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16 *Attorneys for Plaintiff and*
 17 *the Proposed Class*

18 UNITED STATES DISTRICT COURT
 19 NORTHERN DISTRICT OF CALIFORNIA
 20 SAN FRANCISCO / OAKLAND DIVISION

21 MADELINE MARTIN, on behalf of
 22 herself and all others similarly situated,

23 Plaintiff,

24 v.

25 WELLS FARGO BANK, N.A.,

26 Defendants.

Case No. 3:12-cv-06030-SI

27 **STIPULATION AND ~~[PROPOSED]~~**
ORDER REGARDING DEFENDANT'S
MOTION TO COMPEL ARBITRATION

1 Plaintiff Madeline Martin (“Plaintiff”) and defendant Wells Fargo Bank, N.A. (“Wells
2 Fargo”), through their undersigned counsel, hereby stipulate as follows:

3 WHEREAS, on November 28, 2012, Plaintiff filed a Class Action Complaint (Dkt.
4 No. 1);

5 WHEREAS, in response to Wells Fargo’s request that Plaintiff provide Wells Fargo with
6 her identifying information to locate her records, Plaintiff voluntarily provided her Wells Fargo
7 account number and telephone number to Wells Fargo as a courtesy on December 4, 2012;

8 WHEREAS, on December 21, 2012, Plaintiff agreed to extend Wells Fargo’s deadline to
9 answer or otherwise respond to the Class Action Complaint from December 26, 2012 until
10 January 18, 2013 (Dkt. No. 7);

11 WHEREAS , on January 18, 2013, Wells Fargo filed a motion to stay and dismiss this
12 action and compel Plaintiff to arbitrate her claims as an individual (Dkt. No. 19) (“Motion to
13 Compel Arbitration”);

14 WHEREAS, Wells Fargo’s Motion to Compel Arbitration is based on records it gathered
15 using the telephone number that Plaintiff disclosed to it on December 4, 2012 and states,
16 specifically, that calls to the number were made in connection with a business account maintained
17 by Plaintiff containing an arbitration clause;

18 WHEREAS, on January 25, 2013, by letter, Plaintiff sought limited discovery from Wells
19 Fargo in order to submit appropriate evidence to oppose Wells Fargo’s motion to compel
20 arbitration and identified a cellular telephone number to which Plaintiff alleges that Wells Fargo
21 made automated calls;

22 WHEREAS, in an email dated January 30, 2013, Plaintiff clarified that the telephone
23 number disclosed in the December 4, 2012 email was, in fact, not the cellular number at which
24 she allegedly received automated telephone calls, but was instead a landline number to which
25 Wells Fargo made automated calls; and

26 WHEREAS, on January 30, 2013, Wells Fargo advised Plaintiff that it drafted the Motion
27 to Compel Arbitration on the assumption that the number at issue was the number she had
28 disclosed in the December 4, 2012 email.

1 NOW, THEREFORE, IT IS HEREBY STIPULATED AND AGREED, between Plaintiff,
2 by their undersigned counsel, and Wells Fargo, by their undersigned counsel, that:

3 (1) Wells Fargo's Motion to Compel Arbitration shall be and hereby is withdrawn
4 without prejudice;

5 (2) Wells Fargo may file an answer, amended motion to compel arbitration, or other
6 response to the Class Action Complaint within 30 days of the Court's ruling on this Stipulation;

7 (3) In the event Plaintiff determines that certain arbitration-related discovery is
8 necessary after reviewing any amended motion to compel arbitration, she shall serve Wells Fargo
9 with her proposed discovery within three days after Wells Fargo files any such amended motion,
10 and Wells Fargo shall notify Plaintiff within seven days if it will stipulate to the proposed
11 discovery;

12 (4) If Wells Fargo stipulates to any or all of the proposed discovery, all briefing
13 deadlines shall be postponed 60 days to permit appropriate discovery, and all related hearing
14 dates shall be re-noticed accordingly; and

15 (5) If Wells Fargo does not so stipulate to the proposed discovery: (a) Plaintiff may
16 have up to 14 days to submit a motion seeking arbitration-related discovery, and (b) all briefing
17 deadlines will be postponed indefinitely until the Court rules on Plaintiff's request.

18 Dated: February 1, 2013

By: /s/ Jonathan D. Selbin
Jonathan D. Selbin

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Attorneys for Plaintiff Martin and the Proposed Class

Dated: February 1, 2013

By: /s/ Kalama M. Lui-Kwan
Kalama M. Lui-Kwan

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Attorneys for Defendant Wells Fargo Bank

ATTESTATION

I, Daniel Hutchinson, am the ECF user whose identification and password are being used to file this Stipulation. I hereby attest that Kalama M. Lui-Kwan has concurred in this filing.

/s/ Daniel M. Hutchinson
Daniel M. Hutchinson

ORDER

Pursuant to Stipulation, it is so ORDERED.

Dated: 2/5, 2013


SUSAN ILLSTON
United States District Judge