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Attorneys for Lead Plaintiff

16 UNITED STATES DISTRICT COURT
 17 NORTHERN DISTRICT OF CALIFORNIA

18 PURPLE MOUNTAIN TRUST, Individually)
 and on Behalf of All Others Similarly Situated,)
 19)
 Plaintiff,)
 20)
 vs.)
 21)
 WELLS FARGO & COMPANY, et al.,)
 22)
 Defendants.)
 23)

Case No. 3:18-cv-03948-JD
CLASS ACTION
 REPLY MEMORANDUM AND
 STATEMENT OF NON-OPPOSITION IN
 FURTHER SUPPORT OF: (1) LEAD
 PLAINTIFF’S MOTION FOR FINAL
 APPROVAL OF CLASS ACTION
 SETTLEMENT AND APPROVAL OF PLAN
 OF ALLOCATION, AND (2) LEAD
 COUNSEL’S MOTION FOR AN AWARD
 OF ATTORNEYS’ FEES AND EXPENSES
 AND AWARD TO CLASS
 REPRESENTATIVE PURSUANT TO 15
 U.S.C. §78u-4(a)(4)

DATE: August 17, 2023
 TIME: 10:00 a.m.
 CTRM: 11, 19th Floor
 JUDGE: Honorable James Donato

1 Lead Plaintiff Construction Laborers Pension Trust for Southern California (“Lead Plaintiff”)
2 and Lead Counsel Robbins Geller Rudman & Dowd LLP (“Robbins Geller”) respectfully submit this
3 reply memorandum in further support of: (1) Final Approval of the Class Action Settlement and
4 Approval of the Plan of Allocation (ECF 231) (“Final Approval Motion”); and (2) an Award of
5 Attorneys’ Fees and Expenses and Award to Class Representative Pursuant to 15 U.S.C. §78u-
6 4(a)(4) (ECF 232) (“Attorneys’ Fees Motion”).¹

7 **I. INTRODUCTION**

8 The July 27, 2023 deadline for objections to the \$300,000,000 all-cash Settlement has now
9 passed. Lead Counsel is pleased to report that no Class Member has lodged an objection to the
10 Settlement, the Plan of Allocation, or Lead Counsel’s fee and expense application. This lack of
11 objections “‘is perhaps the most significant factor to be weighed in considering [the Settlement’s]
12 adequacy,’” *In re Rambus Inc. Derivative Litig.*, 2009 WL 166689, at *3 (N.D. Cal. Jan. 20, 2009)²;
13 is a testament to the fairness, adequacy, and reasonableness of the proposed Settlement, the proposed
14 Plan of Allocation, and Lead Counsel’s fee and expense application; and further underscores why
15 each warrants the Court’s approval.

16 **II. ARGUMENT**

17 **A. The Notice Provided to the Class Met All Due Process Requirements**

18 As detailed in prior submissions, the comprehensive notice program approved by the Court
19 and implemented here was “the best notice that [was] practicable under the circumstances, including
20 individual notice to all members who [could] be identified through reasonable effort.” Fed. R. Civ.
21 P. 23(c)(2)(B); *see* ECF 231, §V.; ECF 233, §III.C. To date, the Claims Administrator has emailed
22 and mailed a total of 1,128,869 copies of the Postcard Notice to potential Class Members and
23 Nominees; the Summary Notice was published in *The Wall Street Journal* and transmitted over
24 *Business Wire*; and all pertinent information has been posted and made generally available on the
25

26 ¹ Unless otherwise noted, all capitalized terms not defined herein have the same meaning set forth
27 in the Stipulation of Settlement dated February 6, 2023 (ECF 220-2).

28 ² Citations are omitted throughout unless otherwise indicated.

1 website dedicated to the Settlement. *See* Declaration of Ross D. Murray Regarding Notice
2 Dissemination, Publication, and Requests for Exclusion Received to Date (“Murray Decl.”) (ECF
3 233-2), ¶¶12-15, and Supplemental Declaration of Ross D. Murray Regarding Notice Dissemination
4 and Requests for Exclusion Received to Date (“Murray Suppl. Decl.”), ¶4, submitted herewith.

5 This notice program is very similar to those approved and employed in other securities class
6 actions in this District. *See, e.g., Evanston Police Pension Fund v. McKesson Corp.*, No. 3:18-cv-
7 06525 CRB, Final Judgment and Order of Dismissal with Prejudice, ECF 290, ¶12 (N.D. Cal.
8 July 14, 2023); *Fleming v. Impax Laboratories Inc.*, 2022 WL 2789496, at *3 (N.D. Cal. July 15,
9 2022); *Destefano v. Zynga, Inc.*, 2016 WL 537946, at *7 (N.D. Cal. Feb. 11, 2016) (finding
10 individual notice mailed to class members combined with summary publication constituted “the best
11 form of notice available under the circumstances”). As those courts did, this Court should conclude
12 that Lead Counsel here has provided the best notice practicable, as Rule 23 requires and due process
13 demands.

14 **B. The Reaction of the Class Strongly Supports Approval of the**
15 **Settlement and Plan of Allocation**

16 Federal Rule of Civil Procedure 23(e)(2) and *Hanlon v. Chrysler Corp.*, 150 F.3d 1011 (9th
17 Cir. 1998), provide factors that the Court must consider when assessing whether to approve a class
18 action settlement. As explained in both Lead Plaintiff’s Final Approval Motion and Unopposed
19 Motion for Preliminary Approval of Proposed Class Action Settlement (“Preliminary Approval
20 Motion”), the proposed Settlement readily satisfies the relevant factors, as the Settlement resulted
21 from Lead Plaintiff’s and Lead Counsel’s diligent representation of the Class throughout this years-
22 long litigation; the Settlement was negotiated at arm’s length following extensive document
23 discovery and with the assistance of an experienced mediator; and the Settlement provides an
24 excellent recovery considering the costs, risk, and delay of further litigation. *See* ECF 231, §III.B.3.;
25 ECF 220, §IV.D.

26 Similarly, Lead Plaintiff’s Final Approval Motion and Preliminary Approval Motion
27 explained that the Plan of Allocation provides an equitable basis to allocate the Net Settlement Fund
28 among all Authorized Claimants. *See* ECF 231, §III.B.7.; ECF 220, §IV.H. In particular, the Plan

1 treats Class Members equitably by providing that each will receive a proportional *pro rata* amount of
2 the Net Settlement Fund depending on when each Class Member bought Wells Fargo stock during
3 the Class Period and whether and when they sold their shares.

4 In determining whether to approve the Settlement and Plan of Allocation, the Court may now
5 assess the final *Hanlon* factor given that the July 27, 2023 objection deadline has passed: “the
6 reaction of the class members to the proposed settlement.” *Hanlon*, 150 F.3d at 1026. That reaction
7 – as measured by objections – has been overwhelmingly positive and further supports final approval
8 of the Settlement. *See id.*

9 Indeed, no Class Member has objected to any aspect of the Settlement. This “unanimous,
10 positive reaction to the Proposed Settlement is compelling evidence that the Proposed Settlement is
11 fair, just, reasonable, and adequate.” *Nat’l Rural Telecomms. Coop. v. DIRECTV, Inc.*, 221 F.R.D.
12 523, 529 (C.D. Cal. 2004); *accord Impax*, 2022 WL 2789496, at *7. Simply stated, this absence of
13 objections “raises a strong presumption that the terms of [the] proposed class settlement action are
14 favorable to the class members.” *In re Omnivision Techs., Inc.*, 559 F. Supp. 2d 1036, 1043 (N.D.
15 Cal. 2008). In fact, “[c]ourts have repeatedly recognized that the absence of a large number of
16 objections to a proposed class action settlement raises a strong presumption that the terms of a
17 proposed class action settlement are favorable to the class members.” *Foster v. Adams & Assocs.,*
18 *Inc.*, 2022 WL 425559, at *6 (N.D. Cal. Feb. 11, 2022); *accord AdTrader, Inc. v. Google LLC*, 2022
19 WL 16579324, at *5 (N.D. Cal. Nov. 1, 2022) (“A court may appropriately infer that a class action
20 settlement is fair, adequate, and reasonable when few class members object to it.”). Similarly, the
21 lack of objections to the proposed Plan of Allocation provides firm support for its approval. *See In*
22 *re Heritage Bond Litig.*, 2005 WL 1594403, at *11 (C.D. Cal. June 10, 2005) (“The fact that there
23 has been no objection to this plan of allocation favors approval of the Settlement.”).

24 Of particular significance, no institutional investors, those Class Members with the largest
25 amounts at stake, objected to either the Settlement or the Plan of Allocation. The overwhelmingly
26 positive reaction from sophisticated institutional investors is further persuasive evidence that the
27 Settlement is fair. *See In re Regulus Therapeutics Inc. Sec. Litig.*, 2020 WL 6381898, at *6 (S.D.

28

1 Cal. Oct. 30, 2020) (“Many potential class members are sophisticated institutional investors; the lack
2 of objections from such institutions indicates that the settlement is fair and reasonable.”).

3 In short, “[t]he small number of objections” (*zero*) “supports that the settlement and plan of
4 allocation are fair, reasonable, and adequate.” *In re Volkswagen “Clean Diesel” Mktg., Sales*
5 *Pracs., & Prods. Liab. Litig.*, 2019 WL 2077847, at *3 (N.D. Cal. May 10, 2019) (approving \$48
6 million securities fraud class action settlement where “[o]nly one class member objected to the
7 settlement and only 16 potential class members opted out of the settlement”). Accordingly, the
8 Court should approve the Settlement and Plan of Allocation here as fair, adequate, and reasonable.

9 **C. The Reaction of the Class Strongly Supports Approval of the**
10 **Requested Attorneys’ Fees and Expenses**

11 The Notice identified that Lead Counsel intended to seek a benchmark fee of 25% of the
12 Settlement Amount and payment of litigation expenses not to exceed \$2,000,000. The exceptional
13 result, “[t]he touchstone for determining the reasonableness of attorneys’ fees in a class action,”³
14 strongly supports the requested award of attorneys’ fees and expenses. The result is even more
15 impressive given the highly complex and uncertain nature of this securities fraud class action and the
16 potential for years of additional litigation absent the Settlement, and it required skill and high quality
17 work to attain. *See also* ECF 232, §III.B. (discussing relevant factors). The appropriateness of Lead
18 Counsel’s fee request is also confirmed with a cross check against its lodestar, which reflects a 2.5
19 multiplier. *See id.*, §III.B.7.

20 No Class Member has objected to Lead Counsel’s request for attorneys’ fees and payment of
21 litigation expenses. Again, the lack of objections, particularly from sophisticated institutional
22 investors, weighs strongly in favor of granting the requested attorneys’ fees and expenses. *See*
23 *Hefler v. Wells Fargo & Co.*, 2018 WL 6619983, at *15 (N.D. Cal. Dec. 18, 2018) (“As with the
24 Settlement itself, the lack of objections from institutional investors ‘who presumably had the means,
25 the motive, and the sophistication to raise objections’ [to the attorneys’ fee] weighs in favor of
26 approval.”); *Zynga*, 2016 WL 537946, at *18 (“[T]he lack of objection by any Class Members also
27 supports the 25 percent fee award.”); *In re Nuvelo, Inc. Sec. Litig.*, 2011 WL 2650592, at *3 (N.D.

28 ³ *Lowery v. Rhapsody Int’l, Inc.*, 69 F.4th 994, 997 (9th Cir. 2023).

1 Cal. July 6, 2011) (finding only one objection to fee request to be “a strong, positive response from
2 the class”); *Omnivision*, 559 F. Supp. 2d at 1048 (“None of the objectors raised any concern about
3 the amount of the fee. This factor . . . also supports the requested award of 28% of the Settlement
4 Fund.”). Accordingly, the Court should approve Lead Counsel’s request for attorneys’ fees of 25%
5 of the Settlement Amount and payment of \$1,965,687.14 for litigation expenses.

6 **III. CONCLUSION**

7 Lead Counsel obtained an exceptional result for the Class, and the Class agrees. For the
8 reasons set forth above and in their previously filed briefs and declarations, Lead Plaintiff and Lead
9 Counsel respectfully request that the Court approve the proposed Settlement and Plan of Allocation,
10 as well as the request for attorneys’ fees and payment of expenses. Proposed orders are submitted
11 herewith.

12 DATED: August 10, 2023

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify under penalty of perjury that on August 10, 2023, I authorized the electronic filing of the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the email addresses on the attached Electronic Mail Notice List, and I hereby certify that I caused the mailing of the foregoing via the United States Postal Service to the non-CM/ECF participants indicated on the attached Manual Notice List.

s/ SCOTT H. SAHAM
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