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MORTGAGE, a division of WELLS FARGO
9 BANK, NATIONAL ASSOCIATION
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11 UNITED STATES DISTRICT COURT
12 NORTHERN DISTRICT OF CALIFORNIA
13 SAN FRANCISCO DIVISION

14 In Re:

Case No. MDL 06-CV-1770 MHP

15 WELLS FARGO HOME MORTGAGE
16 OVERTIME PAY LITIGATION

**~~[PROPOSED]~~ FINAL ORDER ENJOINING
CALIFORNIA CLASS MEMBERS FROM
EX PARTE CONTACT WITH COUNSEL
FOR MICHAEL HOLLANDER**

17 THIS DOCUMENT RELATES TO
18 MEVORAH v. WELLS FARGO HOME
MORTGAGE

1 The Request of Wells Fargo Home Mortgage, a division of Wells Fargo Bank
2 (“WFHM”), for an injunction related to the pending Superior Court action entitled *Michael*
3 *Hollander v. Wells Fargo Bank, N.A.*, San Diego Superior Court No. 37-2008-00055014-CU-NC
4 (“the *Hollander* Action), and the Joinder of Carolyn Urso having been considered, and the
5 Opposition of counsel for Michael Hollander having also been considered,

6 The Court hereby finds:

7 1. Plaintiff Jason Mevorah filed his class-action complaint against WFHM on
8 February 10, 2005 (“California Federal Action”), which was removed to this Court, alleging that
9 WFHM misclassified its HMCs as exempt, and did not pay them overtime, and did not provide meal
10 and rest periods, in violation of the Fair Labor Standards Act and/or the California Labor Code.

11 2. On May 15, 2006, Laura Strickler filed an action against WFHM in San Diego
12 Superior Court, entitled, *Strickler v. Wells Fargo Bank*, Case No. GIN 052537 (“*Strickler* Action”).
13 Strickler is represented by the Initiative Legal Group, LLP (“ILG”). In her Second Amended
14 Complaint, Strickler alleges causes of action for penalties pursuant to the California Labor Code
15 Private Attorneys Act, Labor Code sections 2699, *et seq.* (“PAGA”), which overlap with the
16 misclassification-overtime claims in the California Federal Action. In one cause of action, Strickler
17 alleges that WFHM allegedly misclassified its California HMCs as exempt and, therefore, they were
18 not paid overtime in alleged violation of the California Labor Code. Similarly, in another cause of
19 action, Strickler alleges that WFHM, because it allegedly misclassified its HMCs as exempt, violated
20 the Labor Code by providing HMCs with wage statements that did not show the number of hours
21 worked.

22 3. On October 18, 2007, this Court certified a class of HMCs in the California
23 Federal Action with respect to alleged misclassification-overtime issues and meal and rest breaks
24 (“California Class”). It also appointed the law firms of McInerney & Jones and Hoffman & Lazaar
25 as class counsel for the California Federal Action (“California Class Counsel”). This Court
26 accordingly has jurisdiction over the California Class named and absent class members.

27 4. On December 11, 2008, ILG filed a new action on behalf of Michael
28 Hollander in the Superior Court, County of Alameda, later transferred to San Diego County, entitled

1 *Hollander v. Wells Fargo Bank*, Case No. 37-2008-00055014-CU-NC (“*Hollander Action*”).
2 Michael Hollander is among the HMCs who Strickler asserts to be “aggrieved employees” and on
3 whose behalf Strickler seeks damages and/or penalties under PAGA. In the *Hollander Action*,
4 Michael Hollander seeks PAGA penalties and actual damages on behalf of a class of California
5 HMCs under the same or similar legal theories underlying *Strickler*, *i.e.*, that WFHM allegedly
6 misclassified HMCs, did not itemize overtime hours on wage statements, and did not provide meal
7 and rest breaks. Hollander seeks to certify a class of California HMCs and for his counsel to contact
8 California Class Members to gather evidence to support his case.

9 5. WFHM asserts in the California Federal Action as an affirmative defense that
10 it properly classified HMCs as exempt from overtime under one or more exemptions under the Fair
11 Labor Standards Act and/or the California Labor Code. WFHM maintains, therefore, among other
12 things, that it is not required to pay overtime or to itemize hours worked on HMCs’ wage statements.
13 This Court finds there is sufficient overlap to the claims and/or defenses to these cases that the
14 *Hollander Action* might confuse HMCs, interfere with the parties’ prosecution of claims and
15 defenses in the California Federal Action, and interfere with this Court’s management and control of
16 the California Federal Action.

17 Based on these findings, and good cause appearing in aid of this Court’s jurisdiction;

18 **IT IS HEREBY ORDERED:**

19 The Court hereby enjoins the named and absent class members in the action entitled
20 *Mevorah v. Wells Fargo Home Mortgage* (the “California Federal Class Action”), from responding
21 to, or in any other way communicating with counsel for plaintiff in the action entitled *Hollander v.*
22 *Wells Fargo Bank*, San Diego County Superior Court Case No. 37-2008-00055014-CU-NC,

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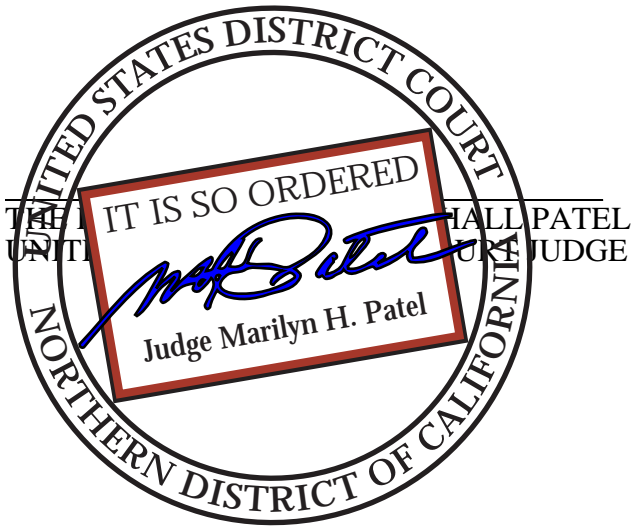
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1 concerning the subject matter of the California Federal Class Action, without the permission of
2 California Class Counsel.

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Dated: October 22, 2008



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