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Wells Fargo Exits Race Bias Suit With \$35.5M Settlement

By **Diana Novak Jones**

Law360, Chicago (May 4, 2017, 1:59 PM EDT) -- An Illinois federal judge signed off on a \$35.5 million settlement between Wells Fargo Advisors LLC and a class of the bank's African-American employees Thursday, ending the class's claims of discriminatory treatment with changes to programs they said encouraged racial disparities.

U.S. District Judge Harry D. Leinenweber granted final approval to the agreement, which ends nearly four years of litigation over Wells Fargo policies that the employees said excluded African-American financial advisers from the most successful teams and the most lucrative accounts.

In addition to individualized monetary awards for the class of more than 360 people, the approved settlement will stop the bank from requiring racial discrimination claims to be arbitrated and puts in place several new programs to combat racial bias.

Those programs are really what the suit was about, according to Lance Slaughter, who served as lead plaintiff.

"I'm glad we will be able to make some major change in this business," Slaughter, a first vice president and investment officer at Wells Fargo, told Law360 after the final approval hearing.

Helen Bow, a spokeswoman for Wells Fargo, said in a statement the approval "will allow Wells Fargo Advisors to continue to focus on providing a diverse and inclusive work environment where all of our team members can thrive through industry-leading recruiting, coaching, leadership and business development practices."

The changes, which will be in place for four years, include the establishment of a \$500,000 business development fund for African-American financial advisers in the bank's private client and wealth brokerage groups. The agreement instructs bank executives to examine their demographic data and initiate opportunities for African-American financial advisers, as well as designate specific recruiters and coaches for African-American employees.

Also under the settlement, Wells Fargo's senior executives will collaborate with the company's African-American employees to get feedback on its diversity efforts.

The class members, which include all African-Americans who were employed as financial advisers or financial adviser trainees at Wells Fargo between September 2009 and December 2016, can file a claim and have a hearing with a group of neutral administrators appointed to award money out of the class fund on an individual basis, according to the agreement.

The suit, which was first filed in 2013, accused the bank of “systemic, intentional race discrimination” through the implementation of policies that segregated its workforce and disparately impacted its African-American employees.

In April 2014, Wells Fargo moved to compel some of the named plaintiffs to resolve their claims in arbitration, saying they signed employment agreements that specifically required them to arbitrate any discrimination claim they had against the bank.

The employees fought back, arguing that the Financial Industry Regulatory Authority rules under which Wells Fargo operates bar the bank from requiring its employees to arbitrate class action claims. In August 2014, Judge Leinenweber denied the bank’s motion.

Wells Fargo appealed to the Seventh Circuit, but the court held in a separate case that arbitration agreements with class action waivers are illegal under the National Labor Relations Act, an issue that is **currently pending** before the U.S. Supreme Court.

The parties announced they had reached a settlement in December 2016, and got initial approval from Judge Leinenweber in January.

On Thursday, Judge Leinenweber granted class counsel’s motion for fees and plaintiff awards, approving the attorneys’ request for 25 percent of the fund, or a little more than \$8.8 million, according to the agreement.

The five named plaintiffs, some of whom still work at Wells Fargo, according to class counsel, will receive \$175,000 apiece for their work on the case. They attended each mediation session, and the ones still working at Wells Fargo will be a part of the settlement’s implementation going forward, according to Suzanne Bish of Stowell & Friedman Ltd., which represented the class.

“They all did it for the right reasons,” Bish told Law360.

The class is represented by Linda D. Friedman, Suzanne E. Bish, George S. Robot and Patricia A. Bronte of Stowell & Friedman Ltd.

Wells Fargo is represented by Grace E. Speights, Kenneth J. Turnbull and Michael S. Burkhardt of Morgan Lewis & Bockius LLP.

The case is Slaughter et al. v. Wells Fargo Advisors LLC, case number 1:13-cv-06368, in the U.S. District Court for the Northern District of Illinois.

--Additional reporting by Vin Gurrieri. Editing by Jack Karp.

Update: This story has been updated to include comments from a Wells Fargo spokeswoman.