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IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

MITZIE PEREZ, et al.,
Plaintiffs,
v.
WELLS FARGO BANK, N.A.,
Defendant.

Case No. [17-cv-00454-MMC](#)

**ORDER DENYING IN PART AND
DEFERRING RULING IN PART ON
DEFENDANT'S MOTION FOR RELIEF;
STAYING CLASS DISCOVERY IN
PART**

Before the Court is defendant's "Motion for Relief," filed December 27, 2018, by which motion defendant seeks an order vacating Magistrate Judge Elizabeth D. Laporte's order of December 21, 2017, to the extent it allows class discovery "to proceed as to the following credit lines: . . . auto loans, personal loans, and certain mortgage loans." (See Order, filed December 21, 2017, at 4:1-2.)

At the time said order was issued, the action was proceeding on the Second Amended Complaint ("SAC"), and defendant, on November 22, 2017, had moved to strike all class allegations, on the asserted ground that the class as defined was "fail-safe." (See Def.'s Mot. to Strike, filed November 22, 2017, at 4:8.) In its Motion for Relief, defendant contends class discovery as to the above-listed lines of credit should not be allowed, on the ground that the class allegations are, as defendant asserted, based on a fail-safe class.

By order filed January 30, 2018, the Court found the class defined in the SAC was fail safe, granted defendant's motion to strike the class allegations, and afforded plaintiffs leave to amend. In the same order, the Court deferred ruling on the Motion for Relief until plaintiffs had filed a Third Amended Complaint ("TAC") and the Court had resolved

1 any motion to strike the class allegations included therein; additionally, pending resolution
2 of any such motion, the Court granted defendant's motion to stay class discovery on the
3 lines of credit challenged in the Motion for Relief.

4 Subsequent to said order: (1) plaintiffs filed their TAC in which they allege, on
5 behalf of a putative class, claims based on the denials of applications for automobile
6 loans, personal loans, and home mortgages; (2) defendants moved to strike the class
7 allegations in the TAC; and (3) the Court, by order filed concurrently herewith, has
8 stricken the references in the class definition to automobile loans and home mortgages,
9 afforded plaintiffs leave to amend as to those two lines of credit, and otherwise denied
10 the motion to strike.

11 Accordingly, the Court now considers the Motion for Relief and rules as follows:

12 1. To the extent the Motion for Relief challenges Magistrate Judge Laporte's order
13 allowing class discovery on personal loans, the motion is hereby DENIED, as the motion
14 to strike the class allegations pertaining to said line of credit has been denied.

15 2. To the extent the Motion for Relief challenges Magistrate Judge Laporte's order
16 allowing class discovery on automobile loans and mortgages, the Court hereby DEFERS
17 ruling thereon until after plaintiffs have filed any Fourth Amended Complaint and the
18 Court has resolved any motion to strike the class allegations included therein.


19 3. Class discovery on automobile loans and mortgages remains STAYED pending
20 resolution of the deferred portion of the Motion for Relief.

21 **IT IS SO ORDERED.**

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23 Dated: May 9, 2018

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MAXINE M. CHESNEY
United States District Judge

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