

# WELLS FARGO AND FORCED CONSUMER ARBITRATION

## SEPTEMBER 2017 UPDATE

This report provides a comprehensive overview of consumer arbitrations involving Wells Fargo from 2009 through the first half of 2017 (“1H2017”), as reported by arbitration firms pursuant to California’s arbitration disclosure mandate.

The research was performed by Level Playing Field, a non-profit organization that collects, analyzes, and publishes data on consumer arbitration cases. Level Playing Field has developed a consumer arbitration database that allows the general public to quickly and easily search consumer arbitration cases by fields such as business name, arbitrator name, attorney name, and state.<sup>1</sup>

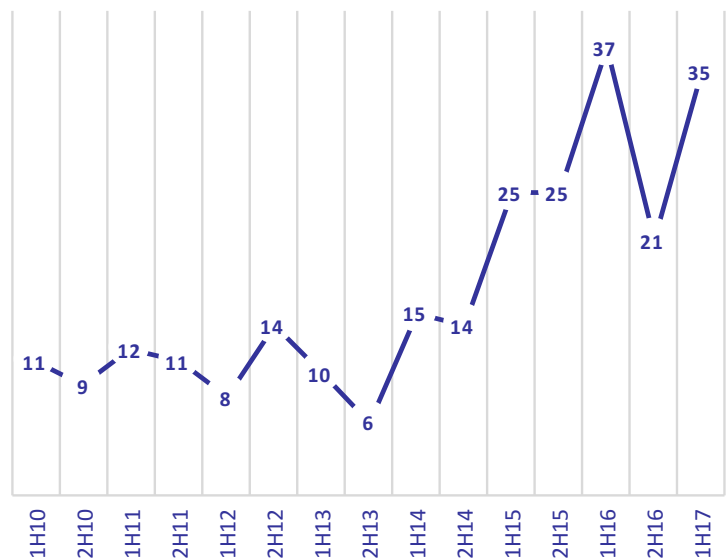
The original data for this report was provided by the American Arbitration Association (AAA), which routinely provides arbitration services to Wells Fargo.<sup>2</sup> A handful of additional cases were filed with another arbitration provider, JAMS (initially named Judicial Arbitration and Mediation Services, Inc.).<sup>3</sup>

### BACKGROUND

Wells Fargo serves over 70 million customers, including one in three households in the United States, through more than 8,600 locations, 13,000 ATMs, the internet, mobile banking and other distribution channels across the U.S. Wells Fargo provides services to consumers, businesses and institutions in all 50 states and the District of Columbia.<sup>4</sup>

As a standard practice, Wells Fargo includes forced arbitration agreements in its consumer account agreements, which block consumers from filing lawsuits in public court and ban consumers with similar claims from joining together in class actions.<sup>5</sup>

FIGURE 1. WELLS FARGO CLOSED ARBITRATION CASE COUNT BY HALF YEAR, 2010-17



<sup>1</sup> <https://levelplayingfield.io/>.

<sup>2</sup> The AAA data goes back to 2009.

<sup>3</sup> The JAMS data goes back to 2011.

<sup>4</sup> Wells Fargo 2016 Annual Report, pages 36, 46 and 132.

<sup>5</sup> Level Playing Field reviewed consumer account agreements published in the Consumer Financial Protection Bureau’s credit card agreement database: <https://www.consumerfinance.gov/credit-cards/agreements/>.

## SUMMARY

In 1H2017, 35 Wells Fargo arbitration cases were closed. This is up from 21 in the 2H2016 and relatively unchanged from 37 in the 1H2016, despite public knowledge of 3.5 million fraudulent accounts and credit cards following reports mid-way through 2H2016. This is a continuation of the trend of higher case volume that began in 2014. (See Figure 1)

Figure 2. Case Count by State

State	2009-16	1H2017	Total
AZ	4	4	8
CA	91	11	102
CT	10	3	13
FL	20	6	26
IA	0	1	1
IL	15	5	20
IN	1	1	2
NY	2	1	3
PA	1	2	3
UNK	0	1	1
Total	144	35	179

Cases were closed in nine of the 50 United States. The states with the most closed consumer cases were California (11), Florida (6), Illinois (5), Arizona (4), and Connecticut (3). (See Figure 2)

Of the 35 subject cases, 26 were settled and four went to a final hearing and award. This 74% settlement ratio for 1H2017 is up significantly from the 55% average settlement ratio from 2009-2016. Conversely, the 11% awarded ratio for 1H2017 is down significantly from the 22% awarded ratio from 2009-2016.

(See Figure 3)

Figure 3. Case Count by Disposition

Disposition	2009-16	1H2017	Total
Settled	119	26	145
Awarded	48	4	52
Withdrawn	25	4	29
Dismissed	14	1	15
Administrative	9	0	9
Total	215	35	250

Of the four awarded cases, consumers were designated the “prevailing party” in one and received a total of \$2,557. Whereas Wells Fargo was designated the prevailing party in two cases with no award amount listed. In the single remaining case, the prevailing party was undefined but Wells Fargo was awarded \$723 compared to zero for the consumer. (See Figure 4)

Figure 4. Prevailing Parties and Award Amounts 1H2017

Prevailing Party	Case Count	Awarded to Wells Fargo	Awarded to Consumer
Undefined	1	\$ 722.57	\$ -
Business	2	\$ -	\$ -
Consumer	1	\$ -	\$ 2,556.96
Total	4	\$ 722.57	\$ 2,556.96

The consumer was the initiating party in all four awarded cases. The consumer succeeded in only one of the four cases where a prevailing party was identified (25% success rate). By all accounts, Wells Fargo succeeded in the remaining three cases (a 75% success rate) but was defined as the prevailing party in only two (a 50% success rate).

Figure 5. Prevailing Parties and Award Amounts, 2009-2017

Prevailing Party	Case Count	Awarded to Wells Fargo	Awarded to Consumer
Undefined	29	\$ 1,000	\$ 352,106
Business	15	\$ 520,181	\$ 82,527
Consumer	8	\$ 485,208	\$ 8,811
Total	52	\$ 1,006,388	\$ 443,445
Average Award		\$ 19,354	\$ 8,528

From 2009 through 1H2017, Wells Fargo was identified as the prevailing party in twice as many cases as consumers (15 compared to 8). (See Figure 5)

In conclusion, Wells Fargo continues to experience a shockingly low number of arbitration claims despite its enormous customer base and continued revelations of widespread unfair business practices.

ADDITIONAL FIGURES

Figure 6. Wells Fargo Closed Case Disposition Count by Half Year

	2H09	1H10	2H10	1H11	2H11	1H12	2H12	1H13	2H13	1H14	2H14	1H15	2H15	1H16	2H16	1H17	Total
Settled	4	3	5	4	6	7	5	8	3	10	6	10	15	18	15	26	145
Awarded	1	1	1	1	3	5	2	2	2	5	4	9	5	5	2	4	52
Withdrawn	0	0	0	0	0	2	6	0	1	0	1	3	0	11	1	4	29
Dismissed	0	0	0	0	0	0	0	0	0	0	2	2	5	2	3	1	15
Administrative	0	0	3	2	0	1	0	0	0	0	1	1	0	1	0	0	9
<b>Total</b>	<b>5</b>	<b>4</b>	<b>9</b>	<b>7</b>	<b>9</b>	<b>15</b>	<b>13</b>	<b>10</b>	<b>6</b>	<b>15</b>	<b>14</b>	<b>25</b>	<b>25</b>	<b>37</b>	<b>21</b>	<b>35</b>	<b>250</b>

Figure 7. Wells Fargo Closed Case Disposition Percentage by Half Year

	2H09	1H10	2H10	1H11	2H11	1H12	2H12	1H13	2H13	1H14	2H14	1H15	2H15	1H16	2H16	1H17	Total
Settled	80%	75%	56%	57%	67%	47%	38%	80%	50%	67%	43%	40%	60%	49%	71%	74%	58%
Awarded	20%	25%	11%	14%	33%	33%	15%	20%	33%	33%	29%	36%	20%	14%	10%	11%	21%
Withdrawn	0%	0%	0%	0%	0%	13%	46%	0%	17%	0%	7%	12%	0%	30%	5%	11%	12%
Dismissed	0%	0%	0%	0%	0%	0%	0%	0%	0%	0%	14%	8%	20%	5%	14%	3%	6%
Administrative	0%	0%	33%	29%	0%	7%	0%	0%	0%	0%	7%	4%	0%	3%	0%	0%	4%

Figure 8. Count of Prevailing Party for Awarded Cases by Half Year

	2H09	1H10	2H10	1H11	2H11	1H12	2H12	1H13	2H13	1H14	2H14	1H15	2H15	1H16	2H16	1H17	Total
Undefined	1	1	1	1	1	2	1	0	2	5	4	4	1	3	1	1	29
Wells Fargo	0	0	0	0	1	1	1	2	0	0	0	5	2	1	0	2	15
Consumer	0	0	0	0	1	2	0	0	0	0	0	0	2	1	1	1	8
<b>Total</b>	<b>1</b>	<b>1</b>	<b>1</b>	<b>1</b>	<b>3</b>	<b>5</b>	<b>2</b>	<b>2</b>	<b>2</b>	<b>5</b>	<b>4</b>	<b>9</b>	<b>5</b>	<b>5</b>	<b>2</b>	<b>4</b>	<b>52</b>

Figure 9. Percentage of Prevailing Party for Awarded Cases by Half Year

	2H09	1H10	2H10	1H11	2H11	1H12	2H12	1H13	2H13	1H14	2H14	1H15	2H15	1H16	2H16	1H17	Total
Undefined	100%	100%	100%	100%	33%	40%	50%	0%	100%	100%	100%	44%	20%	60%	50%	25%	56%
Wells Fargo	0%	0%	0%	0%	33%	20%	50%	100%	0%	0%	0%	56%	40%	20%	0%	50%	29%
Consumer	0%	0%	0%	0%	33%	40%	0%	0%	0%	0%	0%	0%	40%	20%	50%	25%	15%

Figure 10. Percentage of Prevailing Party for Awarded Cases by Half Year (excluding Undefined)

	2H09	1H10	2H10	1H11	2H11	1H12	2H12	1H13	2H13	1H14	2H14	1H15	2H15	1H16	2H16	1H17	Total
Wells Fargo	0%	0%	0%	0%	50%	33%	100%	100%	0%	0%	0%	100%	50%	50%	0%	67%	65%
Consumer	0%	0%	0%	0%	50%	67%	0%	0%	0%	0%	0%	0%	50%	50%	100%	33%	35%

## METHODOLOGY

Wells Fargo appears in the Level Playing Field database under dozens of variations of its name. For example, “Wells Fargo NA”, “Wells Fargo Bank, N.A.”, “Wells Fargo Card Services”, etc. For the purposes of this report, these variations and/or separate legal entities were treated as one.

The Level Playing Field database includes 281 unique Wells Fargo cases from 2009 to 1H2017. Of those, 21 are debt collection, seven are employment disputes, two are business/commercial, and one is a new home construction case. Because we are interested in the outcomes of consumer banking cases, we have excluded these 31 cases from our analysis. As such, this report is based on 250 cases (221 from AAA and 29 from JAMS).

## ACKNOWLEDGMENT

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