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FILED
MAY 3 - 2010
Judge Heidi Willis Currier

Nicole Parkin, on behalf of herself and
the putative class,

Plaintiff,

vs.

Bank of America, N.A.

Defendant

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION: MIDDLESEX COUNTY
Civil Action
Docket No.: MID-L-8170-07

**ORDER GRANTING FINAL APPROVAL OF
CLASS SETTLEMENT, AWARDING FEES AND
COSTS TO CLASS COUNSEL AND
APPROVING AN INCENTIVE PAYMENT TO
THE CLASS REPRESENTATIVE**

Before the Court is a joint petition by Nicole Parkin ("Plaintiff), on behalf of herself and all members of the Settlement Class, and Bank of America, N.A., ("Defendant") and a brief in support thereof submitted by the Parties requesting that the Court enter an Order certifying a class for the purpose of settlement pursuant to R. 4:32-1 et seq. of the New Jersey Court Rules, approving the Settlement set forth in the Parties' Settlement Agreement as fair reasonable and adequate, awarding attorneys' fees and costs to Class Counsel and awarding an incentive payment to Nicole Parkin.

Having reviewed and considered the Settlement Agreement, the joint application for final approval of the Settlement and having conducted a final approval hearing on May 3, 2010, the Court makes the findings and grants the relief set forth below approving the Settlement upon the terms and conditions set forth in this Order.

In determining whether to approve a proposed settlement, the Court is not required to conduct a hearing or abbreviated trial on the merits and is not required to determine with certainty the factual and legal issues, which are in dispute. Accordingly, the findings and conclusions hereinafter set forth are only for the limited purpose of determining whether the proposed settlement should be approved as fair, reasonable, and adequate as required by R. 4:32-4; and for good cause appearing:

IT IS ON THIS 3rd DAY OF MAY, 2010,

ORDERED that:

1. Having made the findings set forth below, the Court hereby certifies a Class for the purpose of a settlement only in accordance with the terms of the Settlement Agreement (A copy of which is attached hereto as Exhibit A) defined as follows:

All New Jersey consumer debtors, who at any time after September 26, 2003 had a motor vehicle repossessed by or on behalf of Defendant and who was sent a Notice Of Our Plan To Sell Property the same or similar to the notice sent to Ms. Parkin to their New Jersey address, that stated that if the customer redeemed their vehicle, the repossessed vehicle would be returned to them in Carmel, Indiana or another location more than 100 miles outside of the State of New Jersey.

The Settlement Class specifically excludes the following:

- A. Any consumer debtor whose motor vehicle was disposed of in a manner that did not result in a deficiency;
- B. Any consumer debtor whose account was marked as satisfied, paid in full, released or having a zero balance by Defendant as a result of certain payments made by such customer provided said debt was marked as such or otherwise agreed to be treated as satisfied in full by Defendant on or before August 1, 2008;
- C. Any customer debtor who has filed bankruptcy on or before August 1, 2008 and where the debtor's debt was discharged in that bankruptcy;

- D. Any judges presiding over the litigation and any member of their immediate family; and
- E. Any employee, agent, or director of Defendant and any company involved in the repossession or dispossession of the vehicle of any class member, and any member of their immediate family.

Defendant represents that there are 329 persons who meet the criteria of the definition above prior to exclusions and 310 Settlement Class Members taking into account exclusions A-E.

2. The Court finds that the above-defined Class is so numerous that joinder of all members is impracticable.

3. The Court finds, based on the terms of the Settlement described in the Settlement Agreement, and for settlement purposes only, that:

- a. There are questions of law and fact common to the Class;
- b. The claims of the Class Representative (appointed below) are typical of the claims of the Class;
- c. The Class Representative and class counsel will fairly and adequately represent the interests of the Class. There are no conflicts between the Class Representative and members of the Class;
- d. Questions of law and fact common to the members of the Class predominate over any questions affecting only individual members of the Class; and
- e. Certification of the Class is superior to other available methods for the fair and efficient adjudication of this controversy.

4. The Court, having reviewed the terms of the Settlement Agreement attached to this Order as Exhibit A and submitted by the parties pursuant to R. 4:32-2(e)(2), approves the Settlement Agreement and the Settlement provided therein as fair, reasonable and adequate and commands the parties to consummate the Settlement.

5. For purposes of the Settlement Agreement and carrying out the terms of the Settlement only, Nicole Parkin is appointed as representative of the Class; and Christopher J. McGinn, Esq. of the Law Office of Christopher J. McGinn and Andrew R. Wolf, Esq and Henry Wolfe, Esq. of the law firm of Galex Wolf, LLC are appointed as counsel for the Settlement Class ("Class Counsel") pursuant to R. 4:32-2.

6. The terms of the Settlement are fair, adequate, and reasonable and are hereby approved, adopted, and incorporated by the Court. The Parties, their respective counsel and the Claims Administrator are hereby directed to consummate the Settlement in accordance with the Preliminary Approval Order, subsequent Orders, the Notice to the Class, and the terms of the Settlement Agreement.

7. Notice of this hearing and of the Settlement, the application for counsel fees and costs, and the payment to the Class Representative has been provided to Class Members as directed by this Court's Orders, and proof of Notice has been filed with the Court by Class Counsel. The Court finds that such notice as therein ordered, constitutes the best possible notice practicable under the circumstances and constitutes valid, due, and sufficient notice to all Settlement Class members in compliance with the requirements of R. 4:32-4.

8. No member of the Settlement Class has either objected to or excluded themselves from the settlement.

9. The Court has considered all the documents filed in support of the Settlement, and has fully considered all matters raised, all exhibits and affidavits filed, all evidence received at the Hearing, all other papers and documents comprising the record herein, and all oral arguments presented to the Court.

10. The parties have engaged in confirmatory discovery consisting of, but not limited to a Certification of Due Diligence, which was prepared by the Plaintiff, to confirm the number of Class Members during the class period.

11. Upon final approval of the Settlement by the Court, all Settlement Class Members shall be releasing the claims as set forth in the Settlement Agreement (Exhibit A).

12. The Court approves the \$5,000.00 payment to Nicole Parkin in recognition of her efforts on behalf of the Settlement and to resolve her individual claims. This payment shall be made no later than 14 days after final approval of the Settlement by the Court.

13. The Court, after careful review of the time entries and rates requested by class counsel, and after applying the appropriate standards required by Rendine v. Pantzer, 141 N.J. 292, (1995), other relevant case law and the factors set forth in R.P.C. 1.5(a) to determine the Lodestar and any fee enhancement, hereby approves class counsel's application for attorneys' fees and costs in the amount of \$ 505,000.00. The amount set forth herein for attorneys' fees and costs does not include any time that may be spent enforcing any breach of this Agreement. The fees are in addition to the settlement benefits each class member will be receiving and are the sole property of class counsel, not plaintiff or the class. The Courts finds that this award is fair and reasonable and that Class counsel settled the fees and costs issue for less than their lodestar and without a request for a fee enhancement.

14. Plaintiff shall within 14 days after final approval of Settlement by the Court deliver to Andrew R. Wolf, Esq. at his office in North Brunswick, New Jersey, a check made payable to Nicole Parkin to satisfy the incentive award and resolution of her individual claims and a check made payable to Galex Wolf, LLC, to satisfy the award of Class Counsel's fees and costs.

15. The matter is hereby dismissed with prejudice except that the Court reserves jurisdiction over the consummation and enforcement of the settlement in accordance with the Settlement Agreement and the provisions of this Order.

16. A copy of this Order shall be served on counsel for all parties within 3 days.

Heidi W. Currier
HONORABLE HEIDI W. CURRIER, J.S.C.

EXHIBIT A

Appended to:

Order Granting Final Approval of the Class Action Settlement/
Parkin, et al. v. Bank of America, N.A./MID-L-8170-07

SETTLEMENT AGREEMENT AND RELEASE

This Settlement Agreement and General Release ("Agreement") is made and entered into this 21st day of September 2009, and modified on October 28, 2009 as to only Paragraph number 8 regarding counsel fees and costs to class counsel, by and between these Parties: Named Plaintiff Nicole A. Parkin ("Ms. Parkin") and Defendant Bank of America, N.A., (hereinafter "Defendant"), with reference to the following:

WHEREAS, a dispute has arisen between Ms. Parkin and Defendant which has resulted in Ms. Parkin filing a putative Class Action Complaint against Defendant in the Superior Court of New Jersey, Law Division, Middlesex County, Docket No. Docket No. L-8170-07 (the "Lawsuit"); and

WHEREAS, among other claims, Ms. Parkin has alleged in the Lawsuit that Defendant engaged in commercially unreasonable practices in connection with the repossession process of Ms. Parkin's motor vehicle by providing allegedly misleading information in a notice sent to her that notified her that if she redeemed her vehicle, it would be returned to her in Carmel, Indiana, and that these practices violated the Uniform Commercial Code, Article 9, Sections 9-614 and 9-623 (N.J.S.A. 12A:9-614 & N.J.S.A. 12A:9-623); and

WHEREAS, Defendant denies the allegations of the complaint filed in the Lawsuit, denies having engaged in commercially unreasonable actions in any respect and at any time, and denies any wrongdoing or liability to Ms. Parkin or to any other person with respect to the allegations set forth in the Lawsuit; and

WHEREAS, Ms. Parkin and Defendant now desire to avoid the further expenses, inconvenience and distraction of litigation, to put to rest all further controversy, to compromise

their claims and differences, and to effect a release of all claims and potential claims arising out of the subject matter of the Lawsuit, which have been, could have been, or could be asserted by Ms. Parkin or any member of the potential class arising out of, related to, or based on the matters alleged in the complaint filed in the Lawsuit, upon terms and conditions set forth hereafter;

WHEREAS, for purposes of settlement only, Ms. Parkin seeks to represent all New Jersey residents who fall within the Settlement Class definition set forth herein and included in the Final Approval Order in this Lawsuit;

WHEREAS, Ms. Parkin agrees to resolve her claims and those of the members of the settlement class upon the terms and provisions set forth below, after considering the risks of litigation and the benefits that the settlement will confer and to put to rest all claims based on the matters alleged in the complaint filed in the Lawsuit which have been, could have been, or could be asserted by Ms. Parkin or any member of the potential class arising out of, related to, or based on the alleged violative notices sent by Defendant in connection with the repossession of motor vehicles advising them that if they redeemed their vehicles, the vehicles would be returned to them at locations more than 100 miles outside of the State of New Jersey where they reside;

NOW, THEREFORE, Ms. Parkin and Defendant, by and through themselves, their respective undersigned attorneys and/or their authorized representatives, intending to be legally bound hereby and in exchange for valuable consideration as set forth herein, do agree that the Lawsuit be settled, and that the same shall be dismissed on the merits with prejudice, subject to the preliminary and final approval of the Court, on the following terms and conditions:

I. Class Certification for Settlement Purposes

1. The parties agree, solely for purposes of Settlement and not for any other purpose, that Ms. Parkin should be designated as the class representative and that she will fairly and

adequately represent the interests of the Settlement Class (the "Settlement Class") with respect to the Settlement, and that for purposes of settlement only, this Action should be certified as a class action consisting of the Settlement Class, because, for purposes of this settlement, the Settlement Class meets the standards recited in the New Jersey Court Rules.

2. The Settlement Class shall be defined, for purposes of settlement only, as:

All New Jersey consumer debtors, who at any time after September 26, 2003 had a motor vehicle repossessed by or on behalf of Defendant and who was sent a Notice Of Our Plan To Sell Property the same or similar to the notice sent to Ms. Parkin to their New Jersey address, that stated that if the customer redeemed their vehicle, the repossessed vehicle would be returned to them in Carmel, Indiana or another location more than 100 miles outside of the State of New Jersey.

The Settlement Class specifically excludes the following:

- A. Any consumer debtor whose motor vehicle was disposed of in a manner that did not result in a deficiency;
- B. Any consumer debtor whose account was marked as satisfied, paid in full, released or having a zero balance by Defendant as a result of certain payments made by such customer provided said debt was marked as such or otherwise agreed to be treated as satisfied in full by Defendant on or before August 1, 2008;
- C. Any customer debtor who has filed bankruptcy on or before August 1, 2008 and where the debtor's debt was discharged in that bankruptcy;
- D. Any judges presiding over the litigation and any member of their immediate family; and
- E. Any employee, agent, or director of Defendant and any company involved in the repossession or dispossession of the vehicle of any class member, and any member of their immediate family.

Defendant represents that there are 329 persons who meet the criteria of the definition above prior to exclusions and 310 Settlement Class Members taking into account exclusions A-E.

3. The Parties further stipulate, for settlement purposes only, to the appointment of Ms. Parkin as class representative and the appointment of Christopher J. McGinn, Esq. of the Law Office of Christopher J. McGinn, Steven N. Berk, Esq. of the law firm of Berk Law, LLC, Mark Chavez of the law firm of Chavez & Gertler, LLP, and Andrew R. Wolf, Esq. of the law firm of Gale Wolf, LLC as counsel for the Settlement Class ("Class Counsel"). Defendant does

not agree to certification of any Class or appointment of particular counsel to represent a Class in the Lawsuit for any purpose other than to effectuate the Settlement described herein.

4. The Parties agree that, in connection with the approval of this Settlement, the Court may make findings respecting class certification which, absent the existence of this Settlement, would be contested. The Parties acknowledge that while the agreements provided for in this Stipulation are intended to give rise to a finding that a class may be certified in accordance with the requirements of the New Jersey Court Rules, any such finding is for settlement purposes only and may not be used in this or any other proceeding or for any other purpose.

II. Agreement to Collectively Apply for Preliminary and Final Approval of the Settlement.

5. The Parties will cooperate in seeking certification of the Settlement Class under the New Jersey Court Rules and preliminary and final approval of the Settlement consistent with the terms and provisions of this Agreement. Other than Class Counsel's application for attorneys' fees and expenses, the drafting of documents related to seeking certification of the settlement class and final approval of the settlement shall be prepared by counsel for Plaintiff subject to the approval and edits of Defendant's Counsel prior to filing with the Court.

6. By motion ~~returnable on or before November 13, 2009~~ *to be filed w/in 30 days of November 13, 2009* the Parties shall collectively request that the Court enter an order making a preliminary finding that the terms of the Settlement Agreement are fair and adequate as to all Settlement Class Members; establishing a date by which Settlement Class Members must mail a Request for Exclusion Form to opt out of the Settlement; and setting a date for a hearing to obtain a Final Approval Order of the Settlement.

7. If any provision of this Settlement is not approved by the Court or if this Settlement is terminated or canceled by either Party under any of the terms set forth herein, then (a) this Settlement Agreement, and any resulting certification of the Settlement Class provided for herein shall be vacated and the Litigation shall proceed as though the Settlement Class had never been certified, without prejudice to any Party's position on the issue of class certification; (b) the Parties shall be returned to the *status quo ante* with respect to every issue of fact and law as they stood on the date of signing of this Settlement Agreement, as if this Settlement Agreement had not been entered into; (c) any Order entered pursuant to this Settlement Agreement shall be vacated and of no further force or effect; (d) neither this Settlement Agreement nor any provision thereof, nor any submission made in support thereof, nor any Order entered on or pursuant to this Settlement Agreement shall be used or relied on in the Litigation or any other proceedings for any purpose; and (e) all negotiations, proceedings and statements made in connection with this Settlement Agreement shall be without prejudice to any person, entity or Party and shall not be deemed an admission by any person, entity or Party of any act, matter, fact or proposition and may not be used in the Litigation or in any other proceeding for any purpose.

8. Subject to Court approval, Class counsels' fees and costs shall be paid by Defendant in the amount of \$480,000, which payment includes costs and expenses, time already reasonably spent and time reasonably to be spent including finalizing the Settlement, preparing settlement documents, drafting briefs, attending hearings, and monitoring of the settlement and settlement administration. The fees are in addition to the settlement benefits each class member will be receiving and are the sole property of Class Counsel, not plaintiffs or the class. This payment shall be made by the Defendant via check made payable to Galex Wolf, LLC delivered to Andrew Wolf, Esq. at the firm's North Brunswick office no later than fourteen (14) days

following the Effective Date of the Settlement. The amount set forth herein does not include any time that may be spent enforcing any breach of this Agreement.

The award of attorneys' fees and costs is the sole property of Class Counsel, not Plaintiff or the settlement class. The Parties agree that the amount of the attorneys' fee and cost award is not part of the substantive terms of this Settlement and will be considered by the Court separately from the Court's consideration of the fairness, reasonableness and adequacy of the Settlement.

III. Effective Date and Finality of Settlement.

9. The Effective Date of the Settlement embodied in this Agreement shall be the day on which all of the following events and conditions have occurred:

(a) All Parties through their duly-authorized representatives have executed this Agreement; and

(b) The Court has entered the Final Approval Order approving the terms of this Settlement, as stated in this Agreement; and

(c) If a class member objects to approval of the Agreement, or the settlement is attacked by way of intervention, the Effective Date means the date by which forty five days have passed after the final judgment approving the settlement, and award of attorneys' fees, costs and expenses and payments was entered without any appeals being taken, or, if appeals or requests for review have been taken, after orders affirming the judgment or denying review or the judgment otherwise becoming final with any appeal being dismissed or otherwise terminated. In the event that there is a contested fee application and a Party elects to appeal the award of fees and costs, such an appeal shall in no way affect the final approval of the settlement or relief to members of the settlement class.

IV. Relief to the Settlement Class

10. In connection with this Settlement, Defendant agrees as follows:

- a. Defendant will eliminate from its records any unpaid deficiency balance that Defendant may have charged, mark each Settlement Class Member's account as having a zero balance and cease all collection efforts on a Settlement Class Member's account relating to a deficiency balance immediately upon the filing of a Final Order Approving the Settlement and will take no future action to collect on the deficiency balance at any point in time. Defendant further agrees to take all steps necessary to repurchase any Settlement Class Member's account that was sold. Defendant further agrees to take all steps necessary to ensure that the debt which it is agreeing not to collect will never be sold, assigned or transferred to any other entity for collection.
- b. No later than 30 days after the date of the Final Order approving the settlement is filed, Defendant agrees to send a request to each of the three major Credit Reporting Bureaus (Equifax, Experian and Trans Union), and any other credit bureau to which Defendant reports (in the manner required by such credit bureau) requesting that they permanently delete all trade lines of each Settlement Class Member related to or associated with the account set forth in paragraph 10(a) and, to the extent that they exist, to permanently delete any trade lines related to or associated with the account set forth in paragraph 10(a) from any co-buyer, co-signer, guarantor or individual obligor.

Defendant further agrees that in the event it is notified that any of the trade lines that Defendant requested to be removed remains on or reappears on any credit file or credit report after the request to delete the trade lines has been sent, that Defendant shall renew its request in writing to the Credit Reporting Bureaus (with a copy to Class Counsel) that the trade lines should be deleted. It is understood, however, that the Credit Reporting Bureaus are separate and distinct entities from Defendant and, as such, Defendant can only request but cannot guarantee that the trade lines will remain deleted. As a result, providing that Defendant requests that trade lines be deleted in the manner and time frame referenced herein, any Credit Reporting Bureau's failure to abide by Defendant's requests will not be considered a breach or default by Defendant under this Agreement. The Parties further agree that the only remedy for any breach of this provision by Defendant shall be specific performance.

- c. Defendant agrees to repay to any settlement class member any funds it received towards a deficiency balance at any time after August 1, 2008 no later than 30 days after the Effective Date.
- d. No later than 30 days after the Effective Date Defendant agrees to vacate any judgment it obtained against a Settlement Class Member as well as any co-buyer, co-signer, guarantor or individual obligor at any time after August 1, 2008 by filing a Warranty to Satisfy Judgment and providing filed copy to Class Counsel.
- e. Defendant agrees not to issue to any Settlement Class Member or any co-buyer, co-signer; guarantor or individual obligor a form 1099-C due to Defendant's agreement to cease collection of Settlement Class Members' disputed deficiency balances, unless directed to do so by the Internal Revenue Service or a court of competent jurisdiction. In the event of such direction, Defendant's filing of form 1099-C will in no event constitute a breach or default by Defendant under this Agreement. Defendant further agrees that if the Internal Revenue Service or a court of competent jurisdiction directs it to issue a 1009-C or any other form 1099 for any class member, that immediately upon receipt of that determination and prior to issuing any 1009-C and Defendant shall inform Class Counsel of this

development. Defendant further agrees that, for settlement purposes only, it is ceasing collection activities relating to the disputed deficiency balances that Defendant alleges are owed by Settlement Class Members who do not opt out of the Settlement Agreement and which are the subject of this litigation and that each class member's deficiency balance is equivalent to the statutory damages pursuant to N.J.S.A. 12A:9-625.

- f. Without admitting any wrongdoing or liability or agreeing that any of the allegations of the Amended Complaint are correct, Defendant agrees that it will abide by New Jersey state law in connecting with the issuing Notice Of Our Plan To Sell Property to New Jersey consumers.

V. Monitoring of the Settlement and Right To Cure

11. At the request of Class Counsel, Defendant shall provide Class Counsel with a single Certification once a year for two years from the Effective Date to confirm compliance with the terms of the Settlement Agreement. The Certification will set forth with specificity details regarding Defendant's actions taken pursuant to Paragraph 10 and especially paragraph 10(f) of this Settlement Agreement. Defendant shall include with the certification samples of all forms of Notice Of Our Plan To Sell Property used in the repossession process in New Jersey during the period of time that the certification covers. In the event that Class Counsel believes that Defendant is in violation of the Settlement Agreement, Class Counsel shall so inform counsel for Defendant within 30 days of receipt of the certification and Defendant shall be permitted 30 days to cure such violation or advise Class Counsel that it disagrees with Class Counsel's determination with an explanation as to why it disagrees. Notice of an alleged violation shall be mailed to counsel for Defendant (Diane Bettino, Esquire, Reed Smith LLP, 136 Main Street, Princeton Forrestal Village, Princeton, New Jersey 08543), and the mailed notice of violation shall be sufficiently specific to enable Defendant to adequately respond to the charge. No action may be taken by Class Counsel during the 30 day time period that Defendant is investigating the alleged violation. In the event that Defendant investigates the alleged violation and disagrees that it has violated, or is violating a provision of the Settlement Agreement, then

Defendant will provide written notice of its disagreement to the noticing party by mailing such notice to counsel for Defendant indicated herein. If the parties cannot resolve the dispute, than this Court will have jurisdiction to decide the matter in controversy. The sole remedy for a violation of this provision is specific performance and if Plaintiff's counsel is required to seek the court's assistance and is successful, attorneys' fees and costs. .

VI. Payment of Incentive Awards.

12. Defendant agrees to provide an incentive award in the amount of \$5,000 to Ms. Parkin. Within fourteen (14) days of the Effective Date, Defendant shall deliver to Class Counsel the incentive award in the form of a check made payable to Nicole Parkin in the amount of \$5,000.

VII. Administration and Cost of Settlement

13. Defendant shall pay all costs associated with administering the settlement including but not limited to providing Notice to class members, and dismissing any pending deficiency actions and filing any Orders to vacate judgments obtained after August 1, 2008. Defendant shall use the services of a Settlement Administrator, of its own choosing, subject to the consent of Class Counsel, which shall not be unreasonably withheld, to print, provide Notice to and tabulate any responses from all Class Members. Class counsel will not object to the selection of EPIQ, A. B. Data, Ltd. or Rust Consulting, Inc. as the settlement administrator. Class counsel will not approve as the Settlement Administrator, Analytics, Garden City, First Class, Verus Claims Services, LLC or any entity affiliated with any of these firms. Defendant shall provide Class Counsel with the name and contact information of the selected Settlement Administrator no later than 20 days after the Settlement Agreement is executed on behalf of all parties. Defendant's agreement with the selected Settlement Administrator shall include that

Class Counsel shall be copied on all communications related to the Notice and settlement administration process except communications specifically related to billing and payments.

14. Defendant shall prepare an electronic compilation (Excel spreadsheet or other mechanism that is easily usable and readable by the settlement administrator and Class Counsel) of all Class Members. The electronic compilation shall include, at a minimum, the name and address of each Class Member, as well as the information necessary to identify the transaction, including the date of the Notice Of Our Plan To Sell Property sent to the Class Member, the account number and the Unpaid Deficiency Balance. The compilation shall be completed no later than thirty (30) days after a Settlement Agreement is executed and shall be provided to the Settlement Administrator upon preliminary approval of the Settlement. At the same time, Defendant will submit a database to Class Counsel that shall be in all respects the same as the compilation provided to the Settlement Administrator. Along with the compilation, Defendant shall submit to Class Counsel a detailed and specific certification of due diligence setting forth in detail how class members were selected, how and why any potential class members were excluded from the compilation, how the compilation was prepared, who prepared it, who was consulted in its preparation, what documents were reviewed in its preparation, the methodology used to compile the information and its completeness. In the event that the Settlement Administrator determines that the address for any Class Member is no longer current or is inaccurate either before the Notice is mailed or after a mailed Notice is returned, Defendant shall use all reasonable efforts, including providing the Settlement Administrator with any such class member's Social Security Number (SSN), to assist the Settlement Administrator in obtaining a current address for that Class Member. Defendant shall provide the class member's SSN or other identifying information to the Settlement Administrator within 3 business days after receipt of an

e-mail or fax request from the Settlement Administrator for additional identifying information for a class member. The Settlement Administrator shall execute such documents as Defendant deems reasonably necessary to ensure the confidentiality of class members' personal information. The Parties agree that the compilation referred to herein shall be treated as confidential pursuant to the confidentiality order already in place and shall not be filed (except under seal) nor communicated to any third party except as required by law.

15. On or before the date specified in the Preliminary Approval Order, the Settlement Administrator shall deposit or cause to be deposited the Notice in the United States Mail, first class postage prepaid, addressed to those Class Members identified through the database provided by Defendant. The Settlement Administrator shall update the addresses of those Settlement Class members by means of the National Change of Address Databank maintained by the U.S. Postal Service prior to the initial mailing of the Notice and shall update the addresses by other methods available to the Administrator after receipt of returned undeliverable mailed Notices. In addition, if any Class Member contacts the Settlement Administrator stating that the Class Member did not receive the mailed Notice, the Settlement Administrator shall send the Class Member the documents via first class mail postage prepaid.

16. Defendant shall pay all Costs of Notice and Settlement Administration Costs, including the Settlement Administrator's fees and expenses, associated with the Notices and other acts described herein.

17. The settlement terms are subject to confirmatory discovery, which includes the review by Class Counsel of the due diligence certification to be provided by Defendant pursuant to Paragraph 14 of this Agreement and the certification Defendant will provide at Class Counsel's request for two years after the effective date of the Settlement pursuant to Paragraph

11 of this Agreement. If Class Counsel has questions concerning the manner in which the electronic compilation of Class members was produced after reviewing the due diligence certification, or questions regarding Defendant's implementation of the terms of the Settlement after reviewing Defendant's certifications, the parties shall first attempt to resolve any questions. Defendant shall have seven days to respond to Class Counsel's questions. If outstanding questions cannot be resolved, Class Counsel will be entitled to one confirmatory deposition of the person most knowledgeable about the certification of due diligence, taken via video if Class Counsel deems it necessary after reviewing the responses by Defendant to the questions. Such deposition shall be limited to three hours and the issue of compilation of the Class Members. Defendant shall pay the costs of the deposition.

VIII. Forms of Notice to Settlement Class Members

18. Class counsel shall prepare the form of the Notice to the Settlement Class upon the execution of this Settlement Agreement and Release. The form of the Notice shall be subject to Defendant's counsel's comments and edits and court approval.

IX. Continuing Jurisdiction

19. The parties agree that the Court will have continuing jurisdiction after the Settlement becomes a Final Order concerning enforcement of this Settlement Agreement.

X. Releases of Claims and Agreement Not to Sue.

20. Upon final approval of the settlement by the Court, named Plaintiff Nicole Parkin, for herself and for her heirs, executors, administrators, successors and assigns and for the Settlement Class, hereby releases, acquits and forever discharges Defendant, as well as Defendant's current and former trustees, affiliates, related companies, parent companies, subsidiaries, partners, officers, directors, employees, shareholders, agents, successors,

predecessors, vendors, representatives, independent contractors, attorneys, insurers and assigns, or any other person, company or entity asserting an interest by or through Defendant (the "Released Parties"), from all claims, demands, sums of money, damages, causes of action, judgments, suits at law or in equity of any kind or nature between the Parties, known or unknown and whether in existence or hereafter discovered, arising prior to the date of execution of the Release, relating to any matters raised or asserted or which could have been asserted in the Lawsuit related to the repossession of motor vehicles (the "Released Claims").

21. Upon final approval of the settlement by the Court, named Plaintiff Nicole Parkin acknowledges that she or other Class Members may in the future discover facts different from or in addition to those which she now claims or believes to be true with respect to the subject matter of the Released Claims, and agrees that the Release shall be and remain effective in all respects notwithstanding the discovery of such different or additional facts. Ms. Parkin expressly acknowledges that the Release is intended to include in its scope all claims against the Released Parties which Ms. Parkin does not know or suspects to exist in their favor at the time of execution of the Release, and that the Release contemplates the extinguishment of any such claim or claims. Upon signing the Release and final approval of the settlement by the Court, Ms. Parkin and each member of the settlement class shall expressly waive any right to assert thereafter that any claims were excluded from the Release through ignorance, oversight, error or otherwise.

22. Named Plaintiff Nicole Parkin and each member of the settlement class stipulate and agree that, upon execution of the Release and final approval of the settlement by the Court, that they shall be permanently barred and enjoined from commencing, prosecuting or participating in any recovery in any action in this or any other forum (other than participation in

the Settlement, including the Incentive Award, as provided in this Agreement) in which any of the Released Claims is asserted.

23. Upon final approval of the settlement by the Court, Settlement Class Members, who do not timely opt-out of the Settlement Class by timely mailing a Request for Exclusion Form, for themselves and for their heirs, executors, administrators, successors and assigns, shall hereby release, acquit and forever discharge the Released Parties from all claims, demands, sums of money, damages, causes of action, judgments, suits at law or in equity of any kind or nature between the Parties, known or unknown and whether in existence or hereafter discovered, arising prior to the date of execution of the Release, relating to any matters raised or asserted or which could have been asserted in the Lawsuit related to the repossession of motor vehicles (the "Released Claims").

XII. No Admission of Violation or Liability.

24. This Agreement compromises claims that are contested, and nothing stated herein constitutes or shall be deemed an admission of any violation or liability on the part of Defendant, and the terms or content of this Agreement shall not be admissible as evidence in any trial, arbitration or administrative proceeding or for any other purpose.

XIII. General Provisions.

25. The Parties agree to cooperate and use their best efforts to effectuate Final Approval of this Settlement. In no event shall any Party or any counsel of record in the Lawsuit make any statement to encourage an objection to the Settlement or that supports disapproval of any term or provision of the Settlement.

26. This Agreement is the result of arms' length negotiations between the undersigned counsel for the Named Plaintiff Nicole Parkin and the Settlement Class and counsel

for Defendant. Because no Party is the "drafter" of this Agreement, it shall not be construed against or in favor of any Party.

28. This Agreement constitutes the entire agreement between and among the Parties with respect to the Settlement of this Lawsuit. No representation, warranty or inducement has been made by or to any Party concerning the terms or effect of this Agreement or the Released Claims, other than as expressly set forth in this Agreement. This Agreement supersedes all prior negotiations, statements and agreements.

29. This Agreement may be amended or modified only by a written instrument executed by all Parties or their respective successors-in-interest.

30. No provision of or breach of this Agreement may be waived except by a writing executed by all Parties. The waiver by any Party of any breach of this Agreement by another Party shall not be deemed a waiver of any other prior or subsequent breach of this Agreement.

31. This Agreement may be executed in multiple counterparts, each of which shall be treated as an original.

32. Each counsel or other person executing this Agreement or any other settlement document on behalf of any Party hereto hereby warrants that such person has the full authority to do so.

33. The Court shall retain jurisdiction to implement and enforce this Agreement and the Parties submit to the jurisdiction of the Court for purposes of implementing and enforcing the Settlement.

34. If the Court indicates, prior to making a final ruling on the Settlement, that the Settlement will not be approved unless certain changes are made, the Parties will remain bound to the remaining terms of this Agreement (the terms to which the Court has not requested

revision) for sixty (60) calendar days while the proposed changes are discussed and, if no agreement is reached concerning a revised settlement proposal, then either Party may unilaterally terminate this Agreement, or the Parties may jointly ask the Court for sufficient additional time to seek approval of the Settlement as revised.

35. In any dispute between the Parties regarding the terms of this Settlement, all terms of this Agreement shall be governed by and interpreted according to the substantive laws of the State of New Jersey, without reference to its conflict of law principles.

36. The undersigned hereby certify that they are authorized to enter into this Settlement Agreement and Release on behalf of their respective clients.

IN WITNESS WHEREOF, the Parties hereto evidence their agreement by the signatures of their attorneys.

Dated: October _____, 2009

Andrew R. Wolf, Esq.
Galex Wolf, LLC
1520 U.S. Highway 130 – Suite 101
North Brunswick, NJ 08902
Attorneys for Plaintiff Nicole Parkin

November 13
Dated: October _____, 2009

[Signature]

Diane A. Bettino, Esq.
Reed Smith LLP
Princeton Forrestal Village
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Princeton, New Jersey 08540
Attorneys for Defendant Bank of America,
N.A.

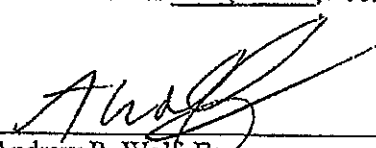
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36. The undersigned hereby certify that they are authorized to enter into this Settlement Agreement and Release on behalf of their respective clients.

IN WITNESS WHEREOF, the Parties hereto evidence their agreement by the signatures of their attorneys.

Dated: October 28, 2009



Andrew R. Wolf, Esq.
Galex Wolf, LLC
1520 U.S. Highway 130 -- Suite 101
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Attorneys for Plaintiff Nicole Parkin

Dated: October _____, 2009 .

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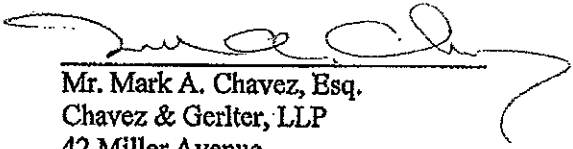
Dated: October _____, 2009

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Dated: October _____, 2009




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Dated: ~~September~~ 31, 2009
October

#1671881

Dated: ^{November} October 1, 2009



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Dated: September _____, 2009

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Dated: October _____, 2009

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