

**SUPERIOR COURT OF CALIFORNIA,
COUNTY OF SAN DIEGO
CENTRAL**

MINUTE ORDER

DATE: 04/04/2025

TIME: 1:30 PM

DEPT: C-63

JUDICIAL OFFICER: KATHERINE A. BACAL

CLERK: Annie Yim

REPORTER/ERM: Suzanne Tate

BAILIFF/COURT ATTENDANT: J. Palomo

CASE NO: **37-2020-00020808-CU-BT-CTL** CASE INIT.DATE: 06/18/2020

CASE TITLE: **Stoff vs Wells Fargo Bank NA [E-FILE]**

CASE CATEGORY: Civil CASE TYPE: (U)Business Tort/Unfair Business Practice

HEARING TYPE: Motion Hearing

MOVING PARTY:

APPEARANCES

Andrew J. Brown, Attorney for Plaintiff Michael Stoff, present in person.

Craig D. Singer, Attorney for Defendant Wells Fargo Bank NA, present in person.

Mark D Lonergan, Attorney for Defendant Wells Fargo Bank NA, present in person.

HEARING ON OBJECTIONS TO THE DISCOVERY REFEREE'S RECOMMENDATION NUMBERS 4 AND 6

The matter is trailed for parties to speak.

1:47PM The matter is recalled. The Court hears from Attorney Brown who indicates he will lodge the documents in camera.

There is no objection by other counsel.

The hearing on objections to the discovery referee's recommendation number 4 is continued to 04/11/2025 at 1:30PM before Judge Katherine A. Bacal.

The Court hears argument of counsel on recommendation number 6.

After making modifications, the Court signs the order for the discovery referee's recommendation number 6.

HEARING ON PLAINTIFF'S MOTION FOR SUPPLEMENTAL CLASS NOTICE; HEARING ON PLAINTIFF'S REQUEST FOR SANCTIONS

The Court hears argument of counsel.

The Court CONFIRMS the tentative ruling as follows:

Plaintiff's motion for supplemental class notice is **GRANTED** and plaintiff's request for sanctions is **DENIED**.

Discussion

Plaintiff Michael Stoff moves for an order to provide supplemental notice to class members not previously notified and to provide them an opportunity to opt out. Mot. (ROA # 656). Plaintiff also seeks sanctions under CCP section 128.5 against defendant Wells Fargo Bank, N.A. and/or its counsel for willfully failing to comply with the Court's order to provide notice of pendency of class action. *Id.* Defendant opposes the motion on the basis the class definition does not include "late payors" and so the class list was accurate. Oppo. (ROA # 665). The matter is fully briefed. Reply (ROA # 668).

The Court agrees with plaintiff that in accordance with the reasoning and order granting class certification (ROA # 445), the class definition included persons whose accounts were reported as "current" at the time of their CARES Act accommodation, even if they were 1-29 days past due on their payment. Defendant acknowledges that the Court's ruling concluded Stoff – who was between 1-29 days past due on his mortgage payment at the time he obtained his CARES Act accommodation – was typical and adequate to serve as the class representative. Oppo. at p.10. As Stoff is a class member, so too are the people similarly situated. Thus, plaintiff's request for supplemental class notice is granted.

Plaintiff's request for sanctions under CCP section 128.5 is denied on the basis that plaintiff did not comply with the statutory notice and safe harbor provision requirements. Plaintiff alternatively requested that the Court permit him to file a separately noticed motion under CCP section 128.5. Reply at p.11. However, plaintiff has not explained how a renewed motion could still provide the 21-day safe harbor opportunity to defendant, given that the challenged action or tactic (i.e., of failing to provide notice to all class members) is being addressed by this ruling and so defendant would no longer have an opportunity to "appropriately correct" its action or tactic.

Conclusion

Accordingly, plaintiff's request for supplemental class notice under CRC, rule 3.766 is **GRANTED**, and plaintiff's request for sanctions under CCP section 128.5 is **DENIED**.

The Court orders that:

1. Defendant must produce a supplemental class list of those individuals meeting the class definition whose mortgage payments were due 1-29 days prior to obtaining CARES Act Accommodation, along with their addresses;
2. Class counsel and the notice administrator are directed to send class notice to class members on the supplemental class list based on the timing set forth in the previously approved notice plan; and
3. Defendant must pay the costs of sending supplemental notice.

The minute order is the order of the Court.

~~Plaintiff to serve notice within two court days of this ruling. Parties waive notice.~~

IT IS SO ORDERED.

Katherine A. Bacal

Judge Katherine A. Bacal