

Jay Fenello

From: Jay Fenello
Sent: Thursday, September 20, 2012 3:35 PM
To: news@mortgageoversight.com; info@mortgageoversight.com; 'Consumer Financial Protection Bureau'
Cc: 'Attorney General, Georgia'; 'Jeffrey W. Stump, Assistant Attorney General, Georgia'; aphillips@mcguirewoods.com; keith.morgan@usdoj.gov; jennifer.oconnor@wilmerhale.com; carl.nichols@wilmerhale.com; 'Legal and Consumer Affairs Division, Georgia'; 'Comptroller of the Currency'; 'Tony West - Acting Associate Attorney General'; 'Amanda Basta - Federal Trade Commission'
Subject: Bank of America Continues to Violate Terms of Multi-State Settlement

To: Office of Mortgage Settlement Oversight
Consumer Financial Protection Bureau

Cc: Attorney General, Georgia
Amanda Basta - Federal Trade Commission
Tony West - Acting Associate Attorney General
Jeffrey W. Stump, Assistant Attorney General, Georgia
Legal and Consumer Affairs Division, Georgia
Keith Morgan, U.S. Attorney's Office
Comptroller of the Currency
Andrew Phillips, McGuire Woods
Jennifer O'Connor, Wilmer Hale
Carl Nichols, Wilmer Hale

Bcc: Assorted Members of the Media & Press
ProSeAction.org

Contrary to public pronouncements and commentary, Bank of America continues to violate the terms of the Multi-State Settlement, as evidenced by their recent court filings in the Fenello vs. Bank of America lawsuit (Case 1:11-cv-04139-WSD, US District Court, Northern Division, Georgia). In this lawsuit, plaintiffs allege that Bank of America has perpetrated the exact same torts as alleged by the State of Nevada in their lawsuit (State of Nevada v. Bank of America, Case 3:11-cv-00135-RCJ), specifically:

- advising consumers that they must miss payments in order to be considered for loan modifications, despite federal rules to the contrary.
- promising to act upon requests for mortgage modifications within a specific period of time, usually one or two months, but instead stranding consumers without answers for more than six months or even a year;
- falsely assuring them that their homes would not be foreclosed while their requests for modifications were pending, but sending foreclosure notices, scheduling auction dates, and even selling consumers' homes while they waited for decisions;
- misrepresenting the eligibility criteria for modifications and providing consumers with inaccurate and deceptive reasons for denying their requests for modifications;
- offering modifications on one set of terms, but then providing them with agreements on different terms, or misrepresenting that consumers have been approved for modifications.

As part of the multi-state settlement, Bank of America has agreed to cease and desist these practices, as enumerated in Appendix A of the Consent Decree signed with your office (Case 1:12-cv-00361-RMC, US District Court, DC), and to pay almost \$9 billion in restitution to their victims. Despite this settlement, Bank of America continues to attempt to foreclose on plaintiffs' home using these same illegal and unethical practices. Further, Bank of America continues to JUSTIFY these practices in their court filings.

Given that ignoring the terms of this settlement is the same pattern that Bank of America used when it ignored the terms of the Consent Order between Bank of America and the Comptroller of the Currency signed April 13, 2011 (AA-EC-11-12), and given that Bank of America is the only Defendant in the mutli-state settlement who has yet to offer a SINGLE modification to any of their clients under this settlement, it is apparent that this is a deliberate pattern of behavior for Bank of America.

Plaintiffs hereby request that the regulatory authorities investigate this matter further, and take appropriate action to ensure that Bank of America lives up to the settlement as negotiated. For a quick summary of this lawsuit, please see the recent filing at <http://proseaction.org/BoALawsuit/FenelloLeaveToAmend.pdf>, or all of the major filings may be found in the Case History page here: http://proseaction.org/blog/?page_id=197

Thank you in advance for your prompt attention to this matter.

Jay.

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Jay Fenello,
Pro Se Litigant
Phone: 770-516-6922
<http://ProSeAction.org>