

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**  
**NOTICE OF PROPOSED CLASS ACTION SETTLEMENT**

**Re: Case No. 5:23-cv-00255**

**Gary Nelson and Kayleigh Potter, individually and on behalf of all others similarly  
situated v. Bank of America, N.A.**

**You may be entitled to receive a settlement payment and other benefits in connection  
with a class action against Bank of America, N.A.**

*A federal court has authorized this notice. This is not a solicitation from a lawyer.  
You are not being sued.*

- This settlement resolves a lawsuit over whether Bank of America, N.A. (“BANA”) sent borrowers proper notice of their rights after vehicle repossession and sale.
- BANA denies and disputes the claims asserted in the Action. The parties disagree about whether any money (and if so, how much) could have been awarded to you if the Plaintiffs were to prevail at trial. The settlement avoids the costs and risks to members of the Class like you from continuing with the lawsuit, and it provides relief to the Class.
- This settlement will: (a) provide a gross fund of \$3,250,000 to be distributed to Class Members after payment of administrative costs, Class Counsel fees and expenses, and a service award to each Plaintiff; and (b) require BANA to request credit reporting agencies to delete your auto loan history from your credit report, as set forth in the Class Action Settlement Agreement.
- Your rights are affected whether you act or not. Read this notice carefully.

<b>Your Legal Rights and Options in this Settlement:</b>	
<b>Do Nothing (Optional: visit Settlement website to select preferred Payment Method)</b>	If the settlement is approved by the Court as presented, BANA will request the credit reporting agencies to delete your auto loan history with BANA from your credit report. You will also be paid a proportionate share of the net settlement proceeds, which you can view at this website: Nelsonclassaction.com. <b>This payment will be sent to you by check unless you promptly go to the Settlement website and select one of the other available payment methods. You will need your Notice ID and PIN.</b>
<b>Exclude Yourself</b>	You can choose to opt-out of the Settlement which means you are excluding yourself from the Settlement. You will keep your individual claims against BANA, but you will not receive payment as part of this Settlement or deletion of the BANA auto loan history. This is the only option that allows you to ever be part of any separate lawsuit against BANA concerning repossession or financing of your vehicle. Act by <b>December 18th, 2024.</b>
<b>Object</b>	If you do not opt-out, but instead wish to object to the Settlement, you may do so by writing to the Court about why you don’t like the settlement and do not want it approved. Act by <b>December 18th, 2024.</b>
<b>Go to a Hearing</b>	Ask to speak in Court about the fairness of the settlement by <b>December 18, 2024.</b>

- These rights and options – **and the deadlines to exercise them** – are explained in this notice.
- The Court in charge of this case still has to decide whether to approve the settlement. Payments will be made if the Court approves the settlement and after any appeals are resolved. Please be patient.
- For more information or to review key documents or the class action settlement agreement, you can visit **Nelsonclassaction.com.**

**WHAT THIS NOTICE CONTAINS**

	<u>Page</u>
<b>BASIC INFORMATION.....</b>	<b>1</b>
1.    Why did I get this notice package?.....	1
2.    What is this lawsuit about? .....	1
3.    Why is this a class action? .....	1
4.    Why is there a settlement? .....	1
<b>WHO IS IN THE SETTLEMENT.....</b>	<b>1</b>
5.    How do I know that I am part of the settlement?.....	1
<b>THE SETTLEMENT BENEFITS – WHAT YOU GET .....</b>	<b>2</b>
6.    What does the settlement provide for me?.....	2
<b>TAX IMPLICATIONS .....</b>	<b>2</b>
7.    Tax Implications .....	2
<b>HOW YOU GET THE BENEFITS OF THE SETTLEMENT .....</b>	<b>2</b>
8.    Do I need to do anything to get a payment or the credit reporting benefit .....	2
9.    Do I need to do anything to have my outstanding debt eliminated?.....	3
10.   When is the hearing on final approval of the proposed settlement?.....	3
11.   What am I giving up to get a payment or stay in the Class?.....	2
<b>EXCLUDING YOURSELF FROM THE SETTLEMENT .....</b>	<b>3</b>
12.   How do I get out of the settlement? .....	3
13.   If I don’t exclude myself, can I sue BANA for the same thing later? .....	3
14.   If I exclude myself, can I get money from this settlement?.....	3
<b>THE LAWYERS REPRESENTING YOU .....</b>	<b>3</b>
15.   Do I have a lawyer in this case?.....	3
16.   How will the lawyers and Representative Plaintiffs be paid?.....	3
<b>OBJECTING TO THE SETTLEMENT .....</b>	<b>3</b>
17.   How do I tell the Court that I don’t like the settlement? .....	3
18.   What’s the difference between objecting and excluding? .....	4
<b>THE COURT’S FAIRNESS HEARING.....</b>	<b>4</b>
19.   When and where will the Court decide whether to approve the settlement?.....	4
20.   Do I have to come to the hearing? .....	4
21.   May I speak at the hearing? .....	4
<b>IF YOU DO NOTHING.....</b>	<b>4</b>
22.   What happens if I do nothing at all? .....	4
<b>GETTING MORE INFORMATION.....</b>	<b>5</b>
23.   Are there more details about the settlement? .....	5

## BASIC INFORMATION

### 1. Why did I get this notice package?

The Court approved this notice because you have a right to know about a proposed settlement of a class action lawsuit, and about all of your options, before the Court decides whether to approve the settlement. If the Court approves it, and objections and appeals (if any), are resolved, the Settlement Administrator will make the payments the settlement allows.

The Court in charge of the case is the United States District Court for the Eastern District of Pennsylvania, and the case is known as *Gary Nelson and Kayleigh Potter, individually and on behalf of all others similarly situated, v. Bank of America, National Association*, No. 5:23-cv-00255-JS. The persons suing are Gary Nelson and Kayleigh Potter, the Plaintiffs (also called “Class Representatives”) and the company being sued, Bank of America, N.A., is called the Defendant, or “BANA.”

This package explains the lawsuit, the settlement, your legal rights, what benefits are available, who is eligible, and how to get them.

BANA’s records reflect that you and any co-borrower on your vehicle loan were sent a notice from BANA following the repossession of your vehicle in the period commencing December 23, 2016 through February 16, 2024. BANA’s conduct post-repossession, including its use of these notices, forms the basis for this lawsuit.

### 2. What is this lawsuit about?

The lawsuit claims that BANA violated Pennsylvania law by failing to send its borrowers in Pennsylvania proper notice after repossessing their vehicle(s). Specifically, Plaintiffs assert on behalf of themselves and a class of borrowers that the notices sent by BANA failed to accurately specify the date after which BANA would sell the vehicle that falls at least 15 days after the date of the notice.

BANA denies that it violated any law, and it asserts that it satisfied all of the legal requirements as to its notices. BANA asserts other defenses, including to the ability of this Action to proceed as a class action.

### 3. Why is this a class action?

In a class action, one or more people called Class Representatives (in this case Gary Nelson and Kayleigh Potter) sue on behalf of all people who have similar claims. All these people are “Class Members,” and grouped together are a “Class.” One court resolves the issues for all Class Members, except for those who exclude themselves from the Class. BANA has challenged whether this case should proceed as a class action but has agreed not to oppose this case proceeding as a class for settlement purposes only.

### 4. Why is there a settlement?

Plaintiffs believe the Class might have won more money than the settlement amount had the case gone to trial, but substantial delays and risks would have occurred, including the risk of the case not being certified as a class. BANA believes that its notices comply with the requirements of Pennsylvania law, and that the Plaintiffs may have recovered nothing if there had been a trial. But there has been no trial. Instead, both sides agreed to a settlement. That way, they avoid the cost of a trial and appeal, and Class Members like yourself will get compensation and other settlement benefits promptly. The Class Representatives and their attorneys think the settlement is best for all Class Members.

## WHO IS IN THE SETTLEMENT

### 5. How do I know that I am part of the settlement?

If you received this Notice in the mail, BANA’s records reflect that you are part of the Class. The Court has preliminarily certified the Class, which includes consumer borrowers who were sent notices after their vehicle was repossessed in the period commencing December 23, 2016 through February 16, 2024.

## THE SETTLEMENT BENEFITS – WHAT YOU GET

### 6. What does the settlement provide for me?

#### Cash Component:

- BANA has agreed to create a Settlement Fund of \$3,250,000. Approved administrative costs, Class Counsel fees and expenses, and service awards for the Class Representatives will be paid from that fund. The Net Settlement Fund (money remaining after payment of administrative costs, Class Counsel fees and expenses, and service awards) that remains will be divided among members of the Class based on the formula described in the Settlement Agreement. You can look up the estimated amount of your payment at this website: [Nelsonclassaction.com](http://Nelsonclassaction.com)
  - **This amount will be sent to you by check unless you promptly go to the Settlement website and select one of the other available payment methods. You will need your Notice ID and PIN.**
  - If after the first distribution to the Class more than \$25,000 remains in the Net Fund (typically from uncashed or undistributable checks), there will be a second distribution to the Class to those class members that cashed or deposited their previously issued payments. A balance remaining after the second distribution will be paid to the *cy pres* beneficiary Pennsylvania Legal Aid Network, Inc.
- **Credit Reporting Relief:** BANA will request that the credit reporting agencies to whom it has reported your auto loan to update your credit report to remove any reference to your auto loan account with BANA. Note that the credit reporting agencies are separate entities from BANA and that BANA does not and cannot guarantee, warrant, or take responsibility for the performance of the credit reporting agencies with respect to changing, deleting, suppressing, or making entries regarding any information previously reported to them by BANA. Further, you should understand that the credit reporting relief will remove all reporting relating to your auto loan account with BANA, not just negative reporting. Note that a change in credit reporting does not affect whether a deficiency balance, if any, is due. Details about how and when this will be done, and limits on BANA's obligation to provide credit reporting relief, are spelled out further in the Settlement Agreement.

## TAX IMPLICATIONS

### 7. Tax Implications

This settlement has potential tax implications for you. The Settlement Administrator plans to issue IRS 1099-series forms for cash payments over \$600. You may be required to furnish your Social Security Number to the administrator as a condition of payment of settlement proceeds over \$600. You should consult your tax advisor.

## HOW YOU GET THE BENEFITS OF THE SETTLEMENT

### 8. Do I need to do anything to get a payment or the credit reporting benefit

No. You do not need to do anything further to remain in the Class. You will get a payment and any credit reporting benefit automatically, assuming court approval of the Settlement.

### 9. What am I giving up to get a payment or stay in the Class?

Unless you exclude yourself, you will stay in the Class, and that means that you can't sue, continue to sue, or be part of any other lawsuit against BANA related to your repossessed motor vehicle. It also means that the Court's orders will apply to you and legally bind you. Unless you "opt-out" or exclude yourself from this case, you will automatically be deemed to have agreed to a "Release of Claims" which describes exactly the legal claims that you give up if you remain in the Class. The specific language of the release is set forth in the Settlement Agreement, which can be found on the website created for this case: [Nelsonclassaction.com](http://Nelsonclassaction.com).

## EXCLUDING YOURSELF FROM THE SETTLEMENT

If you do not want a payment or other benefits from this settlement but you want to keep the right to sue or continue to sue BANA on your own with regard to your auto loan account, then you must take steps to get out. This is called excluding yourself – sometimes referred to as “opting out” of the Class.

### 10. How do I get out of the settlement?

To exclude yourself from the settlement, you must send a letter to the Settlement Administrator, with copies to counsel, by mail saying that you, as well as any and all other person(s) who signed your vehicle loan, want to be excluded from *Gary Nelson v. Bank of America*, No. 5:23-cv-00255-JS. The letter must: (a) identify the case name; (b) your name and address, as well as email and phone number; (c) be personally signed by you; and (d) contain a statement that indicates a desire to be excluded from the Settlement Class, such as “I hereby request that I be excluded from the proposed Settlement Class in the Action.” Mail your exclusion request postmarked no later than December 18th, 2024 to all of three different addresses below.

Settlement Administrator	Class Counsel	Defense Counsel
Nelson v. Bank of America Class Settlement c/o Settlement Administrator PO BOX 23698 Jacksonville, FL 32241-3698	Jody T. López-Jacobs, Esq. FLITTER MILZ, P.C. 450 N. Narberth Avenue Suite 101 Narberth, PA 19072	K. Issac deVyver McGuireWoods LLP Tower Two-Sixty 260 Forbes Avenue Suite 1800 Pittsburgh, PA 15222-3142

### 11. If I don’t exclude myself, can I sue BANA for the same thing later?

No. Unless you exclude yourself, you give up any right to sue BANA for the claims that this settlement resolves. If you have a pending lawsuit, speak to your lawyer in that case immediately. You must exclude yourself from this Class to continue your own lawsuit.

### 12. If I exclude myself, can I get money from this settlement?

No. If you exclude yourself, you will not receive any money from this lawsuit or settlement, nor any credit report deletion that this Class Settlement provides.

## THE LAWYERS REPRESENTING YOU

### 13. Do I have a lawyer in this case?

The Court has approved the law firm of Flitter Milz, P.C., in Narberth, PA to represent you and other Class Members. The lawyers at this firm are called Class Counsel. You will not be charged individually for these lawyers. If you want to be represented by your own lawyer, you may hire a firm at your own expense.

### 14. How will the lawyers and Representative Plaintiffs be paid?

As part of the class settlement, Plaintiffs will ask the court to approve a \$15,000 service award to each Plaintiff for their time and effort in bringing this case. Plaintiffs will ask the Court to approve a payment out of the Settlement Fund in the amount of \$1,300,000 for Class Counsel fees, and for reimbursement of expenses totaling to approximately \$60,000. The fees would pay Class Counsel for investigating the facts, litigating the case, negotiating the settlement, filing legal papers with the Court, and oversight of future implementation of the settlement, including fielding inquiries from Class Members. Class Counsel has not been paid for its time or services since this case was originally filed in December 2022. The Court could award less than this amount.

## OBJECTING TO THE SETTLEMENT

You can tell the Court that you don’t agree with the settlement or some part of it.

### 15. How do I tell the Court that I don’t like the settlement?

If you are a Class Member, you can object to the settlement if you don’t like any part of it. You should state why you object and why you think the Court should not approve the settlement. The Court will consider your views. To object, you must file an objection, or send a letter saying that you object to the settlement in *Gary Nelson v. Bank of*

*America*, No. 5:23-cv-00255-JS. Include in the letter: (a) the case name and number; (b) your name, address, telephone number and if you are represented by counsel, contact information for your counsel; (c) the basis for objection; and (d) a statement of whether you intend to appear at the Final Approval Hearing, either with or without counsel. Mail the objection to all of the three different places listed in Section 10 above, postmarked no later than December 18th, 2024, and file with the United States District Court for the Eastern District of Pennsylvania, 601 Market Street, Room 2609, Philadelphia, PA, 19106.

#### **16. What's the difference between objecting and excluding?**

Objecting is telling the Court that you don't like something about the settlement, and that you, for that reason, want the settlement not to be approved. You can object only if you stay in the Class. Excluding yourself is telling the Court that you don't want to be part of the Class. If you exclude yourself, you have no basis to object because the case no longer affects you.

### **THE COURT'S FAIRNESS HEARING**

The Court will hold a hearing to decide whether to approve the settlement. You may attend and you may ask to speak, but you don't have to, and attendance is not required or expected unless you advise that you intend to appear or have your lawyer appear.

#### **17. When and where will the Court decide whether to approve the settlement?**

The Court will hold a Fairness Hearing on February 18th, 2025, at 9:00 a.m. at the United States District Court for the Eastern District of Pennsylvania, U.S. Courthouse, Courtroom 14-B, 601 Market Street, Philadelphia, PA, 19106. At this hearing, the Court will consider whether the settlement is fair, reasonable, and adequate and meets the test for class action settlements. If there are objections, the Court will consider them. The Court will listen to people who have asked to speak at the hearing. The Court may also determine the Class Representatives' service awards and Class Counsel fees and expenses. Following the hearing, the Court will decide whether to approve the settlement. We do not know how long these decisions will take. Please note that the date and time of the hearing is subject to change, in which case the website and court docket will be updated.

#### **18. Do I have to come to the hearing?**

No. Class Counsel will answer any questions the Court may have. But you are welcome to come at your own expense. If you file an objection, you don't have to come to Court to talk about it, but you may. As long as you properly mailed (or electronically filed) your written objection on time, the Court will consider it. You may also pay your own lawyer to attend, if you wish.

#### **19. May I speak at the hearing?**

You may ask the Court for permission to speak at the Fairness Hearing. To do so, you or your lawyer must send a letter stating that it is your "Notice of Intention to Appear in *Gary Nelson v. Bank of America*, No. 5:23-cv-00255-JS." Your Notice of Intention to Appear must be filed or mailed so as to be filed with the Court no later than **December 18th, 2024** and be sent to the United States District Court for the Eastern District of Pennsylvania, 601 Market Street, Room 2609, Philadelphia, PA, 19106, and to Class Counsel, Defense Counsel, and the Settlement Administrator at the addresses set forth in Section 10. The Notice of Intention to Appear must include copies of any papers, exhibits, or other evidence that you will present to the Court in connection with the Fairness Hearing. You cannot speak at the hearing if you exclude yourself from the settlement.

### **IF YOU DO NOTHING**

#### **20. What happens if I do nothing at all?**

If you do not exclude yourself and the Court finally approves the settlement, you will receive a settlement payment(s) and credit reporting relief as provided in the Class Action Settlement Agreement, and you will give up your right to sue BANA or continue any current lawsuit against BANA.

GETTING MORE INFORMATION

**21. Are there more details about the settlement?**

This notice summarizes the proposed settlement. The pleadings and other records in this Action, including a copy of the Settlement Agreement, may be examined at any time during regular office hours at the United States District Court for the Eastern District of Pennsylvania, 601 Market Street, Room 2609, Philadelphia, PA, 19106, and are available for purchase and viewing from the court's docket via the Public Access to Court Electronic Records (PACER), <https://pacer.uscourts.gov>. Important case documents will also be available for viewing—at no cost— on a website created for this case: [Nelsonclassaction.com](http://Nelsonclassaction.com).

You may also contact the following:

**Nelson v. Bank of America**  
**c/o Settlement Administrator**  
**PO BOX 23698**  
**Jacksonville, FL 32241-3698**  
**Email: [info@nelsonclassaction.com](mailto:info@nelsonclassaction.com)**

**Or**

**Class Counsel**  
**FLITTER MILZ, P.C.**  
**450 N. Narberth Avenue, Suite 101**  
**Narberth, PA 19072**  
**1-888-668-1225**

Please **do not** call the Court, BANA, or BANA's counsel.