

September 20, 2024

Class Action Fairness Act – Notice to Federal and State Officials

Re: *Nelson, et al. v. Bank of America, N.A., Case No. 5:23-cv-00255-JS*
United States District Court for the Eastern District of Pennsylvania

Dear Sir or Madam:

We represent Defendant Bank of America, N.A., (“BANA” or “Defendant”) in the above-captioned action (the “Nelson Action”). Pursuant to 28 U.S.C. § 1715, this notice is to inform you of a proposed class action settlement of the Nelson Action – a lawsuit currently pending in the United States District Court for the Eastern District of Pennsylvania (Sánchez, J.). The lawsuit alleges that BANA violated the Motor Vehicle Sales Finance Act and the Uniform Commercial Code by failing to comply with the minimum notice period requirement relating to its Notices of Repossession.

In accordance with 28 U.S.C. § 1715(b), settling Defendant BANA states as follows:

- 1) The Complaint in the Nelson Action, as well as all attachments thereto, can be located on the enclosed CD at **Exhibit 1**. In addition, all other pleadings and records filed in the Nelson Action are available on the Internet through the federal government’s Pacer service at <https://ecf.cand.uscourts.gov/cgi-bin/login.pl>. Additional information about the Pacer service may be found at <https://pcl.uscourts.gov>.
- 2) At this time, the Court has not ruled on preliminary approval of the parties’ proposed class action settlement (“Preliminary Approval Order”). The motion seeking preliminary approval, along with the memorandum of law and all of the attachments to it, is included on the enclosed CD at **Exhibit 2**. A hearing on the motion for preliminary approval has not been set. At this time, the hearing for final approval of the settlement has not been scheduled.
- 3) The proposed form of direct notice to class members, which provides notice of the proposed settlement and each class member’s right to request exclusion from the class action, is included at **Exhibit 3** on the enclosed CD.
- 4) The parties’ proposed class action settlement agreement dated as of September 5, 2024, including all exhibits (“Settlement Agreement”), is included on the enclosed CD at **Exhibit 4**. The proposed Preliminary Approval Order (attached to the Settlement Agreement as Exhibit 2) asks the Court to find that the proposed

settlement “falls within the range of reasonableness and was the product of informed, good-faith, arm’s-length negotiations between the Parties and their counsel” and to preliminarily approve it as “fair, reasonable, and adequate.”

- 5) There are no additional agreements between class counsel and counsel for Defendant BANA, other than those reflected in the Settlement Agreement.
- 6) No final judgment or notice of dismissal has yet been entered in the Nelson Action.
- 7) The claims at issue in the Nelson Action, as well as all of the benefits contemplated in the Settlement Agreement, pertain to the collective group of all persons: (a) who financed the purchase of a motor vehicle for consumer use through BANA by means of an installment sale contract, or who financed the purchased through another entity but such installment sale contract was thereafter assigned to BANA; (b) from whom BANA, as the secured party, repossessed the vehicle or ordered it repossessed, (c) who had a Pennsylvania address as of the date of repossession; (d) who were sent a Notice of Plan to Sell Property or equivalent post-repossession notice of rights which set forth a day after which the collateral may be sold; (e) in the period commencing December 23, 2016 through February 16, 2024; and (f) where such person’s RISC contains a choice of law provision electing Pennsylvania as the governing law.

As explained in the Settlement Agreement and the motion seeking preliminary approval, the Notice List includes 819 relevant accounts, with 819 borrowers and 98 co-borrowers. The data will be updated following entry of the Preliminary Approval Order to provide for the most current contact information for class members. That said, an estimate of the number of class members (borrowers and co-borrowers) with mailing addresses in each state pursuant to the current list of records is provided on the enclosed CD as **Exhibit 5**. The names of borrowers and co-borrowers within each state are provided at **Exhibit 6**.

Further, and as set forth more fully in the Settlement Agreement, the Settlement Fund available to class members will be \$3.25 million, which will provide for a cash benefit equal to a pro rata share (i.e., in proportion to Settlement Class Members’ UCC Article 9 statutory damages) of the Settlement Fund on a per account basis after deduction of the incentive payments to the named plaintiffs, settlement administration costs, and attorneys’ fees and expenses, which are yet to be approved by the Court. Pro rata shares for each account will be split evenly between co-borrowers, unless agreed otherwise. The proportionate share of the claims of class members from each state to the Settlement Fund are set forth in **Exhibit 6**. BANA will also request the Credit Reporting Agencies delete the reporting of the settlement class members’ accounts that are the subject of the Action. The relief to class members is outlined in Section 3 of the Settlement Agreement.

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- 8) No written judicial opinions have been issued relating to the proposed settlement as of this date.

The password to access the materials on the CD is Nelson2024. If you have questions about this notice, the settlement, or how to access and view the documents on the CD, please contact us.

Thank you for your attention to this matter.

Sincerely,

MCGUIREWOODS LLP

K. Issac deVyver
Karla L. Johnson

Counsel for Bank of America, N.A.

cc: All Addressees Listed in Attachment A hereto

Attachment A
Enclosure

Attachment A

Nelson v. Bank of America, N.A.

Case No. 5:23-cv-00255-JS

CAFA Recipient List

NAME	TITLE/AGENCY	ADDRESS	CITY	STATE	ZIP
ASHLEY MOODY	FLORIDA ATTORNEY GENERAL	PL-01 THE CAPITOL	TALLAHASSEE	FL	32399-1050
MATTHEW J PLATKIN	NEW JERSEY ATTORNEY GENERAL	PO BOX 112	TRENTON	NJ	08625-0080
LETITIA JAMES	NEW YORK ATTORNEY GENERAL	THE CAPITOL	ALBANY	NY	12224-0341
MICHELLE A HENRY	PENNSYLVANIA ATTORNEY GENERAL	16TH FLOOR STRAWBERRY SQUARE	HARRISBURG	PA	17120
KEN PAXTON	TEXAS ATTORNEY GENERAL	PO BOX 12548	AUSTIN	TX	78711-2548
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MICHAEL J HSU	ACTING COMPTROLLER, OFFICE OF THE COMPTROLLER OF THE CURRENCY	400 7TH ST SW	WASHINGTON	DC	20219
	CONSUMER FINANCIAL PROTECTION BUREAU	1700 G STREET NW	WASHINGTON	DC	20552
ROBERT BARNES	EXAMINER-IN-CHARGE, OFFICE OF THE COMPTROLLER OF THE CURRENCY BANK OF AMERICA, N.A.	201 NORTH TRYON ST	CHARLOTTE	NC	28202