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BofA Gets Final Approval Of \$27M Settlement After Objections

By **Kat Sieniuc**

Law360, New York (August 5, 2016, 3:50 PM ET) -- A Pennsylvania federal judge gave the final stamp of approval on Thursday to a \$27.5 million settlement between Bank of America and a proposed class of account holders who sued the bank for improperly imposing overdraft fees, rejecting concerns raised by a so-called "professional objector."

U.S. District Judge Edward G. Smith granted class representative Sherry Bodnar's motions to certify the class and approve the settlement, holding the agreement was fairly negotiated and concluding that a lone objection clearly indicates the terms were well-liked among the class as a whole.

"The overwhelmingly favorable reaction of the settlement class to the settlement supports final approval," the court ruled in its order, adding that objector Dawn Weaver's "complaint that a settlement should have somehow been better is not proper grounds for objecting to a settlement."

The class includes any holder of a Bank of America checking account since May 25, 2011, who was charged an overdraft fee on an approved transaction when sufficient funds were available to cover the purchase.

Weaver had filed motions saying she didn't get a proper chance to object during settlement negotiations and that attorneys' fees were too high.

Lawyers for the class **responded by** calling out Weaver and her lawyer Chris Bandas as serial objectors, arguing they made baseless claims that veiled a disingenuous attempt to make a profit off the settlement.

Judge Smith agreed the objections had no weight during the approval hearing, saying, per court transcripts, "we have one objector, but all indications are that this is a professional objector."

The court also rejected Weaver's argument there wasn't a proper procedure in place for her to raise concerns about the attorneys' fee and cost award, since she "has, in fact, mounted such an objection," Judge Smith said.

The court additionally approved the 33 percent attorneys' fee request, holding the amount is consistent with other awards it has seen.

Hassan Zavareei, an attorney representing the class, told Law360 on Friday he felt "Judge Smith praised the settlement of this 'complex novel' case and acted swiftly to ensure that the class gets paid as soon as possible."

Indeed, the judge applauded Bank of America and class counsel for rewarding "almost 3 million individuals, where it would have been impossible for any one to have brought this action, which is exactly the reason we have these class actions," he said, according to court transcripts.

"The only obstacle now is professional objector [and Weaver's lawyer] Chris Bandas," Zavareei said. He expects Bandas will appeal the approval order and further delay class members from

receiving their money.

Bandas did not respond to a request for comment on Friday. Earlier court filings said he and his firm wouldn't be making any court appearances related to Weaver's objection.

The case goes back to June 2014, when Bodnar filed her initial complaint over the bank's practice of charging debit card users overdraft fees on authorized transactions when there were sufficient funds available in a given account to cover the purchases.

She accused Bank of America of breaching the contracts it had with account holders by automatically assessing the improper overdraft fees, along with violations of various common law duties and Pennsylvania's consumer protection statute, according to court records.

Settlement talks began in early 2015, but several months of court-supervised mediation did not yield an agreement until October. Lingering disagreements over the allocation of the proposed settlement fund to class members were finally resolved in January, according to the motion.

An attorney representing Bank of America did not respond to a request for comment on Friday.

The plaintiffs are represented by Hassan A. Zavareei and Jeffrey Kaliei of Tycko & Zavareei LLP, Jeffrey M. Ostrow of Kopelowitz Ostrow PA and James C. Shah of Shepherd Finkelman Miller & Shah LLP.

Bank of America is represented by Jessica Kaufman and Michael B. Miller of Morrison & Foerster LLP and Andrew J. Soven of Reed Smith LLP.

The case is Sherry L. Bodnar v. Bank of America NA, case number 5:14-cv-03224, in the U.S. District Court for the Eastern District of Pennsylvania.

--Editing by Catherine Sum.

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