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PLAINTIFFS' UNDISPUTED FACT	DEFENDANT'S RESPONSE
<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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By: _____
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