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8 Attorneys for Defendant

10 IN THE UNITED STATES DISTRICT COURT  
11 FOR THE EASTERN DISTRICT OF CALIFORNIA

13 WELLS FARGO BANK, N.A., and WELLS  
FARGO HOME MORTGAGE, INC.,

15 Plaintiffs,

16 vs.

17 DEMETRIOS A. BOUTRIS, in his official  
18 capacity as Commissioner of the California  
Department of Corporations,

20 Defendant.

) Civil Action No. S-03-0157 GEB JFM

)  
) DEFENDANT'S RESPONSE TO  
) PLAINTIFFS' STATEMENT OF  
) UNDISPUTED FACTS

) Date: May 5, 2003  
) Time: 9:00 a.m.  
) Location: Courtroom 10

) **Hearing Requested**  
) [15 minutes each side]

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<b>PLAINTIFFS' UNDISPUTED FACT</b>	<b>DEFENDANT'S RESPONSE</b>
<p>1. Wells Fargo Bank, N.A. (“Wells Fargo Bank”) is a national bank organized and operating under the National Bank Act, 12 U.S.C. § 21 <i>et seq.</i>, that does business in California.</p>	<p>1. Admitted</p>
<p>2. Wells Fargo Home Mortgage, Inc., (“WFHMI”) is an operating subsidiary of Wells Fargo Bank.</p>	<p>2. Admitted</p>
<p>3. WFHMI makes first-lien residential mortgage loans in California that are within the terms of the California “per diem” rule set forth in Cal. Fin. Code § 50204(o) and Cal. Civil Code § 2948.5.</p>	<p>3. Admitted</p>
<p>4. WFHMI is a “creditor” within the meaning of the Truth In Lending Act, 15 U.S.C. § 1602(f).</p>	<p>4. Admitted</p>
<p>5. WFHMI makes more than \$1 million in first-lien residential mortgage loans per year.</p>	<p>5. Admitted</p>
<p>6. California did not “opt out” of the express preemption restrictions of the Depository Institutions Deregulation and Monetary Control Act of 1980, 12 U.S.C. § 1735f-7a within the statutorily prescribed time period for doing so.</p>	<p>6. Admitted</p>

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<p>7. "It is undisputed that the OCC has exclusive regulatory authority over Wells Fargo, a national bank."</p>	<p>7. Admitted</p>
<p>8. The Commissioner's spokesman has stated publicly that "the Department of Corporations would try to stop Wells from making new mortgage loans in California – and force it to sell its existing loans to another lender – if Wells no longer had a state license." E. Scott Reckard, <i>State Wins A Round Against Wells</i>, L.A. Times, March 7, 2003.</p>	<p>8. Objection - inadmissible hearsay.</p>

Dated: April 18, 2003

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