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**FEDERAL MAGISTRATE JUDGE FINDS WELLS FARGO “MISLEADING AND UNRELIABLE” IN REPORTING, AND STATEMENTS TO THE COURT REGARDING LOAN MODIFICATIONS REQUIRED UNDER PREVIOUS NATIONWIDE CLASS-ACTION SETTLEMENT**

**(BOSTON)** Due to the large number of foreclosure litigation cases, the National Consumer Law Center is sharing information from a recent federal court decision for attorneys seeking evidence of misrepresentation by Wells Fargo.

On July 2, 2013, a Federal Magistrate Judge found Wells Fargo “misleading and unreliable” in reporting, and statements made to the Court regarding loan modifications required under a previous nationwide class-action settlement. The decision from the US District Court for the Northern District of California supports the Class Counsel’s position against Wells Fargo & Co. for failing to follow through on its promise to offer principal reductions to thousands of distressed California homeowners as the result of a settlement in a class-action lawsuit. In his decision, Judge Paul S. Grewal found “Wells Fargo’s reports to Class Counsel pursuant to the settlement agreement, as well as its statistics submitted to the Court in opposition to Plaintiff’s request for injunctive relief, are misleading and unreliable.”

**In Re: Wachovia Corp. “pick-a-payment” mortgage marketing and sales practices litigation” Case No. 5:09-md-02015-JF (PSG)**, Judge Grewal wrote that Wells Fargo Compliance Officer Michael Dolan’s “misrepresentations — intentional or not — regarding the meaning of “Number of modifications requested,” the total number of fall-outs, and other data, have muddled and multiplied this litigation.”

Further, the decision notes that “Even more troubling is Wells Fargo’s apparent disregard of the purpose of the reporting requirement. Rather than complying with the letter and spirit of the reporting requirements Wells Fargo unilaterally created a category of borrowers that were not granted loan modification but that were not considered to have been denied loan modification either.”

Judge Gerwal’s decision concludes that “Wells Fargo is conducting telephonic prescreening of applicants for loan modification, and declining to send loan modification application packets to an unknown number of class members who request them. This practice may constitute a further violation of the settlement agreement. While Wells Fargo perhaps could make an argument that there are legitimate reasons for declining to send a packet to every borrower who asks, any such argument would be hopelessly undermined by Wells Fargo’s failure to at least track all requests for application packets.”

**Background:** In May 2011, United States District Judge Jeremy Fogel in San Jose granted final approval of a settlement agreement that resolved multi-district litigation concerning “Pick-a-Payment” home mortgage loans issued by the Defendant Wells Fargo Bank, N.A. The settlement resulted in a modest cash settlement to class members (many received less than \$200) but the primary benefit to class members was that the bank would provide up to \$600 million in loan modification benefits to troubled borrowers with the risky loans. A new lawsuit charged Wells Fargo of breaching the settlement, which Wells Fargo denied. On April 13, 2013, Judge Fogel issued a referral order directing Judge Gerwal to address the reliability of Wells Fargo statistics regarding loan modifications requested by and granted to class members.

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