

In re Wells Fargo Mortgage-Backed Certificates Litigation

COURT: United States District Court for the Northern District of California
CASE NUMBER: 3:09-cv-1376-LHK
CASE LEADERS: Jonathan D. Uslaner

Securities class action against Wells Fargo, N.A. and certain related defendants related to the issuance of mortgage pass-through certificates (the "Certificates"). The Complaint alleges that the Offering Documents for the certificates contained untrue statements and omissions related to the quality of the underlying mortgage loans and that Wells Fargo had disregarded or abandoned its loan underwriting and loan origination standards. The defendants include Wells Fargo Bank, Wells Fargo Asset Securitization Corp. (and its officers), and the investment banks who served as underwriters for the Certificate offerings.

The action is pending before the Honorable Lucy H. Koh in the Northern District of California, San Jose division. On July 16, 2009, the Honorable Susan Illston, to whom the case was previously assigned, issued an order appointing the Alameda County Employees' Retirement Association, the Government of Guam Retirement Fund, the Louisiana Sheriffs' Pension and Relief Fund and the New Orleans Employees' Retirement System as Lead Plaintiffs.

Background

On October 30, 2009, Defendants filed motions to dismiss the Consolidated Complaint, and Lead Plaintiffs opposed. On April 22, 2010, Judge Illston issued an order granting in part and denying in part Defendants' motions to dismiss. Specifically, the Court sustained Lead Plaintiffs' Section 11 claims against the Wells Fargo Defendants and the Underwriter Defendants related to false and misleading statements concerning: (1) the underwriting standards for the mortgage loans underlying the mortgage pass-through certificates; (2) the appraisals and loan-to-value ratios related to those mortgage loans; and (3) the credit ratings assigned to the certificates. The Court granted leave to amend to: (1) designate additional named plaintiff(s) who purchased securities through certain offerings not purchased by the Lead Plaintiffs, and (2) allege additional facts giving rise to standing as to Lead Plaintiffs' Section 12(a)(2) claim.

On May 28, 2010, Lead Plaintiffs filed an amended complaint, which added five additional named plaintiffs that purchased in 10 additional offerings. On June 25, 2010, Defendants again moved to dismiss. While that motion was pending, the case was transferred to the Honorable Lucy H. Koh. On October 5, 2010, Judge Koh issued an order which granted Defendants' motion as to the claims of the additional plaintiffs, but again sustained Lead Plaintiffs' Section 11 and 15 claims related to underwriting standards. The additional plaintiffs appealed the dismissal to the United States Court of Appeals for the Ninth Circuit.

On February 11, 2011, Lead Plaintiffs filed their motion for class certification.

Lead Plaintiffs Reach \$125 Million Settlement in Wells Fargo MBS Litigation

After extensive litigation, document and deposition discovery, and negotiations - including two mediation sessions facilitated by an experienced and highly respected mediator - the parties recently reached an agreement to settle all claims asserted in the case. Under the settlement, which is subject to court approval, Wells Fargo will pay \$125

million to resolve the sustained and dismissed claims against all defendants. Notably, it is the first settlement of a class action asserting Securities Act claims related to the issuance of mortgage-backed securities. By Order dated July 26, 2011, the Court granted preliminary approval of the Settlement, certified the Class for settlement purposes, and set a schedule for the motion for final approval of the Settlement. The Court granted final approval of the Settlement after a hearing held on October 27, 2011.

Case Documents

- July 26, 2011 - Notice of Pendency of Class Action and Proposed Settlement, Final Approval Hearing, and Motion for Attorneys' Fees and Reimbursement of Litigation Expenses
- Proof of Claim and Release
- August 31, 2009 - Consolidated Class Action Complaint