

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION AT DAYTON**

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| WELLS FARGO BANK, N.A., | : | CASE NO. 3:07cv0449 |
| Plaintiff, | : | |
| v. | : | Magistrate Judge Michael R. Merz |
| | : | |
| LaSALLE BANK NATIONAL ASSOCIATION, | : | AGREED ORDER FOR A PROCEDURE TO DETERMINE PLAINTIFF'S REMEDIES IF LIABILITY IS FOUND |
| Defendant. | : | |

After conferring, the parties hereby agree as follows on a procedure for determination by the Court of the remedy to which Wells Fargo is entitled if the jury determines that LaSalle is liable on one or more of the claims asserted by Wells Fargo in this action:

1. The jury will hear evidence relevant to and determine: (i) whether LaSalle breached any of the representations and warranties set forth in the Mortgage Loan Purchase Agreement ("MLPA"), dated as of March 30, 2006, as such representations and warranties are identified in Wells Fargo's Second Amended Complaint; and (ii) whether any such breach caused the requisite material and adverse effect required for liability under the MLPA;
2. If the jury returns a verdict finding that LaSalle is liable on one or more of Wells Fargo's claims as described in paragraph 1(i) and 1(ii) above, the Court will determine whether the appropriate remedy is specific performance or money damages;

3. Once the jury and the Court have determined the issues set forth in paragraphs 1 and 2, the Court will schedule a separate proceeding to determine the appropriate specific performance remedy or calculation of damages, as the case may be. At such proceeding, the parties reserve the right to present all arguments and evidence relevant to the appropriate specific performance remedy or calculation of damages; and

By this stipulation, the parties hereby waive any right they may have to a jury trial on the issues set forth in Paragraph 3 above.

July 29, 2009.

s/ **Michael R. Merz**
United States Magistrate Judge

/s/ Loriann E. Fuhrer

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