

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA**

**UNITED STATES OF AMERICA, et al.,**

Plaintiffs,

v.

**BANK OF AMERICA CORP., et al.,**

Defendants.

**Case No. 1:12-cv-00361-RMC**

**ORAL HEARING REQUESTED**

**DEFENDANT WELLS FARGO BANK, N.A.'S  
MOTION TO ENFORCE THE CONSENT JUDGMENT**

Pursuant to Fed. R. Civ. P. 57 and 65, and 28 U.S.C. § 2201, Defendant Wells Fargo Bank, N.A. (“Wells Fargo”) respectfully moves the Court for an order declaring and enforcing the terms and conditions of the Consent Judgment in this case.

The Consent Judgment incorporates a comprehensive release of Wells Fargo by the United States for certain Wells Fargo liability with respect to its Federal Housing Administration (“FHA”) mortgage lending conduct. The United States release specifically includes liability arising under the False Claims Act (“FCA”) and the Financial Institutions Reform, Recovery, and Enforcement Act (“FIRREA”) for Wells Fargo conduct covered by its annual certifications to the United States Department of Housing and Urban Development (“HUD”) regarding Wells Fargo’s compliance with FHA mortgage lending program obligations.

On October 9, 2012, the United States violated the terms and conditions of the Consent Judgment release by filing a new complaint against Wells Fargo in the United States District Court for the Southern District of New York. *United States v. Wells Fargo Bank, N.A.*, No. 12-

cv-7527 (JMF) (S.D.N.Y. Oct. 9, 2012). The New York complaint alleges that Wells Fargo is liable under the FCA and FIRREA based on conduct that was settled through the Consent Judgment and its incorporated release.

In this Motion, Wells Fargo specifically seeks declaratory relief with respect to Wells Fargo's rights under the Consent Judgment and the United States' abrogation of its obligation to release Wells Fargo from certain liability by filing an action in New York, alleging claims under the FCA, FIRREA, and otherwise based on the same annual certification conduct that the United States already released through the Consent Judgment. In addition, Wells Fargo seeks an order enjoining the United States from pursuing causes of action, such as the ones pled in the New York complaint, that are based on annual certification conduct released in the Consent Judgment. Finally, Wells Fargo also seeks other equitable relief to compensate Wells Fargo for the injuries suffered as a result of the repetitive litigation occasioned by the United States' violations of the Consent Judgment.

Prior to filing this Motion, undersigned Wells Fargo counsel conferred with counsel for the United States concerning the claims and relief sought herein. Counsel for the United States advised Wells Fargo that the United States would oppose the Motion.

Wells Fargo respectfully refers the Court to Wells Fargo's accompanying Statement of Points and Authorities for further grounds in support of this Motion.

Wells Fargo requests an oral hearing on this Motion.

WHEREFORE, defendant Wells Fargo hereby prays that the Court grant the relief requested.

Dated: November 1, 2012

Respectfully submitted,

By  /s/ Douglas W. Baruch  
FRIED, FRANK, HARRIS, SHRIVER &  
JACOBSON LLP  
Douglas W. Baruch, DC Bar No. 414354  
William F. Johnson, *pro hac vice pending*  
Jennifer M. Wollenberg, DC Bar No. 494895  
801 17th Street NW  
Washington, DC 20006-1600  
Telephone: (202) 639-7000  
Facsimile: (202) 639-7003  
Douglas.Baruch@friedfrank.com  
William.Johnson@friedfrank.com  
Jennifer.Wollenberg@friedfrank.com

K&L GATES LLP  
Michael J. Missal, DC Bar No. 367125  
Amy Williams, *pro hac vice*  
1601 K Street NW  
Washington, DC 20006-1600  
Telephone: (202) 778-9000  
Facsimile: (202) 778-9100  
Michael.Missal@klgates.com  
Amy.Williams@klgates.com

*Attorneys for Wells Fargo Bank, N.A.*