class, or other procedural aspects of the Agreement) that are not acceptable to all Parties; (ii) if the Court does not approve this Agreement or enter the Preliminary Approval Order or the Final Approval Order; or (iii) if the Final Settlement Date does not occur for any reason. In such event, then (i) this Agreement is terminated, will be deemed null and void *ab initio*, and no Party shall be bound by any of its terms; (ii) to the extent applicable, any preliminary order approving the settlement or certifying the Settlement Class shall be vacated; (iii) the Parties shall request that the Court, following a further conference with the Parties, establish a schedule for the continuation of the Lawsuit; (iv) there will have been no admission of liability or that a class should be certified and no waiver of any claim or defense of any kind whatsoever; and (v) neither the settlement nor any of its provisions or the fact that this Agreement has been made shall be admissible in the Lawsuit or in any other action for any purpose whatsoever.

26. Right to Set Aside Settlement. The Wells Fargo Defendants shall have the right to set aside or rescind this Agreement, in the sole exercise of their discretion, if Settlement Class Members who received more than one thousand (1,000) of the Eligible Calls opt out of the settlement. In order to exercise this right, the Wells Fargo Defendants must inform Settlement Class Counsel of their decision to set aside the settlement in writing within fourteen (14) days after the Opt-Out Deadline. In the event the Wells Fargo Defendants exercise their discretion to set aside the settlement, this Agreement and all negotiations, proceedings, documents prepared, and statements made in connection with this settlement and this Agreement shall have been made without prejudice to the Parties, shall not be deemed or construed to be an admission or confession by any Party of any fact, matter, or proposition of law, and shall not be used in any manner for any purpose. All Parties shall stand in the same position as if this Agreement had not been negotiated, made, or filed with the Court. In such event, the Parties to the Lawsuit shall

move the Court to vacate any and all orders entered by the Court pursuant to the provisions of this Agreement.

27. Additional Claims Period: If the number of Eligible Calls for which a claim was submitted pursuant to Paragraph 3 above is insufficient to exhaust the entire Net Settlement Fund at the maximum payment of Five Thousand Dollars (\$5,000) per Eligible Call, then an additional opportunity for Settlement Class Members to submit a claim shall be offered as follows: Within twenty-eight (28) days after the Claims Deadline, the Settlement Administrator shall mail an additional communication and Claim Form to all Settlement Class Members who did not submit a claim and afford them an additional thirty-five (35) days to submit a claim by mail or online. The Parties will jointly agree on the content of the communication. If, after both this additional claims period and the Final Settlement Date have occurred, the number of Eligible Calls for which a claim was submitted is insufficient to exhaust the entire Net Settlement Fund at the maximum payment of Five Thousand Dollars (\$5,000) per Eligible Call, then any remaining amounts of the Net Settlement Fund will be paid to the Electronic Frontier Foundation. Under no circumstances will any of these amounts revert to any of the Wells Fargo Defendants.

28. Change of Time Periods: All procedural time periods and dates described in this Agreement are subject to the Court's approval and subject to modification. These time periods and dates may be changed by the Court or by the Parties' written agreement with or without notice to the Settlement Class as the Court may direct.

29. Weekend and Holiday Deadlines: If any deadline established by this Agreement falls on a weekend or court holiday, any such deadline shall be deemed to be extended to the next business day.

30. Binding on Successors: Plaintiffs represent and warrant that they have not assigned any claim or right or interest relating to any of the Released Claims against the Released Parties to any other person or party and that they are fully entitled to release same. This Agreement binds and benefits the Parties' respective successors, assigns, legatees, heirs, and personal representatives. This agreement shall not be construed to create rights in, or to grant remedies to, or delegate any duty, obligation or undertaking established herein to any third party as a beneficiary to this Agreement.

31. Entire Agreement: This Agreement and the attached exhibits contain the entire agreement and understanding of the Parties with respect to the matters set forth herein, and constitute the complete, final, and exclusive embodiment of their agreement with respect to the settlement of the Lawsuit. This Agreement and the attached exhibits supersede any and all prior agreements, negotiations, arrangements, or understandings, whether written or oral, express or implied, between them relating to the subject matter hereof. The Parties agree that there are no understandings with respect to the settlement of the Lawsuit, whether written, oral, express, implied, or otherwise, except as set forth in this Agreement and the attached exhibits, and that in entering into this Agreement, no Party has relied, or is entitled to rely, upon any promise, inducement, representation, statement, assurance, or expectation unless it is contained herein in writing.

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32. Exhibits: The exhibits to this Agreement are integral parts of the Agreement and are incorporated into this Agreement as though fully set forth herein.

33. Recitals: The Recitals are incorporated by this reference and are part of this Agreement.

34. Modifications and Amendments: No amendment, change, or modification to this Agreement will be valid unless in writing signed by the Parties or their counsel.

35. Construction and Interpretation: Neither the Parties nor any of the Parties' respective attorneys shall be deemed the drafter of this Agreement for purposes of interpreting any provision in this Agreement. This Agreement has been, and must be construed to have been, drafted by all the Parties to it so that any rule that construes ambiguities against the drafter will have no force or effect.

36. Counterparts: This Agreement may be executed in counterparts, each of which constitutes an original, but all of which together constitutes one and the same instrument. Several signature pages may be collected and annexed to one or more documents to form a complete counterpart. Photocopies or PDF copies of executed copies of this Agreement shall be treated as originals.

37. Waiver: Except as set forth above with respect to the Claims Deadline, the Objection Deadline, and the Opt-Out Deadline, no delay on the part of any Party in the exercise of any right, power, or remedy shall operate as a waiver thereof, nor shall any single or partial exercise of any right, power, or remedy preclude the further exercise thereof, or the exercise of any other right, power, or remedy. The waiver by one Party of any breach of this Agreement by any other Party shall not be deemed as a waiver of any other prior or subsequent breaches of this Agreement.

38. Governing Law: This Agreement shall be governed and interpreted in accordance with the laws of the State of Illinois and without regard to conflicts of law principles.

39. Attorneys' Fees and Costs: Other than the payment of Settlement Class Counsel's attorneys' fees and costs in accordance with Paragraph 17 above, each Party shall bear their own attorneys' fees and costs relating in any way to the Lawsuit or this Agreement, or the subject matter of any of them.

40. Taxes: Under no circumstances will the Wells Fargo Defendants have any liability for any taxes or tax expenses under this Agreement. Plaintiffs, Settlement Class Counsel, Settlement Class Members, and the recipients of any *cy pres* funds are responsible for any taxes on their respective recoveries or awards. Nothing in this Agreement, or statements made during the negotiation of its terms, shall constitute tax advice by the Wells Fargo Defendants or the Wells Fargo Defendants' counsel.

41. No Admission of Liability: This Agreement reflects the Parties' compromise and settlement of disputed claims. The Wells Fargo Defendants are entering into this Agreement

in order to compromise and resolve disputed claims that they believe have no validity so as to avoid further litigation. The Wells Fargo Defendants, by entering into this Agreement, do not admit liability and, in fact, expressly deny liability. The provisions of this Agreement, and all related drafts, communications and discussions, and any act performed or document executed pursuant to or in furtherance of this Agreement or the settlement, shall not be construed as or deemed to be evidence of an admission or concession of any point of fact or law by any Party. To the extent permitted by law, neither this Agreement, nor any of its terms or provisions, nor any of the negotiations, actions or proceedings connected with it, shall be admissible as evidence in this Lawsuit or any other pending or future civil, criminal, or administrative action or proceeding for any purpose whatsoever other than seeking preliminary and final approval of this Agreement or in any proceeding brought to enforce this Agreement.

42. Parties Represented by Counsel: The Parties acknowledge that: (i) Plaintiffs have been represented by independent counsel of their own choosing; (ii) the Wells Fargo Defendants have been represented by independent counsel of their own choosing; (iii) they have read this Agreement and are fully aware of its contents; and (iv) their respective counsel fully explained to them the Agreement and its legal effect. The Parties executed this Agreement voluntarily and without duress or undue influence, and intend to be legally bound by this Agreement.

43. Authorization: The Parties represent that they each have all necessary power and authority to enter into this Agreement and to carry out such Party's obligations hereunder. Each signatory below represents and warrants that he or she is fully entitled and duly authorized to enter into this Agreement on behalf of the Party on whose behalf he or she is signing.

44. Support and Cooperation to Obtain Court Approval and in Administering the Settlement: The Parties agree, subject to their legal obligations, to support this Agreement and to cooperate to the extent reasonably necessary in producing information, executing any documents, or taking any additional actions which are consistent with and which may be necessary or appropriate to secure the Court's preliminary and final approval of this Agreement, or to effectuate the terms and administration of this Agreement.

45. Other Communications: Neither the Parties nor their counsel will issue press releases or provide any other statements to the press regarding this settlement, unless all Parties, each in their sole discretion, agree to such press releases or statements. Neither the Parties nor their counsel will make a statement of any kind to any third party regarding the settlement prior to applying for preliminary approval, with the exception of communications with the Settlement Administrator. Neither the Parties nor their counsel shall include content concerning this settlement on their website(s), on social media platforms, or in any promotional publications concerning their services, unless all Parties, each in their sole discretion, agree to such content. Notwithstanding the foregoing, this provision (i) shall not prohibit Settlement Class Counsel from communicating with any Settlement Class Member regarding the Lawsuit or this settlement; and (ii) shall not apply to statements made by either of the Wells Fargo Defendants or their respective affiliates as part of filings with the Securities and Exchange Commission pursuant to the Securities Exchange Act of 1934 and any related disclosures or communications with shareholders or investors.

46. Notice to Counsel: All notices to Settlement Class Counsel provided for herein shall be sent by overnight mail and email to:

Myron M. Cherry
mcherry@cherry-law.com
Jacie C. Zolna
jzolna@cherry-law.com
Benjamin R. Swetland
bswetland@cherry-law.com
Myron M. Cherry & Associates, LLC
30 North LaSalle Street, Suite 2300
Chicago, Illinois 60602

All notices to counsel for the Wells Fargo Defendants provided for herein shall be sent by overnight mail and email to:

John H. Mathias, Jr.
jmathias@jenner.com
Megan B. Poetzel
mpoetzel@jennner.com
Jenner & Block LLP
353 N. Clark Street
Chicago, Illinois 60654-3456
Counsel for First Data


John Peterson
john.peterson@polsinelli.com
Polsinelli
401 Commerce Street
Suite 900
Nashville, TN 37219
Counsel for First Data and Wells Fargo

The notice recipients and addresses designated above may be changed by written notice.

The remainder of this page is intentionally left blank.

Dated: Aug. 3, 2021

CS WANG & ASSOCIATE



By: James Wang
Its: President
Individually and in a representative capacity

Dated: _____, 2021

JAY SCHMIDT INSURANCE AGENCY, INC.

By: Jay Schmidt
Its: _____
Individually and in a representative capacity

Dated: _____, 2021

SETTLEMENT CLASS COUNSEL

Myron M. Cherry, as Settlement Class Counsel

Jacie C. Zolna, as Settlement Class Counsel

Benjamin R. Swetland, as Settlement Class Counsel

Dated: _____, 2021

CS WANG & ASSOCIATE

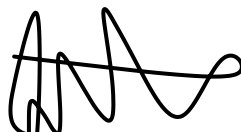
By: James Wang

Its: _____

Individually and in a representative capacity

Dated: August 3, 2021

JAY SCHMIDT INSURANCE AGENCY, INC.



By: Jay Schmidt

Its: owner/president

Individually and in a representative capacity

Dated: _____, 2021

SETTLEMENT CLASS COUNSEL

Myron M. Cherry, as Settlement Class Counsel

Jacie C. Zolna, as Settlement Class Counsel

Benjamin R. Swetland, as Settlement Class Counsel

Dated: _____, 2021

CS WANG & ASSOCIATE

By: James Wang

Its: _____

Individually and in a representative capacity

Dated: _____, 2021

JAY SCHMIDT INSURANCE AGENCY, INC.

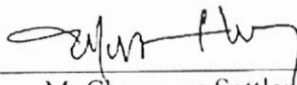
By: Jay Schmidt

Its: _____

Individually and in a representative capacity

Dated: August 3, 2021

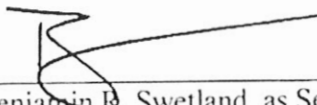
SETTLEMENT CLASS COUNSEL



Myron M. Cherry, as Settlement Class Counsel



Jacie C. Zolna, as Settlement Class Counsel



Benjamin R. Swetland, as Settlement Class Counsel

EXECUTION COPY

Dated: 8/4/2021 | 6:53:49 AM PDT **WELLS FARGO BANK, N.A.**

DocuSigned by:

Calvin Hoffman

AF61E0B88D76440...

By: Calvin P. Hoffman
Senior Counsel

Dated: _____, 2021

FIRST DATA MERCHANT SERVICES, LLC

By: _____

EXECUTION COPY

Dated: _____, 2021

WELLS FARGO BANK, N.A.

By: Calvin P. Hoffman
Senior Counsel

Dated: 8/4, 2021

FIRST DATA MERCHANT SERVICES, LLC



By: Adam Rosman
Chief Administrative and Legal Officer
Fiserv, Inc.

Exhibit 1

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DISTRICT

CS WANG & ASSOCIATE, <i>et al.</i> ,)	
)	
Plaintiffs,)	Case No. 1:16-cv-11223
)	
v.)	Chief Judge Rebecca R. Pallmeyer
)	
WELLS FARGO BANK, N.A., <i>et al.</i> ,)	
)	
Defendants.)	
_____)	

PLEASE READ THIS NOTICE CAREFULLY. IT RELATES TO THE PROPOSED SETTLEMENT OF A CLASS ACTION AND CONTAINS IMPORTANT INFORMATION ABOUT YOUR RIGHTS.

A federal court authorized this Notice. This is not a solicitation from a lawyer.

Call records indicate that your business received at least one telephone call from International Payment Services, LLC between March 7, 2011 and May 7, 2014 in an effort to set an in-person sales appointment. Based on those records, your business is eligible for a settlement payment if you sign and return the enclosed claim form or if you submit a claim online at [insert settlement website address] on or before [date].

The settlement provides for an **estimated minimum payment of approximately \$40 for each eligible appointment setting call you received and could be as high as \$5,000 per call**, but you need to submit a claim as described below in order to be eligible to receive payment.

I. What is this notice about?

This Notice is being sent to notify you of a class action lawsuit regarding the recording of certain appointment setting calls to California businesses. On [insert date], the Court preliminarily approved a settlement of the Lawsuit. The purpose of this Notice is to inform your business of the Lawsuit and the proposed settlement. In addition, this Notice will advise you of what to do if your business wants to remain a part of the Lawsuit, what to do if your business wants to exclude itself from the Lawsuit, and how joining or not joining the Lawsuit may affect your business’s legal rights.

II. What is the Lawsuit about?

On December 9, 2016, a class action lawsuit was filed in the United States District Court for the Northern District of Illinois, Eastern Division, now entitled *CS Wang & Associate, et al. v. Wells Fargo Bank, N.A., et al.*, Case No. 1:16-cv-11223 (the “Lawsuit”). The Lawsuit alleged that an independent sales organization named International Payment Services, LLC (“IPS”), recorded certain calls to California businesses without disclosing the fact that the call was being recorded in violation of Sections 632 and 632.7 of the California Invasion of Privacy Act (“CIPA”). The Lawsuit further alleged that the purpose of these calls was to set in-person sales appointments with the businesses to sell credit card processing equipment and services on behalf of Wells Fargo Bank, N.A. (“Wells Fargo”) and First Data Merchant Services, LLC (“First Data”)

(collectively, “the Wells Fargo Defendants”), both of whom are named as defendants in the Lawsuit. The Wells Fargo Defendants deny any wrongdoing or liability in connection with the Lawsuit.

III. What are the benefits of the proposed settlement?

Under the proposed settlement, the Wells Fargo Defendants will make a payment of \$28,000,000 to create a fund on behalf of the Settlement Class Members (the “Settlement Fund”). Settlement Class Members who do not exclude themselves from the Lawsuit are eligible for a cash payment from the Settlement Fund for each call that is covered under the class definition set forth in Section VII below (an “Eligible Call” as defined in the Settlement Agreement). Settlement Class Members who received multiple Eligible Calls are entitled to a cash payment for each Eligible Call. The minimum cash payment for each Eligible Call is estimated to be approximately \$40, but could be as high as \$5,000 per call depending on how many claims are submitted. It is not possible at this time, however, to know the exact amount of each payment.

IV. How does my business receive a settlement payment?

In order to receive the cash payment described in this Notice you must complete and sign the enclosed claim form for your business and mail it to the Settlement Administrator, or you can submit your claim online through the settlement website at [insert settlement website address], by the DUE DATE of [insert date]. A pre-paid, self-addressed envelope is provided with this Notice that you can use to mail in your claim form.

Regardless of whether you mail the claim form or submit a claim online, **you must do so by the DUE DATE of [insert date]** to be eligible to receive a payment. Settlement payments will only be issued if the proposed settlement is granted final approval by the Court.

V. Why is there a proposed settlement?

The Court has not decided in favor of either side in the Lawsuit. Plaintiffs and Settlement Class Counsel believe the claims have merit. The Wells Fargo Defendants do not believe the claims have merit. The Wells Fargo Defendants are settling to avoid the expense, inconvenience, and inherent risk of litigation. Plaintiffs and Settlement Class Counsel believe that the proposed settlement is in the best interest of Settlement Class Members because it provides appropriate recovery and other relief now while avoiding the risk, expense, and delay of pursuing the case through trial and any appeals, including the possibility of no recovery for Settlement Class Members whatsoever.

VI. What is a class action lawsuit?

A class action lawsuit is a legal action in which one or more people represent a large group, or class, of people. The purpose of a class action lawsuit is to resolve at one time similar legal claims of the members of the group.

VII. Who is in the class?

On [insert date], the Court certified the Lawsuit as a class action for settlement purposes and defined the class as follows:

All businesses that received a telephone call from a call center operated by International Payment Services, LLC or one of its affiliates between March 7, 2011 through May 7, 2014, while the call recipient was physically present in California, and who did not sign a contract for merchant processing services with First Data Merchant Services, LLC.

Any business meeting this definition shall be referred to herein as a “Settlement Class Member” and, collectively, as the “Settlement Class” or “Settlement Class Members.”

VIII. When and where is the final approval hearing?

The final approval hearing has been set for [insert date and time] before the Honorable Rebecca R. Pallmeyer in Courtroom 2541 of the Everett McKinley Dirksen Building, 219 South Dearborn Street, Chicago, Illinois 60604. The final approval hearing may be conducted remotely via teleconference. Please check the settlement website for information on whether the final approval hearing will be conducted remotely via teleconference and, if so, how to participate: [insert settlement website].

The Court will hear any comments from the parties or objections concerning the fairness of the proposed settlement at the final approval hearing, including the amount requested for attorneys’ fees and costs or the requested incentive awards.

You **do not** need to attend the final approval hearing to remain a Settlement Class Member or to obtain any benefits under the proposed settlement. Your business or its attorney may attend the hearing, at your business’s own expense. Your business does not need to attend this hearing to have a properly filed and served written objection considered by the Court.

IX. How can my business be excluded from the Lawsuit and the settlement?

Any Settlement Class Member has the right to be excluded from the Lawsuit by written request. If you wish for your business to be excluded from the case, you must mail a written request to the Settlement Administrator at the address set forth below stating that your business wants to be excluded from the class. All exclusion requests must include (i) the name and case number of the Lawsuit: *CS Wang & Associate, et al. v. Wells Fargo Bank, N.A., et al.*, Case No. 1:16-cv-11223; (ii) the full name, address, telephone number, and email address of the Settlement Class Member business electing exclusion; (iii) a statement that the Settlement Class Member elects to be excluded from the Lawsuit and elects not to participate in the settlement; (iv) the full name, title, business address, business telephone number, and business email address of the person submitting the written election for the Settlement Class Member; and (v) a representation that the person submitting the written election has the authority to do so on behalf of the Settlement Class Member. A Settlement Class Member’s exclusion request must be postmarked no later than the **DUE DATE** of [insert date] and sent to the following address: [insert mailing address].

If your business properly and timely elects to exclude itself from the case, your business will not have any rights as a Settlement Class Member pursuant to the proposed settlement, it will not be eligible to receive any monetary payment under the proposed settlement, it will not be bound by any further orders or the judgment entered in the Lawsuit, and it will remain able to pursue any claims alleged in the Lawsuit against the Wells Fargo Defendants on its own and at its own expense and with its own counsel. If your business proceeds on an individual basis after excluding itself from the Lawsuit it may receive more, or less, of a benefit than it would otherwise receive under this proposed settlement or no benefit at all. If your business does not exclude itself from the case, it will be deemed to have consented to the Court’s jurisdiction and to have released the claims at issue against the Wells Fargo Defendants as explained below, and will otherwise be bound by the proposed settlement.

X. How can my business object to the settlement?

If your business does not exclude itself from the Lawsuit, it can comment in opposition to the settlement, including the amount requested for attorneys' fees and costs or the requested incentive awards, which is known as an objection, and your business has the right to appear before the Court to express its opposition. Your written objection must be submitted in writing and filed with the Clerk of Court by **the DUE DATE of [insert date]**. The address for the Clerk of the Court is: Everett McKinley Dirksen Building, 219 South Dearborn Street, Chicago, Illinois 60604. You must also send copies of your written objection to the attorneys for the parties at the following addresses:

Settlement Class Counsel:

Myron M. Cherry
Jacie C. Zolna
Benjamin R. Swetland
Myron M. Cherry & Associates, LLC
30 North LaSalle Street, Suite 2300
Chicago, Illinois 60602

Counsel for the Wells Fargo Defendants:

John H. Mathias, Jr.
Megan B. Poetzel
Jenner & Block LLP
353 N. Clark Street
Chicago, Illinois 60654-3456
Counsel for First Data

John Peterson
Polsinelli
401 Commerce Street
Suite 900
Nashville, TN 37219
Counsel for First Data and Wells Fargo

To be valid and considered by the Court, any such written objection must include the following information: (i) the name and case number of the Lawsuit: *CS Wang & Associate, et al. v. Wells Fargo Bank, N.A., et al.*, Case No. 1:16-cv-11223; (ii) the Settlement Class Member's name, address, telephone number, and email address; (iii) the full name, title, business address, business telephone number, and business email address of the person submitting the objection for the Settlement Class Member; (iv) a representation that the person submitting the objection has the authority to do so on behalf of the Settlement Class Member; (v) a statement of each objection and the relief that the Settlement Class Member is requesting; and (vi) a statement of whether the Settlement Class Member intends to appear at the final approval hearing. Settlement Class Members may retain counsel to object to the settlement and/or appear at the final approval hearing. If a Settlement Class Member is not a sole proprietorship or is otherwise a separate business entity, it may be required to make its objection or appear at the final approval hearing through an attorney. If a Settlement Class Member makes an objection or appears at the final approval hearing through an attorney, the Settlement Class Member will be responsible for his or her personal attorney's fees and costs. Any Settlement Class Member who fails to file a timely objection shall have waived any right to object to this Agreement and shall not be permitted to object at the final approval hearing and shall be foreclosed from seeking any review of this settlement by appeal or other means.

XI. What is the effect of final settlement approval?

If the Court approves the proposed settlement after the final approval hearing, it will enter a judgment dismissing the Lawsuit with prejudice and releasing all claims as described in this paragraph. If you do not exclude your business from the case, the proposed settlement will be your sole mechanism for obtaining any relief. All Settlement Class Members who do not timely elect to opt out of the proposed settlement, and each of their respective agents, administrators, employees, representatives, successors, assigns, trustees, joint venturers, partners, legatees, heirs, personal representatives, predecessors, and attorneys release and forever discharge the Wells Fargo Defendants and each of their respective former, present, and future direct

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and indirect parents, affiliates, subsidiaries, successors, and predecessors and all of their respective former, present, and future officers, directors, shareholders, indemnitees, employees, agents, representatives, attorneys, accountants, auditors, independent contractors, successors, trusts, trustees, partners, associates, principals, divisions, insurers, reinsurers, members, brokers, consultants, and vendors and all persons acting by, through, under, or in concert with them, or any of them, from any and all manner of actions, causes of action, claims, demands, rights, suits, obligations, debts, contracts, agreements, promises, liabilities, damages, charges, penalties, losses, costs, expenses, and attorneys' fees, of any nature whatsoever, known or unknown, in law or equity, fixed or contingent, which they have or may have arising out of, relating to, or in connection with the recording of calls as alleged in the Lawsuit, including but not limited to claims based on calls that are covered under the class definition set forth above ("Eligible Calls") or claims for violation of CIPA, including but not limited to Section 632 and Section 632.7, or any other federal, state, or local statute, regulation, or common law relating to the recording of telephone calls. Notwithstanding the above, and for the avoidance of doubt, this release does not apply to or limit any action based on telephone calls other than Eligible Calls, whether pursued through the Lawsuit or any other claim or proceeding, by any Plaintiffs or Class Members against Fifth Third Bank, N.A., Vantiv, Inc., National Processing Company, Fidelity National Information Services, Inc., Worldpay, Inc., Ironwood Financial, LLC, John Lewis, Dewitt Lovelace, International Payment Services, LLC, Brian Bentley, Adam Bentley, or Andrew Bentley.

If the proposed settlement is not approved, the Lawsuit will proceed as if no settlement had been reached. There can be no assurance that if the settlement is not approved and the Lawsuit resumes that Settlement Class Members will recover more than what is provided for under the proposed settlement or will recover anything at all.

XII. Who are the lawyers for Plaintiffs and class members?

The following lawyers ("Settlement Class Counsel") are serving as counsel for the Settlement Class:

Myron M. Cherry
mcherry@cherry-law.com
Jacie C. Zolna
jzolna@cherry-law.com
Benjamin R. Swetland
bswetland@cherry-law.com
Myron M. Cherry & Associates, LLC
30 North LaSalle Street, Suite 2300
Chicago, Illinois 60602
(312) 372-2100 (telephone)
(312) 853-0279 (facsimile)

From the beginning of the case to the present, Settlement Class Counsel has not received any payment for their services in prosecuting the Lawsuit or in obtaining this proposed settlement, nor have they been reimbursed for any out-of-pocket costs they have incurred. Settlement Class Counsel will apply to the Court for an award of attorneys' fees in the amount of no more than one-third (33.33%) of the Settlement Fund after deducting incentive awards and settlement administration costs, as well as an additional amount for partial reimbursement of actual costs, which Settlement Class Counsel currently estimates will be between \$95,000-\$100,000. If the Court approves Settlement Class Counsel's petition for fees and costs, it will be paid from the Settlement Fund. Settlement Class Members will not have to pay anything toward the fees or costs of Settlement Class Counsel. You do not need to hire your own lawyer because Settlement Class Counsel is working on your behalf and will seek final approval of the settlement on behalf of the Settlement

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Class Members. You may hire your own lawyer to represent you in this case if you wish, but it will be at your own expense.

Settlement Class Counsel may also petition the Court for incentive awards in the amount of \$5,000 each to the Settlement Class representatives who helped the Settlement Class Counsel on behalf of the whole Settlement Class.

XIII. Where can I get more information about the Lawsuit?

This Notice provides only a summary of the Lawsuit. You can view the settlement agreement and obtain more information about the settlement at [insert settlement website address]. In order to see the complete case file, including the settlement agreement and all other pleadings and papers filed in the Lawsuit, you may also examine the court file at the office of the Clerk of the Court in the Everett McKinley Dirksen Building, 219 South Dearborn Street, Chicago, Illinois 60604.

**PLEASE DO NOT CONTACT THE COURT (INCLUDING
THE CLERK OF THE COURT OR THE JUDGE) OR DEFENDANTS
WITH QUESTIONS ABOUT THE SETTLEMENT OR THE LAWSUIT**

**PLEASE ADDRESS ANY FURTHER CONTACT TO THE SETTLEMENT ADMINISTRATOR
AT:**

[insert name, address, phone number, and email address]

Dated: [INSERT DATE]

BY ORDER OF THE UNITED STATES DISTRICT COURT

Exhibit 2

EXECUTION COPY

«Barcode» [insert box for name/address change]
Claim#: «ClaimID»-«MailRec»
«First1» «Last1»
«CO»
«Addr2»
«Addr1»
«City», «St» «Zip»
«Country»

CLAIM FORM

CS Wang & Associate, et al. v. Wells Fargo Bank, N.A., et al.

Case No. 1:16-cv-11223

United States District Court for the Northern District of Illinois, Eastern Division

INSTRUCTIONS: Please sign below and return this Claim Form in the enclosed, self-addressed pre-paid envelope or mail it to: [insert name and address of Settlement Administrator]

In order to receive your settlement payment, you must submit your claim no later than [insert date] by mailing this claim form to the settlement administrator or by submitting a claim online at [insert website address].

Call records reflect that your business received calls from an International Payment Services, LLC affiliated call center at the following number(s) between March 7, 2011 and May 7, 2014:

[Name of business, phone number(s), and number of calls to be pre-populated by Settlement Administrator]

I affirm that I have the authority to submit this Claim Form on behalf of the business identified above, and that, to the best of my knowledge, during the timeframe referenced above the person(s) who received calls for this business at the phone number(s) listed above did so in California.

Dated: _____

Signature: _____

If you have any questions about this Claim Form, please call the Settlement Administrator toll-free at [insert phone number]. For additional information about the settlement, please visit [insert website address].

Mail this Claim Form or submit it online on or before [insert date] (postmark deadline).

Ex. B

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IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

CS WANG & ASSOCIATE, *et al.*,
Plaintiffs,
vs.
WELLS FARGO BANK, N.A., *et al.*,
Defendants.

Case No. 1:16-cv-11223

CLASS ACTION

**SUPPLEMENTAL DECLARATION OF
LANA LUCCHESI RE: NOTICE
PROCEDURES AND CLAIMS
ADMINISTRATION**

1 I, Lana Lucchesi, declare and state as follows:

2 1. I am a Vice President with KCC Class Action Services, LLC (“KCC”), located in
3 San Rafael, California. Pursuant to the Order Granting Preliminary Approval of Class Action
4 Settlement (the “Preliminary Approval Order”) dated August 16, 2021, the Court appointed KCC
5 as the Claims Administrator in connection with the proposed Settlement of the above-captioned
6 Action.¹ I have personal knowledge of the matters stated herein and, if called upon, could and
7 would testify thereto.

8
9 2. The purpose of this declaration is to provide updated information and statistics
10 based on my last declaration executed on October 4, 2021.

11 **CAFA NOTIFICATION**

12
13 3. In compliance with the Class Action Fairness Act (“CAFA”), 28 U.S.C. Section
14 1715, KCC compiled a CD-ROM containing the following documents: Complaint; Amended
15 Complaint; Answer, Defenses & Cross-Claims of Defendants First Data Merchant Services LLC
16 and Wells Fargo Bank, N.A.; Amended Answer & Defenses of Defendants First Data Merchant
17 Services LLC and Wells Fargo Bank, N.A.; Plaintiffs’ Answer to Amended Affirmative Defenses
18 of Defendants First Data Merchant Services, LLC and Wells Fargo Bank, N.A.; Second Amended
19 Complaint; Answer & Defenses of Defendants First Data Merchant Services LLC and Wells
20 Fargo Bank, N.A. to Plaintiffs’ Second Amended Complaint; Amended Answer & Defenses of
21 Defendants First Data Merchant Services LLC and Wells Fargo Bank, N.A. to Plaintiffs’ Second
22 Amended Complaint; Plaintiffs’ Answer to Amended Affirmative Defenses of Defendants First
23 Data Merchant Services, LLC and Wells Fargo Bank, N.A.; First Data Merchant Services LLC
24 and Wells Fargo Bank, N.A.’s Third-Party Complaint; Motion for Preliminary Approval of Class
25 Action Settlement with all attachments; Notification of Docket Entry; Long Form Notice; Claim
26
27

28 ¹ All capitalized terms not otherwise defined herein shall have the meanings ascribed to them in the Settlement Agreement, dated August 4, 2021 and/or the Preliminary Approval Order.

1 Form; Settlement Agreement; and Amended Stipulation of Voluntary Dismissal regarding
2 Defendants International Payment Services, LLC, Brian Bentley, Adam Bentley, and Andrew
3 Bentley (“IPS Defendants”), which accompanied a cover letter (collectively, the “CAFA Notice
4 Packet”). A copy of the cover letter is attached hereto as Exhibit A.

5
6 4. On August 13, 2021, KCC caused sixty-one (61) CAFA Notice Packets to be
7 mailed via Priority Mail from the U.S. Post Office in Memphis, Tennessee to the parties listed on
8 Exhibit B, *i.e.*, the U.S. Attorney General, the Commissioners of Banking and Finance
9 Institutions, the Attorneys General of the 5 recognized U.S. Territories, the Office of the
10 Comptroller of the United States, the Federal Reserve Bank, and the FDIC as well as parties of
11 interest to this Action.

12
13 5. As of the date of this Declaration, KCC has received no response to the CAFA
14 Notice Packet from any of the recipients identified in paragraph 4 above.

15 **CLASS LIST**

16 6. On or around July 21, 2021 through August 10, 2021, KCC received from Class
17 Counsel several data files and PDF documents representing billing records, call databases, and
18 daily lead lists. Phone numbers were obtained from the billing records and call databases. These
19 phone numbers were compared to the daily lead lists which contained names and addresses. For
20 records where a name and address could not be determined, KCC facilitated a reverse phone
21 look-up search.

22
23 7. On or around August 9, 2021, KCC received from Defendants a data file
24 representing the list of calls shown on the Veracity call records that were made to phone numbers
25 of businesses that enrolled in the First Data merchant processing program through IPS. Where
26 applicable, these records were matched to the Class List and removed.

27
28 8. KCC formatted the list for mailing purposes, removed duplicate records, and

1 processed the names and addresses through the National Change of Address Database (“NCOA”)
2 to update any addresses on file with the United States Postal Service (“USPS”). A total of 10,668
3 addresses were found and updated via NCOA. KCC updated its proprietary database with the
4 Class List.

5
6 9. Through the process described above, KCC identified 192,836 Class Members
7 (194,021 total unique phone numbers) associated with 450,121 total calls received during the
8 period covered by the settlement with the Wells Fargo Defendants (*i.e.*, from March 7, 2011
9 through May 7, 2014).

10 **MAILING OF THE NOTICE PACKET**

11 10. On September 3, 2021, KCC caused the Notice and Claim Form (collectively, the
12 “Notice Packet”) to be printed and mailed to the 192,836 names and mailing addresses in the
13 Class List. A true and correct copy of the Notice Packet is attached hereto as Exhibit C.

14 **PUBLICATION OF THE SUMMARY NOTICE**

15
16 11. KCC purchased approximately 1,332,000 impressions to be distributed
17 programmatically on various websites from September 3, 2021 through October 4, 2021. The
18 impressions were behaviorally targeted to adults 18 years of age and older in California who
19 likely own, make decisions for, or work in small businesses. A total of 1,335,875 impressions
20 were delivered, resulting in an additional 3,875 impressions at no extra charge. Confirmation of
21 the digital notices as they appeared on a variety of websites is attached hereto as Exhibit D.

22 **SETTLEMENT WEBSITE**

23
24 12. On or around August 30, 2021, KCC established a website
25 [www.CIPAsettlement.com] dedicated to this matter to provide information to the Class Members
26 and to answer frequently asked questions. The website URL was set forth in the Notice and
27 Claim Form. Visitors of the website can download copies of the Notice, Claim Form, and other
28

1 case-related documents. Visitors were also able to submit claims online. As of November 23,
2 2021, the website has received 33,047 visits.

3 **TELEPHONE HOTLINE**

4 13. KCC established and continues to maintain a toll-free telephone number (1-855-
5 786-1031) for potential Class Members to call and obtain information about the Settlement,
6 and/or request a Notice. The telephone hotline became operational on August 30, 2021, and is
7 accessible 24 hours a day, 7 days a week. As of November 23, 2021, KCC has received a total of
8 465 calls to the telephone hotline.
9

10 **CLAIM FORMS**

11 14. The postmark deadline for Class Members to file claims in this matter was
12 November 1, 2021. To date, KCC has received a total of 23,845 timely-filed claim forms
13 representing 59,832 eligible calls and 66 untimely-filed claim forms representing 184 eligible
14 calls.
15

16 15. Of the 23,845 timely-filed claim forms:

- 17
- 18 • 23,582 are complete and valid;
 - 19 • 82 are duplicate of other claims and are therefore invalid;
 - 20 • 97 were consolidated (same class member but had different claim numbers
21 assigned to them);
 - 22 • 66 have been identified as deficient for lack of signature;
 - 23 • 17 have been rejected because it was determined they were not Class Members;
 - 24 and
 - 25 • 1 has been rejected because they submitted an opt-out request.

26 16. The parties have agreed, and instructed KCC, to accept the untimely-filed claim
27 forms that are submitted up to November 22, 2021. As of the date of this declaration, the current
28

1 total approved claim form count is thus 23,648 representing 59,331 eligible calls.

2 17. KCC will be sending deficiency letters to the 66 claims identified as deficient for
3 lack of signature in order to give them a chance to cure.

4 18. In addition, settlement payments that are equal to or greater than \$600 are required
5 to be reportable on Form 1099-MISC. As a result, KCC will need to obtain valid taxpayer IDs
6 from the eligible Class Members who are anticipated to receive \$600 or more.
7

8 **PRELIMINARY SETTLEMENT AWARD CALCULATIONS**

9 19. KCC has preliminarily calculated the Class Member settlement awards. These
10 calculations are based on the assumptions that the gross settlement amount is \$28,000,000.00, and
11 from that amount, deductions are made for: (a) attorneys' fees (\$9,195,636); (b) attorneys' costs
12 (\$83,191.45); (c) named plaintiff incentive awards (\$10,000.00); and (d) administration costs
13 (\$403,091.88). The remaining amount (\$18,308,080.67 (the "Net Settlement Fund") will be
14 allocated pursuant to the terms of the settlement to those Class Members preliminarily approved
15 for payment.
16

17 20. Based on these preliminary figures, the estimated average settlement payment per
18 Class Member is approximately \$774.19. The total estimated share per Eligible Call is
19 approximately \$308.57. An estimated 4,980 Class Members are eligible to receive a settlement
20 payment in the amount equal to or greater than \$1,000 (i.e., they received 4 or more Eligible
21 Calls). The highest amount a Class Member is estimated to receive is approximately \$11,725.86
22 (38 Eligible Calls). These figures are preliminary and subject to change based on further
23 investigation and claims processing and subject to the Court's final approval order.
24

25 **REPORT ON EXCLUSION REQUESTS RECEIVED TO DATE**

26 21. The Notice informs Class Members that requests for exclusion from the Class
27 must be postmarked no later than October 25, 2021. As of the date of this declaration, KCC has
28

1 received 27 requests for exclusion. KCC has also received 2 untimely requests for exclusion. A
2 list of the Class Members who timely requested to be excluded is attached hereto as Exhibit E.

3
4 **OBJECTIONS TO THE SETTLEMENT**

5 22. The deadline for Class Members to object to the settlement is October 25, 2021.
6 As of the date of this declaration, KCC has not received any objections to the settlement.

7 I declare under penalty of perjury under the laws of the United States of America that the
8 foregoing is true and correct.

9 Executed on November 24, 2021 at San Rafael, California

10
11 
12 _____
13 Lana Lucchesi

Exhibit A



401 Commerce Street, Suite 900, Nashville, TN 37219 • (615) 259-1510

August 13, 2021

John W. Peterson
615.259.1523
john.peterson@polsinelli.com

VIA PRIORITY MAIL

«First» «Last»
«Position»
«Company»
«Address 1»
«Address 2»
«City», «State» «Zip»

Re: Notice of Proposed Class Action Settlement Pursuant to 28 U.S.C. § 1715

Dear «First» «Last»:

POLSINELLI PC represents Wells Fargo Bank, N.A. and First Data Merchant Services, LLC (“Settling Defendants”) in a putative class action lawsuit entitled *CS Wang & Associate, et al., v. Wells Fargo Bank, N.A., et al.*, Case No. 1:16-cv-11223. The lawsuit is pending before the Honorable Rebecca R. Pallmeyer in the United States District Court for the Northern District of Illinois, Eastern District. This letter is to advise you that Plaintiffs filed a Motion for Preliminary Approval of Class Action Settlement in connection with this class action lawsuit on August 4, 2021.

Case Name: *CS Wang & Associate, et al., v. Wells Fargo Bank, N.A., et al.*

Case Number: 1:16-cv-11223

Jurisdiction: United States District Court,
Northern District of Illinois, Eastern District

**Date Settlement
Filed with Court:** August 4, 2021

The Settling Defendants deny any wrongdoing or liability whatsoever, but have decided to settle this action solely in order to eliminate the burden, expense, and uncertainties of further

polsinelli.com

Atlanta Boston Chicago Dallas Denver Houston Kansas City Los Angeles Miami Nashville New York
Phoenix St. Louis San Francisco Seattle Silicon Valley Washington, D.C. Wilmington

Polsinelli PC, Polsinelli LLP in California



August 13, 2021

Page 2

litigation. In compliance with 28 U.S.C. § 1715(b), the following documents referenced below are included on the CD that is enclosed with this letter:

1. **28 U.S.C. § 1715(b)(1) – Complaint and Related Materials:** Copies of the *Complaint; Amended Complaint; Answer, Defenses & Cross-Claims of Defendants First Data Merchant Services LLC and Wells Fargo Bank, N.A.; Amended Answer & Defenses of Defendants First Data Merchant Services LLC and Wells Fargo Bank, N.A.; Plaintiffs’ Answer to Amended Affirmative Defenses of Defendants First Data Merchant Services, LLC and Wells Fargo Bank, N.A.; Second Amended Complaint; Answer & Defenses of Defendants First Data Merchant Services LLC and Wells Fargo Bank, N.A. to Plaintiffs’ Second Amended Complaint; Amended Answer & Defenses of Defendants First Data Merchant Services LLC and Wells Fargo Bank, N.A. to Plaintiffs’ Second Amended Complaint; Plaintiffs’ Answer to Amended Affirmative Defenses of Defendants First Data Merchant Services, LLC and Wells Fargo Bank, N.A.; and First Data Merchant Services LLC and Wells Fargo Bank, N.A.’s Third-Party Complaint* are included on the enclosed CD.

2. **28 U.S.C. § 1715(b)(2) – Notice of Any Scheduled Judicial Hearing:** Plaintiffs filed their *Motion for Preliminary Approval of Class Action Settlement* requesting that the Honorable Rebecca R. Pallmeyer preliminarily approve the proposed Settlement with defendants Wells Fargo Bank, N.A. and First Data Merchant Services, LLC. On August 10, 2021, the Court issued its *Notification of Docket Entry* indicating the Court has set a preliminary fairness hearing for August 16, 2021 at 1:00 p.m. CDT and will proceed telephonically, before the Honorable Rebecca R. Pallmeyer. A copy of the *Motion for Preliminary Approval of Class Action Settlement* with all attachments and *Notification of Docket Entry* are included on the enclosed CD. As of August 13, 2021, the Court has not yet scheduled a final fairness hearing in this matter.

3. **28 U.S.C. § 1715(b)(3) – Notification to Class Members:** Copies of the *Long Form Notice* and *Claim Form* to be provided to the class are included on the enclosed CD.



August 13, 2021

Page 3

4. **28 U.S.C. § 1715(b)(4) – Class Action Settlement Agreement:** A copy of the *Settlement Agreement* between Plaintiffs and Settling Defendants Wells Fargo Bank, N.A. and First Data Merchant Services, LLC is included on the enclosed CD.
5. **28 U.S.C. § 1715(b)(5) – Any Settlement or Other Agreement:** As of August 13, 2021, no other settlement or agreement has been entered into by these specific Parties to this Action with each other, either directly or by and through their respective counsel.
6. **28 U.S.C. § 1715(b)(6) – Final Judgment:** No Final Judgment has been reached as of August 13, 2021. A copy of the *Amended Stipulation of Voluntary Dismissal* regarding Defendants International Payment Services, LLC, Brian Bentley, Adam Bentley, and Andrew Bentley (“IPS Defendants”) is included on the enclosed CD.
7. **28 U.S.C. § 1715(b)(7)(A)-(B) – Names of Class Members/Estimate of Class Members:** While the Settling Defendants and KCC Class Action Services, LLC are in the process of gathering information on this issue, pursuant to 28 U.S.C. § 1715(b)(7)(A), at this time a complete list of names of class members as well as each State of residence is not available, because the parties do not presently know the names or current addresses of all the proposed settlement class members and will not learn this information until the Settlement is preliminarily approved and the Court authorizes dissemination of information about the Settlement through the Class Notice. Pursuant to 28 U.S.C. § 1715(b)(7)(B), it is estimated there are approximately 190,683 unique businesses that are potential class members.
8. **28 U.S.C. § 1715(b)(8) – Judicial Opinions Related to the Settlement:** As the proposed Settlement is still pending final approval by the Court, there are no other opinions available at this time. As of August 13, 2021, there has been no written judicial opinion related to the settlement.

If for any reason you believe the enclosed information does not fully comply with 28 U.S.C. § 1715, please contact the undersigned immediately so that the Settling Defendants can address any concerns or questions you may have.



August 13, 2021
Page 4

Thank you.

Sincerely,

/s/
John W. Peterson

JWP:aze

Exhibit B

Last	First	Position	Company	Address 1	Address 2	City	State	Zip
Garland	Merrick	Attorney General of the United States	United States Department of Justice	950 Pennsylvania Avenue, NW		Washington	DC	20530-0001
Anderson	Julie	Commissioner	Alaska Division of Banking and Securities	PO Box 110807		Juneau	AK	99811-0807
Hill	Mike	Superintendent of Banks	Alabama State Banking Department	PO Box 4600		Montgomery	AL	36103-4600
Franks	Candace A.	Bank Commissioner	Arkansas State Bank Department	323 Center Street, Suite 200		Little Rock	AR	72201
Daniels	Evan G.	Superintendent	Arizona Dept of Financial Institutions	100 N 15th Ave Suite 261		Phoenix	AZ	85007
Owen	Jan L.	Bank Commissioner	California Dept of Business Oversight	1515 K Street	Suite 200	Sacramento	CA	95814
Myklebust	Chris	Commissioner	Colorado Division of Banking, Uniform Consumer Credit Code	1525 Sherman St., 5th Fl.		Denver	CO	80203
Perez	Jorge	Commissioner	Connecticut Department of Banking	260 Constitution Plaza		Hartford	CT	06103-1800
Taylor	Stephen	Commissioner	District of Columbia Department of Insurance, Securities and Banking	810 First Street NE	Suite 701	Washington	DC	20002
Glen	Robert A.	State Bank Commissioner	Delaware Office of the State Bank Commissioner	555 E. Lookerman Street Suite 210		Dover	DE	19901
Breakspear	Drew J.	Commissioner	Florida Office of Financial Regulation	Division of Securities and Finance	200 E. Gaines Street	Tallahassee	FL	32399-0370
Hagler, CEM	Kevin B.	Commissioner	Georgia Office of the Commissioner of Insurance	Industrial Loan Division	Two Martin Luther King, Jr. Drive West Tower, Suite 704	Atlanta	GA	30334
Ikada	Iris	Commissioner of Financial Institutions	Hawaii Department of Commerce and Consumer Affairs	Consumer Resource Center	235 S. Beretania Street, Rm 801	Honolulu	HI	96813
Hansen	Ronald L.	Superintendent	Iowa Division of Banking	200 E Grand Ave	Suite 300	Des Moines	IA	50306-1827
Gee	Gavin M.	Director of Finance	Idaho Department of Finance	Consumer Finance Bureau	800 Park Blvd., Suite 200	Boise	ID	83712
Schneider	Bryan	Secretary, DFPR	Illinois Division of Financial Institutions	Consumer Credit Section	320 W. Washington	Springfield	IL	62701
Fite, CEM	Thomas C.	Director	Indiana Department of Financial Institutions	30 South Meridian Street	Suite 300	Indianapolis	IN	46204
Stork, CEM	Judi M.	Acting Bank Commissioner	Kansas Office of the State Bank Commissioner	700 SW Jackson St	Suite 300	Topeka	KS	66603
Vice	Charles A	Commissioner	Kentucky Department of Financial Institutions	1025 Capital Center Dr	Suite 200	Frankfort	KY	40601
Ducrest, CEM	John P	Commissioner of Financial Institutions	Louisiana Office of Financial Institutions	PO Box 94095		Baton Rouge	LA	70804-9095
McGinnis	Terence A.	Commissioner of Banks	Massachusetts Division of Banks	One South Station		Boston	MA	02110
Cooley	Gordon M	Commissioner	Maryland Commissioner of Financial Regulation	500 North Calvert Street	Suite 402	Baltimore	MD	21202
LaFountain III	Lloyd P	Superintendent	Maine Office of Consumer Credit Regulation	Department of Professional and Financial Regulation	35 State House Station	Augusta	ME	04333-0036
Lawson	Karen K	Director, Office of Banking	Michigan Office of Financial and Insurance Regulation	PO Box 30220		Lansing	MI	48909-7720
Rothman	Mike	Commissioner	Minnesota Department of Commerce	Division of Financial Examinations	85 7th Place East, Suite 500	Saint Paul	MN	55101-2198
Hardman	Debra	Acting Commissioner	Missouri Division of Finance	Consumer Credit Section	P. O. Box 716 301 W. High Street	Jefferson City	MO	65102
Corley, CEM, CTE	Charlotte N	Commissioner	Mississippi Department of Banking and Consumer Finance	4780 I-55 North 5th Floor		Jackson	MS	39201
Hall	Melanie G	Commissioner	Montana Division of Banking & Financial Institutions	301 South Park, Suite 316		Helena	MT	59601
Grace, CEM	Ray	Commissioner of Banks	North Carolina Office of Commissioner of Banks	4309 Mail Service Center		Raleigh	NC	27699-4300
Entringer, CEM	Robert J	Commissioner	North Dakota Department of Financial Institutions	2000 Schafer Street	Suite G	Bismarck	ND	58501-1204
Quandahl	Mark	Commissioner	Nebraska Department of Banking & Finance	Financial Institutions	1230 O' Street, Suite 400 P.O. Box 95006	Lincoln	NE	68509
Little	Gerald	Bank Commissioner	New Hampshire State Banking Department	64B Old Suncook Road		Concord	NH	03301
Badolato	Richard J.	Commissioner	New Jersey Department of Banking and Insurance	20 West State St.		Trenton	NJ	08625-0040
Moya	Christopher	Acting Director	New Mexico Financial Institutions Division	2550 Cerrillos Road, 3rd Floor	P. O. Box 25101	Santa Fe	NM	87505
Burns	George E	Commissioner	Nevada Financial Institutions Division	2785 E. Desert Inn Rd., Suite 180		Las Vegas	NV	89121
Vullo	Maria T.	Superintendent	New York State Banking Department	One State St		New York	NY	10004-1511
Dolezal	Charles J	Superintendent of Financial Institutions	Ohio Division of Financial Institutions	77 South High Street	21st Floor	Columbus	OH	43215-6120
Thompson	Mick	Bank Commissioner	Oklahoma Department of Consumer Credit	4545 North Lincoln Boulevard, Suite 104		Oklahoma City	OK	73105
Call	Laura N.	Administrator	Oregon Department of Consumer & Business Services	Division of Financial Regulation	350 Winter St. NE, Rm. 410	Salem	OR	97301
Wiessmann	Robin	Secretary of Banking and Securities	Pennsylvania Department of Banking	Market Square Plaza	17 N. Second Street	Harrisburg	PA	17101-2290
Dwyer	Elizabeth	Superintendent of Banking	Rhode Island Department of Business Regulation	Division of Banking	233 Richmond Street, Suite 231	Providence	RI	02903
Bichham	Kathy L.	Interim Commissioner of Banking	South Carolina State Board of Financial Institutions	Consumer Finance Division	P.O. Box 11905	Columbia	SC	29211
Aldahl	Bret	Director of Banking	South Dakota Division of Banking	217 1/2 West Missouri Avenue		Pierre	SD	57501-4590
Gonzales	Grea	Commissioner	Tennessee Department of Financial Institutions	511 Union Street, Suite 400		Nashville	TN	37219
Cooper	Charles G	Banking Commissioner	Texas Office of Consumer Credit Commissioner	2601 North Lamar Blvd		Austin	TX	78705-4294
Leary	C. Edward	Commissioner of Financial Institutions	Utah Department of Financial Institutions	324 South State Street, Suite 201		Salt Lake City	UT	84111
Face Jr, CEM	E. Joseph	Commissioner of Financial Institutions	Virginia Bureau of Financial Institutions	State Corporation Commission	1300 East Main Street, Suite 800 Post Office Box 640	Richmond	VA	23218-0640
Pieciak	Michael	Acting Commissioner	Vermont Banking Division	Department of Banking, Insurance, Securities & Health	89 Main St Drawer 20	Montpelier	VT	05620-3101
Papiez	Gloria	Acting Director	Washington State Department of Financial Institutions	Division of Consumer Services	PO Box 41200	Olympia	WA	98504-1200
Blumenfeld	Kathy	Secretary	Wisconsin Department of Financial Institutions	Wisconsin Consumer Act Section	P.O. Box 8041	Madison	WI	53708-8861
Holstein	Dawn E	Acting Commissioner	Office of West Virginia Attorney General	Consumer Protection Division	812 Quarrier St., 4th Floor	Charleston	WV	25301
Rife	Fred	Interim Director	Wyoming Division of Banking	Uniform Consumer Credit Code	122 West 25th Street	Cheyenne	WY	82002
Ale	Talavuesa Eleasalo V.	American Samoa Gov't	Exec. Ofc. Bldg	Suite 901		Utulei	AS	96799
Camacho	Levin Taitano	Office of the Attorney General, ITC Building	590 S. Marine Corps Drive	PO Box 10007		Tamuning	Guam	96913
Manibusan	Edward	Northern Mariana Islands Attorney General	Administration Building	San Juan		Saipan	MP	96950-8907
Longo Quinones	Dennise N.	Puerto Rico Attorney General	P.O. Box 902192	San Juan		San Juan	PR	00902-0192
George	Denise N.	Virgin Islands Attorney General, Department of Justice	34-38 Kronprindsens Gade	GERS Bldg, 2nd Floor		St. Thomas	VI	00802
McWilliams	Jelena		FDIC	650 17th Street, NW		Washington	DC	20429
Walsh	John C.		Office of the Comptroller of the Currency Headquarters	Constitution Center	400 7th Street, SW, Suite 3E-218	Washington	DC	20219
Powell	Jerome		Federal Reserve Bank	Board of Governors of the Federal Reserve System	20th Street and Constitution Avenue, NW	Washington	DC	20551
Peterson	John		Polsinelli PC	401 Commerce Street	Suite 900	Nashville	TN	37219

Exhibit C

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DISTRICT

CS WANG & ASSOCIATE, *et al.*,)
)
Plaintiffs,) Case No. 1:16-cv-11223
)
v.) Chief Judge Rebecca R. Pallmeyer
)
WELLS FARGO BANK, N.A., *et al.*,)
)
Defendants.)
_____)

PLEASE READ THIS NOTICE CAREFULLY. IT RELATES TO THE PROPOSED SETTLEMENT OF A CLASS ACTION AND CONTAINS IMPORTANT INFORMATION ABOUT YOUR RIGHTS.

A federal court authorized this Notice. This is not a solicitation from a lawyer.

Call records indicate that your business received at least one telephone call from International Payment Services, LLC between March 7, 2011 through May 7, 2014 in an effort to set an in-person sales appointment. Based on those records, your business is eligible for a settlement payment if you sign and return the enclosed Claim Form or if you submit a claim online at www.CIPAsettlement.com on or before November 1, 2021.

The settlement provides for an **estimated minimum payment of approximately \$40 for each eligible appointment-setting call you received and could be as high as \$5,000 per call**, but you need to submit a claim as described below in order to be eligible to receive payment.

I. What is this Notice about?

This Notice is being sent to notify you of a class action lawsuit regarding the recording of certain appointment-setting calls to California businesses. On August 16, 2021, the Court preliminarily approved a settlement of the Lawsuit. The purpose of this Notice is to inform your business of the Lawsuit and the proposed settlement. In addition, this Notice will advise you of what to do if your business wants to remain a part of the Lawsuit, what to do if your business wants to exclude itself from the Lawsuit, and how joining or not joining the Lawsuit may affect your business's legal rights.

II. What is the Lawsuit about?

On December 9, 2016, a class action lawsuit was filed in the United States District Court for the Northern District of Illinois, Eastern Division, now entitled *CS Wang & Associate, et al. v. Wells Fargo Bank, N.A., et al.*, Case No. 1:16-cv-11223 (the "Lawsuit"). The Lawsuit alleged that an independent sales organization named International Payment Services, LLC ("IPS") recorded certain calls to California businesses without disclosing the fact that the call was being recorded in violation of Sections 632 and 632.7 of the California Invasion of Privacy Act ("CIPA"). The Lawsuit further alleged that the purpose of these calls was to set in-person sales appointments with the businesses to sell credit card processing equipment and services on behalf of Wells Fargo Bank, N.A. ("Wells Fargo") and First Data Merchant Services, LLC ("First Data") (collectively, "the Wells Fargo Defendants"), both of whom are named as defendants in the Lawsuit. The Wells Fargo Defendants deny any wrongdoing or liability in connection with the Lawsuit.

III. What are the benefits of the proposed settlement?

Under the proposed settlement, the Wells Fargo Defendants will make a payment of \$28,000,000 to create a fund on behalf of the Settlement Class Members (the "Settlement Fund"). Settlement Class Members who do not exclude themselves from the Lawsuit are eligible for a cash payment from the Settlement Fund for each call that is covered under the class definition set forth in Section VII below (an "Eligible Call" as defined in the Settlement Agreement). Settlement Class Members who received multiple Eligible Calls are entitled to a cash payment for each Eligible Call. The minimum cash payment for each Eligible Call is estimated to be approximately \$40, but could be as high as \$5,000 per call depending on how many claims are submitted. It is not possible at this time, however, to know the exact amount of each payment.

IV. How does my business receive a settlement payment?

In order to receive the cash payment described in this Notice, you must complete and sign the enclosed Claim Form for your business and mail it to the Settlement Administrator, or you can submit your claim online through the settlement website at www.CIPAsettlement.com, by the DUE DATE of November 1, 2021. A pre-paid, self-addressed envelope is provided with this Notice that you can use to mail in your Claim Form.

Regardless of whether you mail the Claim Form or submit a claim online, **you must do so by the DUE DATE of November 1, 2021** to be eligible to receive a payment. Settlement payments will be issued only if the proposed settlement is granted final approval by the Court.

V. Why is there a proposed settlement?

The Court has not decided in favor of either side in the Lawsuit. Plaintiffs and Settlement Class Counsel believe the claims have merit. The Wells Fargo Defendants do not believe the claims have merit. The Wells Fargo Defendants are settling to avoid the expense, inconvenience, and inherent risk of litigation. Plaintiffs and Settlement Class Counsel believe that the proposed settlement is in the best interest of Settlement Class Members because it provides appropriate recovery and other relief now, while avoiding the risk, expense, and delay of pursuing the case through trial and any appeals, including the possibility of no recovery for Settlement Class Members whatsoever.

VI. What is a class action lawsuit?

A class action lawsuit is a legal action in which one or more people represent a large group, or class, of people. The purpose of a class action lawsuit is to resolve at one time similar legal claims of the members of the group.

VII. Who is in the class?

On August 16, 2021, the Court certified the Lawsuit as a class action for settlement purposes and defined the class as follows:

All businesses that received a telephone call from a call center operated by International Payment Services, LLC or one of its affiliates between March 7, 2011 through May 7, 2014, while the call recipient was physically present in California, and who did not sign a contract for merchant processing services with First Data Merchant Services, LLC.

Any business meeting this definition shall be referred to herein as a “Settlement Class Member” and, collectively, as the “Settlement Class” or “Settlement Class Members.”

VIII. When and where is the final approval hearing?

The final approval hearing has been set for December 6, 2021 at 12:00 PM (Noon) CT before the Honorable Rebecca R. Pallmeyer in Courtroom 2541 of the Everett McKinley Dirksen Building, 219 South Dearborn Street, Chicago, IL 60604. The final approval hearing may be conducted remotely via teleconference. Please check the settlement website for information on whether the final approval hearing will be conducted remotely via teleconference and, if so, how to participate: www.CIPAsettlement.com.

The Court will hear any comments from the parties or objections concerning the fairness of the proposed settlement at the final approval hearing, including the amount requested for attorneys’ fees and costs or the requested incentive awards.

You **do not** need to attend the final approval hearing to remain a Settlement Class Member or to obtain any benefits under the proposed settlement. Your business or its attorney may attend the hearing, at your business’s own expense. Your business does not need to attend this hearing to have a properly-filed and served written objection considered by the Court.

IX. How can my business be excluded from the Lawsuit and the settlement?

Any Settlement Class Member has the right to be excluded from the Lawsuit by written request. If you wish for your business to be excluded from the case, you must mail a written request to the Settlement Administrator at the address set forth below stating that your business wants to be excluded from the class. All exclusion requests must include (i) the name and case number of the Lawsuit: *CS Wang & Associate, et al. v. Wells Fargo Bank, N.A., et al.*, Case No. 1:16-cv-11223; (ii) the full name, address, telephone number, and email address of the Settlement Class Member electing exclusion; (iii) a statement that the Settlement Class Member elects to be excluded from the Lawsuit and elects not to participate in the settlement; (iv) the full name, title, business address, business telephone number, and business email address of the person submitting the written election for the Settlement Class Member; and (v) a representation that the person submitting the written election has the authority to do so on behalf of the Settlement Class Member. A Settlement Class Member’s exclusion request must be postmarked no later than **the DUE DATE of October 25, 2021** and sent to the following address: *CS Wang v. Wells Fargo Bank* Settlement Administrator, P.O. Box 43160, Providence, RI 02940-3160.

If your business properly and timely elects to exclude itself from the case, your business will not have any rights as a Settlement Class Member pursuant to the proposed settlement, it will not be eligible to receive any monetary payment under the proposed settlement, it will not be bound by any further orders or the judgment entered in the Lawsuit, and it will remain able to pursue any claims alleged in the Lawsuit against the Wells Fargo Defendants on its own and at its own expense and with its own counsel. If your business proceeds on an individual basis after excluding itself from the Lawsuit, it may receive more, or less, of a benefit than it would otherwise receive under this proposed settlement, or no benefit at all. If your business does not exclude itself from the case, it will be deemed to have consented to the Court's jurisdiction and to have released the claims at issue against the Wells Fargo Defendants as explained below, and will otherwise be bound by the proposed settlement.

X. How can my business object to the settlement?

If your business does not exclude itself from the Lawsuit, it can comment in opposition to the settlement, including the amount requested for attorneys' fees and costs or the requested incentive awards, which is known as an objection, and your business has the right to appear before the Court to express its opposition. Your written objection must be submitted in writing and filed with the Clerk of Court by **the DUE DATE of October 25, 2021**. The address for the Clerk of the Court is: Everett McKinley Dirksen Building, 219 South Dearborn Street, Chicago, IL 60604. You must also send copies of your written objection to the attorneys for the parties at the following addresses:

Settlement Class Counsel:

Myron M. Cherry
Jacie C. Zolna
Benjamin R. Swetland
Myron M. Cherry & Associates, LLC
30 North LaSalle Street,
Suite 2300
Chicago, IL 60602

Counsel for the Wells Fargo Defendants:

John H. Mathias, Jr.
Megan B. Poetzel
Jenner & Block LLP
353 N. Clark Street
Chicago, IL 60654-3456
Counsel for First Data

John Peterson
Polsinelli
401 Commerce Street
Suite 900
Nashville, TN 37219
Counsel for First Data and Wells Fargo

To be valid and considered by the Court, any such written objection must include the following information: (i) the name and case number of the Lawsuit: *CS Wang & Associate, et al. v. Wells Fargo Bank, N.A., et al.*, Case No. 1:16-cv-11223; (ii) the Settlement Class Member's name, address, telephone number, and email address; (iii) the full name, title, business address, business telephone number, and business email address of the person submitting the objection for the Settlement Class Member; (iv) a representation that the person submitting the objection has the authority to do so on behalf of the Settlement Class Member; (v) a statement of each objection and the relief that the Settlement Class Member is requesting; and (vi) a statement of whether the Settlement Class Member intends to appear at the final approval hearing. Settlement Class Members may retain counsel to object to the settlement and/or appear at the final approval hearing. If a Settlement Class Member is not a sole proprietorship or is otherwise a separate business entity, it may be required to make its objection or appear at the final approval hearing through an attorney. If a Settlement Class Member makes an objection or appears at the final approval hearing through an attorney, the Settlement Class Member will be responsible for his or her personal attorney's fees and costs. Any Settlement Class Member who fails to file a timely objection shall have waived any right to object to this Agreement and shall not be permitted to object at the final approval hearing and shall be foreclosed from seeking any review of this settlement by appeal or other means.

XI. What is the effect of final settlement approval?

If the Court approves the proposed settlement after the final approval hearing, it will enter a judgment dismissing the Lawsuit with prejudice and releasing all claims as described in this paragraph. If you do not exclude your business from the case, the proposed settlement will be your sole mechanism for obtaining any relief. All Settlement Class Members who do not timely elect to opt out of the proposed settlement, and each of their respective agents, administrators, employees, representatives, successors, assigns, trustees, joint venturers, partners, legatees, heirs, personal representatives, predecessors, and attorneys release and forever discharge the Wells Fargo Defendants and each of their respective former, present, and future direct and indirect parents, affiliates, subsidiaries, successors, and predecessors and all of their respective former, present, and future officers, directors, shareholders, indemnitees, employees, agents, representatives, attorneys, accountants, auditors, independent contractors, successors, trusts, trustees, partners, associates, principals, divisions, insurers, reinsurers, members, brokers, consultants, and vendors and all persons acting by, through, under, or in concert with them, or any of them, from any and all manner of actions, causes of action, claims, demands, rights, suits, obligations, debts, contracts, agreements, promises, liabilities, damages, charges, penalties, losses, costs, expenses, and attorneys' fees, of any nature whatsoever, known or unknown, in law or equity, fixed or contingent, which they

have or may have arising out of, relating to, or in connection with the recording of calls as alleged in the Lawsuit, including but not limited to claims based on calls that are covered under the class definition set forth above (“Eligible Calls”) or claims for violation of CIPA, including but not limited to Section 632 and Section 632.7, or any other federal, state, or local statute, regulation, or common law relating to the recording of telephone calls. Notwithstanding the above, and for the avoidance of doubt, this release does not apply to or limit any action based on telephone calls other than Eligible Calls, whether pursued through the Lawsuit or any other claim or proceeding, by any Plaintiffs or Class Members against Fifth Third Bank, N.A., Vantiv, Inc., National Processing Company, Fidelity National Information Services, Inc., Worldpay, Inc., Ironwood Financial, LLC, John Lewis, Dewitt Lovelace, International Payment Services, LLC, Brian Bentley, Adam Bentley, or Andrew Bentley.

If the proposed settlement is not approved, the Lawsuit will proceed as if no settlement had been reached. There can be no assurance that if the settlement is not approved and the Lawsuit resumes that Settlement Class Members will recover more than what is provided for under the proposed settlement or will recover anything at all.

XII. Who are the lawyers for Plaintiffs and Settlement Class Members?

The following lawyers (“Settlement Class Counsel”) are serving as counsel for the Settlement Class:

Myron M. Cherry
mcherry@cherry-law.com
Jacie C. Zolna
jzolna@cherry-law.com
Benjamin R. Swetland
bswetland@cherry-law.com
Myron M. Cherry & Associates, LLC
30 North LaSalle Street, Suite 2300
Chicago, IL 60602
(312) 372-2100 (telephone)
(312) 853-0279 (facsimile)

From the beginning of the case to the present, Settlement Class Counsel has not received any payment for their services in prosecuting the Lawsuit or in obtaining this proposed settlement, nor have they been reimbursed for any out-of-pocket costs they have incurred. Settlement Class Counsel will apply to the Court for an award of attorneys’ fees in the amount of no more than one-third (33.33%) of the Settlement Fund after deducting incentive awards and settlement administration costs, as well as an additional amount for partial reimbursement of actual costs, which Settlement Class Counsel currently estimates will be between \$95,000-\$100,000. If the Court approves Settlement Class Counsel’s petition for fees and costs, it will be paid from the Settlement Fund. Settlement Class Members will not have to pay anything toward the fees or costs of Settlement Class Counsel. You do not need to hire your own lawyer because Settlement Class Counsel is working on your behalf and will seek final approval of the settlement on behalf of the Settlement Class Members. You may hire your own lawyer to represent you in this case if you wish, but it will be at your own expense.

Settlement Class Counsel may also petition the Court for incentive awards in the amount of \$5,000 each to the Settlement Class representatives who helped the Settlement Class Counsel on behalf of the whole Settlement Class.

XIII. Where can I get more information about the Lawsuit?

This Notice provides only a summary of the Lawsuit. You can view the Settlement Agreement and obtain more information about the settlement at www.CIPASettlement.com. In order to see the complete case file, including the Settlement Agreement and all other pleadings and papers filed in the Lawsuit, you may also examine the court file at the office of the Clerk of the Court in the Everett McKinley Dirksen Building, 219 South Dearborn Street, Chicago, IL 60604.

PLEASE DO NOT CONTACT THE COURT (INCLUDING THE CLERK OF THE COURT OR THE JUDGE) OR DEFENDANTS WITH QUESTIONS ABOUT THE SETTLEMENT OR THE LAWSUIT.

PLEASE ADDRESS ANY FURTHER CONTACT TO THE SETTLEMENT ADMINISTRATOR AT:

CS Wang v. Wells Fargo Bank Settlement Administrator
P.O. Box 43160
Providence, RI 02940-3160
admin@CIPASettlement.com

Dated: September 3, 2021

BY ORDER OF THE UNITED STATES DISTRICT COURT

CS Wang v. Wells Fargo Bank
 Settlement Administrator
 P.O. Box 43160
 Providence, RI 02940-3160



CS Wang & Associate, et al. v.
 Wells Fargo Bank, N.A., et al.

WWN

UNITED STATES DISTRICT COURT
 NORTHERN DISTRICT OF ILLINOIS
 EASTERN DIVISION

«Barcode»

Postal Service: Please do not mark barcode

Claim#: WWN-«ClaimID»-«MailRec»
 «First1» «Last1»
 «CO»
 «Addr1» «Addr2»
 «City», «St» «Zip»
 «Country»

Case No. 1:16-cv-11223

**Must Be Postmarked
 By November 1, 2021**

CLAIM FORM

INSTRUCTIONS: Please sign below and return this Claim Form in the enclosed, self-addressed pre-paid envelope or mail it to: CS Wang v. Wells Fargo Bank Settlement Administrator, P.O. Box 43160, Providence, RI 02940-3160.

In order to receive your settlement payment, you must submit your claim postmarked no later than November 1, 2021 by mailing this Claim Form to the Settlement Administrator or by submitting a claim online at www.CIPAsettlement.com.

Call records reflect that your business received calls from an International Payment Services, LLC-affiliated call center at the following number(s) between March 7, 2011 through May 7, 2014:

Name of Business: <NameOfBusiness>

Phone Number That Received Calls	Number of Calls
<PhoneNumber1>	<NumberOfCalls1>
<PhoneNumber2>	<NumberOfCalls2>
<PhoneNumber3>	<NumberOfCalls3>
<PhoneNumber4>	<NumberOfCalls4>
<PhoneNumber5>	<NumberOfCalls5>

I affirm that I have the authority to submit this Claim Form on behalf of the business identified above, and that, to the best of my knowledge, during the timeframe referenced above, the person(s) who received calls for this business at the phone number(s) listed above did so in California.

Signature: _____ Date (mm/dd/yyyy): _____

Print Name: _____

If you have any questions about this Claim Form, please call the Settlement Administrator toll-free at 1-855-786-1031. For additional information about the settlement, please visit www.CIPAsettlement.com.

Mail this Claim Form or submit it online on or before November 1, 2021 (postmark deadline).

CHANGE OF ADDRESS (ONLY IF DIFFERENT FROM ABOVE)

Primary Address

Primary Address Continued

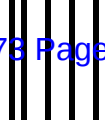
City

State

ZIP Code



FOR CLAIMS PROCESSING ONLY	OB <input type="checkbox"/>	CB <input type="checkbox"/>	<input type="radio"/> DOC <input type="radio"/> LC <input type="radio"/> REV	<input type="radio"/> RED <input type="radio"/> A <input type="radio"/> B
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POSTAGE WILL BE PAID BY ADDRESSEE

CS WANG V WELLS FARGO BANK
SETTLEMENT ADMINISTRATOR
PO BOX 43160
PROVIDENCE RI 02940-9594

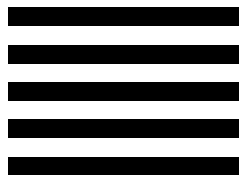


Exhibit D

*CS Wang & Associate, et al. v.
Wells Fargo Bank, N.A., et al.*
Digital Media Screenshots

engadget

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If you received a call from International Payment Services, LLC between March 7, 2011 through May 7, 2014 in an effort to set an in-person sales appointment you may be eligible for a cash payment from a class action settlement.

CLICK HERE FOR MORE INFORMATION OR TO SUBMIT A CLAIM

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RANK	FRANCHISE	INVESTMENT
#1	 Taco Bell	\$576K - \$3.4M
#2	 Dunkin'	\$438K - \$1.8M
#3	 The UPS Store	\$185K - \$474K
#4	 Popeyes Louisiana Kitchen	\$384K - \$3.5M
#5	 Culver's	\$2.4M - \$5.4M



If you received a call from International Payment Services, LLC between March 7, 2011 through May 7, 2014 in an effort to set an in-person sales appointment you may be eligible for a cash payment from a class action settlement.

CLICK HERE FOR MORE INFORMATION OR TO SUBMIT A CLAIM


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California Gubernatorial Recall Election

Your Vision. Your Decision. Vote by September 14th

Voting Opens Aug. 16 - Sep. 14

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The image shows a screenshot of the MSN homepage. At the top left is the MSN logo. To its right is a search bar with a magnifying glass icon. Further right are links for "Sign in", a settings gear icon, and "EN". Below the search bar is a row of navigation links: Outlook.com, Amazon Assistant, Microsoft Store, Deals & Offers, Wayfair, Sports, eBay, and Facebook. A large banner for "All-Clad METALCRAFTERS FOR 50 YEARS" is displayed. Below the banner is a horizontal menu with categories: CORONAVIRUS, CHICAGO / 80°F, NEWS, ENTERTAINMENT, MONEY, SPORTS, ESPORTS, LIFESTYLE, SHOPPING, BUY A CAR, HEALTH, FOOD, TRAVEL, VIDEO. The main content area features a large article on the left with a photo of a man in a suit and glasses, titled "Justice Dept. sues Texas over state's new abortion law". To the right of this article is a smaller article titled "North Korea's Kim Jong Un Oversees Military Parade...". Further right is an advertisement for CIPASettlement.com. At the bottom right, there is a "TRENDING NOW" section with two items: "George W. Bush just threw a whole lot of shade at..." and "'Weird, patronizing behavior': AOC lets rip at...".

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Exhibit E

KCC Class Action Services

CS Wang & Associate, et al. v. Wells Fargo Bank, N.A., et al.

Exclusion Report



Count

27

Name	Total Call Count
AAA MOBILE BLINDS	5
ADVANTAGE PRODUCTS INC	2
AMERICAN POSTAL WORKERS UNION	1
ART ON THE ROCK	4
BLAIR AQUATICS SWIM SCHOOL	4
CAMPUS AUTO CARE	4
CLOSE CONSTRUCTION	2
CONTRACTOR COATINGS INC	1
CRUISE ONE	2
DARRYL FOGG TAX ACCOUNTING INC TAX CONSULTANTS	5
DATADVANTAGE GROUP INC	1
EVALUESERVE INC	1
EVELYN'S NURSERY	2
G I TRUCKING	1
GANTRY	1
GILL REPROGRAPHICS	1
HEARING & SPEECH SVC	2
MIKE PERRY PHOTOGRAPHY	2
PETRO-LOCK INC	4
POETRY & PROSE	1
POWAY-BERNARDO MORTUARY	2
POWELL	1
RAE NEUMEN PRIVATE GALLERY	1
RODGER L SMITH CONSTRUCTION	6
SAS SHOES	3
TEAMSTERS	2
WALNUT CREEK CTR	1

Ex. C

DECLARATION OF MYRON M. CHERRY

I, Myron M. Cherry, declare as follows:

1. I am the founder and managing partner of Myron M. Cherry & Associates, LLC (the “Firm”) and represent Plaintiffs in *CS Wang & Associate, et al. v. Wells Fargo Bank, N.A., et al.*, Case No. 1:16-cv-11223 pending in the United States District Court for the Northern District of Illinois (the “Lawsuit”). I have personal knowledge of the facts set forth in this declaration and, if called to testify, could and would testify competently thereto.

2. I and others in the Firm have wide experience in class actions as well as complex litigation. I have represented plaintiffs and defendants in a variety of substantive litigation including without limitation class actions, civil rights, contract, antitrust, fraud, securities actions, environmental issues, and tort cases. I have tried cases to verdict before courts and juries in this and other jurisdictions. A substantial part of my practice since approximately 1972 involves plaintiff contingency litigation, including class action litigation.

3. I graduated from Northwestern University Law School in 1962 and have been practicing law for over 50 years, engaging exclusively in practice as a litigation and trial lawyer. I was an editor of the Northwestern Law Review and was awarded Order of the Coif. I am a member of the Federal Trial Bar and admitted to practice and have appeared before various Courts of Appeal, as well as the Supreme Court of the United States.¹ I am also a member of the Bar in the states of Illinois, California, Wisconsin, and the District of Columbia.

¹ I am admitted to practice in the following federal courts: U.S. Supreme Court, First Circuit Court of Appeals, Seventh Circuit Court of Appeals, Ninth Circuit Court of Appeals, District of Columbia Circuit Courts of Appeals, U.S. District Court for the Northern District of Illinois, U.S. District Court for the Central District of Illinois, U.S. District Court for the Eastern District of Wisconsin, U.S. District Court for the Central District of California, and U.S. District Court for the Southern District of California.

4. Over the years, our Firm has recovered hundreds of millions of dollars in verdicts and settlements for the classes, individuals, and entities whom we have represented. A summary of representative cases is attached hereto as **Ex. 1**.

5. The Firm also devotes a significant amount of time to public interest issues, including community affairs, political affairs, *pro bono* representation, and assisting indigent individuals—work for which one of the Firms’ partners, Jacie Zolna, was recognized on two occasions (in 2013 and again in 2017) with the United States District Court for the Northern District of Illinois’ Award for Excellence in *Pro Bono* Service.

6. Based on my decades of experience in complex and class action litigation, I believe the proposed settlement with the Wells Fargo Defendants is fair, reasonable and adequate. The \$28 Million settlement fund will provide significant relief to the class and reasonably accounts for the risks and costs associated with continued litigation and the uncertainties of a trial and any appeals. Based on our Firm’s research, the largest prior settlement of a class action brought under the California Invasion of Privacy Act (“CIPA”) was \$18 Million for a class of approximately 600,000 members. *See Marengo v. Visa, Inc.*, C.D. Cal. Case No. 2:10-cv-08022. The fund created by this settlement, therefore, is not only substantial, but also unprecedented.

7. Class Counsel also structured the settlement to prevent any reversion of the settlement fund to the Wells Fargo Defendants and to maximize distribution to the class. Among other things, the settlement calls for a robust notice program and simplified claims process. Notice was sent by direct mail, internet ads targeted to California small businesses, a website, and toll-free hotline. The claims process was simple and class members were only required to sign and return a short claim form in the self-addressed, pre-paid envelope that was included

with the notice. Claims could also be submitted online through the settlement website. The settlement also provides for an additional claims period if the initial claims rate is insufficient to exhaust the entire fund, although as of the date of this declaration enough claims were submitted during the initial period to exhaust the fund. If class members fail to cash their settlement check the settlement provides for the automatic reissuance of those checks and an additional period for class members to request reissuance of their settlement check if it still has not been cashed. Under no circumstances will any of the settlement fund revert to the Wells Fargo Defendants. Based on my experience in prosecuting and settling class action lawsuits, it is my opinion that these additional features of the settlement provide a significant benefit to the class in that they will increase the claims rate and ensure class members who submit a claim receive their settlement payment. These additional provisions provide further evidence that the settlement is fair, reasonable, and adequate.

8. The settlement with the Wells Fargo Defendants was the product of extensive arm's length negotiations over the course of several months, including a mediation on February 26, 2021 before the Honorable Layn R. Phillips (ret.). After that mediation, Plaintiffs and the Wells Fargo Defendants engaged in settlement discussions to resolve only the claims asserted against those defendants. Those efforts involved multiple meetings over several weeks that ultimately resulted in a settlement.

9. Plaintiffs' counsel is familiar with the claims being settled and the defenses asserted and is aware of the risks of pursuing the litigation any further. Plaintiffs' counsel has conducted extensive investigation and discovery relating to the claims alleged. Nearly 750,000 documents have been produced in this litigation, 32,992 of which were produced by the Wells Fargo Defendants. In response to subpoenas issued to two non-parties, Veracity Networks, LLC

and Integrated Reporting is Simple, LLC, call databases were also produced that included over 1,300,000 million call recordings to phone numbers with California area codes.

10. The parties have also issued and responded to a large number of written discovery requests, including interrogatories, document requests, and requests to admit. Plaintiffs, for example, have issued 1,093 written discovery requests in the litigation, of which 201 were directed to the Wells Fargo Defendants. Plaintiffs have also responded to 666 written discovery requests issued by the various defendants, 334 of which were issued by the Wells Fargo Defendants. Several depositions have also been taken, including of all the named Plaintiffs and three of Plaintiffs' experts. Plaintiffs further litigated numerous complex discovery disputes with the Wells Fargo Defendants, culminating in a lengthy hearing on October 1, 2019, where Plaintiffs were granted significant relief.

11. Plaintiffs' counsel undertook exhaustive research of the legal issues involved, conducted detailed factual investigation, briefed a number of significant motions, and obtained several substantive rulings from the Court, including favorable decisions on various motions to dismiss, as well as motions for judgment on the pleadings. The parties also fully briefed, twice, Plaintiffs' motion for class certification. Plaintiffs have enlisted three experts, all of whom submitted reports and were deposed. If the litigation were to continue it is likely additional experts will be retained.

12. The settlement administrator, KCC, LLC, provided an updated estimate to the Firm of \$403,091.88 to administer the settlement with the Wells Fargo Defendants. This increase was due to, among other things, a larger than expected claims rate and taxpayer ID/W9 processing that will be required for class members receiving settlement payments in the amount of \$600 or more.

I declare under penalty of perjury that the foregoing is true and correct.

Dated: November 29, 2021

/s/ Myron M. Cherry
Myron M. Cherry

Ex. 1

NOTABLE RESOLVED AND PENDING CASES OF THE
ATTORNEYS OF MYRON M. CHERRY & ASSOCIATES, LLC

GENERAL CLASS ACTIONS & COMPLEX LITIGATION

McKenzie-Lopez v. City of Chicago, 15 CH 4802 (Circuit Court of Cook County, Illinois)

Appointed class counsel in lawsuit challenging the manner in which the City of Chicago operated and enforced its speed and red-light camera program. Obtained first ever settlement in connection with the City's traffic camera program that not only required changes to the City's practices and other injunctive relief, but also monetary relief valued in excess of \$125 Million.

Mansfield v. Air Line Pilots Ass'n Int'l, 06-cv-6869 (N.D. Ill.)

The firm was appointed lead class counsel and recovered \$44 million for a class of Senior Pilots of United Airlines in a class action, in which United Airlines was an intervening party, alleging that the defendant union improperly distributed the proceeds of \$550 million in convertible notes it received as part of United Airline's bankruptcy. According to published reports at the time, this settlement represented the largest amount ever paid by a union for violation of the duty of fair representation.

Ventas, Inc. v. Sullivan & Cromwell, 5232-02 (Sup. Ct., D.C.)

The firm prosecuted an action against a major Wall Street law firm, Sullivan & Cromwell, for legal malpractice resulting from advice given in connection with a complex corporate reorganization that required a payoff of public debt. Shortly before trial, the firm obtained a \$25.5 million settlement, one of the largest settlements or verdicts recorded in a legal malpractice case.

Otero v. Dart, 12-cv-3148 (N.D. Ill.)

Lead class counsel in certified class action against the Sherriff of Cook County for alleged unconstitutional detention of individuals acquitted of wrongdoing at trial. The firm obtained an unprecedented settlement that required changes to the Sherriff's release procedures, as well as monetary payments to individual class members.

Midwest Medical Records Assoc., Inc. v. Brown, 15 CH 16986 (Circuit Court of Cook County, Illinois)

Class action seeking the return of unlawful filing fees charged by the Cook County Clerk of Court. Obtained decision from the First District Appellate Court of Illinois finding that the voluntary payment doctrine does not apply to the payment of court filing fees. *Midwest Med. Records Ass'n, Inc. v. Brown*, 2018 IL App (1st) 163230. The firm was appointed class counsel and settled the case for \$5,218,155, an amount which represented full refunds for the class, as well as injunctive relief that prevented the Clerk from charging the fee at issue in the future.

Ehret v. Uber Technologies, Inc., 3:14-cv-113-EMC (N.D. Cal.)

Class counsel in certified class action against Uber for consumer fraud based on misrepresentations regarding gratuity to drivers. The firm obtained a settlement that provided a full refund to class members of the amount of the gratuity charge that Plaintiff claimed was unlawfully retained by Uber.

Jacobson v. Bd. of Ed. of City of Chicago, 94 L 5360 (Circuit Court of Cook County, Illinois)

The firm was retained by other attorneys to take over prosecution of class action brought on behalf of former Chicago public school principals who were unlawfully terminated as a result of a public act that was later found to be unconstitutional. Due to the firms' efforts, the suit settled for \$2 Million, an amount sufficient to compensate almost all class members the full amount of their lost wages.

In re Chicago Sun-Times Circulation Litigation, 04 CH 9757 (Circuit Court of Cook County, Illinois)

The firm was appointed to the executive committee in a class action on behalf of defrauded purchasers of advertising space in the Chicago Sun Times, which resulted in a settlement of \$15 million in cash and other benefits to the class.

Muniz v. Rexnord Corp., 04-cv-2405 (N.D. Ill.)

The firm was appointed co-lead counsel and obtained a \$15 million settlement in a class action against multiple defendants alleging that they had caused toxins to contaminate the groundwater in an area covering approximately 1,000 homes.

Barnes v. Air Line Pilots Ass'n Int'l, 13-cv-6243 (N.D. Ill.)

The firm was appointed lead counsel in certified class action brought on behalf of United management pilots against their union challenging an improper methodology of distributing a lump sum payment of \$400 million from United Airlines that was supposed to provide the pilots with retroactive pay. The firm obtained a settlement that compensated each class member with a significant portion of their lost pay.

Santiago v. City of Chicago, 19-cv-4652 (N.D. Ill.)

Lawsuit challenging the constitutionality of the City's abandoned tow ordinance and other tow practices. The case was granted class action status and the firm was appointed class counsel.

Illinois ex rel. Zolna-Pitts v. ATI Holdings, LLC, 12 CH 27483 (Circuit Court of Cook County, Illinois)

The firm successfully prosecuted a whistleblower suit on behalf of former employee for alleged widespread insurance fraud in connection with the defendants' alleged practice of overbilling for physical therapy services.

PrimeCo Personal Comm., L.P., v. Ill. Commerce Comm'n, 98 CH 5500 (Circuit Court of Cook County, Illinois)

We were one of several firms working together on a class action challenging the constitutionality of a state statute enabling municipalities to enact ordinances imposing a fee or tax on wireless telephone users. After the Illinois Supreme Court affirmed the trial court's declaration that the fee was unconstitutional, our firm was instrumental in obtaining a partial settlement valued at approximately \$30 million. After that, we successfully obtained not only class certification with respect to the plaintiffs, but also obtained certification of a defendant class, and then settled the remaining claims against the defendant class for approximately \$18 million, for a total settlement of approximately \$48 million.

DEFENSE AND GOVERNMENT INVESTIGATIONS

Contingent Commissions and Bid-Rigging Investigation of Insurance Industry

The firm was retained by the Illinois Department of Financial and Professional Regulation as a special examiner to assist in its investigation of contingent commissions and related practices, such as steering and bid-rigging, in the insurance industry, including Aon Corporation and Arthur J. Gallagher & Co. In addition to its factual investigation, the firm assisted in coordinating efforts with the Illinois Department of Financial and Professional Regulation and Attorney Generals. Approximately \$250 million was obtained in settlements as a result of this coordinated effort.

Cheek v. United States, 498 U.S. 192 (1991)

The firm successfully argued the landmark case regarding the interpretation of willfulness under the criminal provisions of the Internal Revenue Code.

Castagnola v. Hewlett-Packard Company, 11-cv-5772, 2012 WL 2159385 (N.D. Cal. 2012)

The firm successfully defended a nationwide class action alleging deceptive advertising in connection with the online marketing of defendant's membership programs and obtained a dismissal of the case in its entirety and with prejudice.

Additional Government Investigations

The firm has successfully represented companies and individuals being investigated by Attorney Generals, the Federal Trade Commission and other government agencies throughout the United States, including in Illinois, California, New York, Florida, Texas, Arkansas, Missouri, Iowa, and Wisconsin.

NOTABLE PUBLIC INTEREST CASES

Lyon v. Illinois High Sch. Ass'n, 13-cv-00173, 2013 WL 140926 (N.D. Ill. 2013) dissolved, 2013 WL 309205 (N.D. Ill. 2013)

The firm obtained a temporary injunction against the Illinois High School Association ("IHSA") on behalf of a high school athlete enjoining the IHSA from prohibiting him from participating in his high school's wrestling program as a fifth-year senior. While the injunction was later dissolved, the student was allowed to wrestle the remainder of the regular season of his senior year. The lawsuit was profiled in the *Chicago Sun-Times* and on the front page of the *Chicago Daily Law Bulletin*.

Solid Waste Agency of N. Cook Cnty. v. U.S. Army Corps of Engineers, 191 F.3d 845 (7th Cir. 1999), rev'd, 531 U.S. 159 (2001)

In litigation and administrative proceedings, the firm stopped the construction of a huge landfill on a parcel of land in Cook and Kane counties. This litigation was pursued in Illinois Circuit, Appellate, and Supreme Courts, as well as the Federal District Court, Seventh Circuit Court of Appeals, and the U.S. Supreme Court. The firm obtained an injunction and a subsequent order from the Seventh Circuit Court of Appeals banning the construction of the landfill. Although the U.S. Supreme Court later reversed, the firm assisted in negotiating a sale of the property to a government entity. The landfill was never built, and the land became a protected wetland preserve.

OTHER NOTABLE RESULTS

Siegler v. Illinois Superconductor Corp., 96 CH 5824 (Circuit Court of Cook County, Illinois)

The firm represented a client for breach of an oral contract for the purchase of securities. The firm obtained a unique, unprecedented decision from the Circuit Court of Cook County confirming that under the Uniform Commercial Code oral contracts for the purchase and sale of securities are enforceable. The firm tried the case and obtained a \$6.5 million judgment.

International Profit Associates, Inc. v. Paisola, 461 F. Supp. 2d 672 (N.D. Ill. 2006)

The firm obtained an injunction shutting down a website that was posting negative and defamatory information about one its clients and obtained a first-of-its-kind decision on internet law which continues to be cited around the Country.