

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

JOHN ROBERT LABRIOLA, on behalf
of himself and those similarly
situated,

Plaintiff,

v.

BANK OF AMERICA, NATIONAL
ASSOCIATION; MERRILL LYNCH,
PIERCE, FENNER & SMITH INCORP.;
BANK OF AMERICA CORPORATION; and
Does 3-50, inclusive,

Defendants.

No. C 12-79 CW

ORDER RE: AMENDED
SETTLEMENT
AGREEMENT AND
PROPOSED AMENDED
ORDER GRANTING
PRELIMINARY
APPROVAL

United States District Court
For the Northern District of California

On June 6, 2013, the Court preliminarily approved the settlement of this case. Among other things, the Court set a deadline of July 8, 2013 for the Class Notice to be mailed out. After that deadline, on July 17, 2013, the parties filed a stipulation requesting a case management conference to discuss their discovery of an undisclosed issue regarding the settlement. On July 22, 2013, the Court ordered the parties to file further papers regarding the status of settlement.

On July 24, the parties filed briefs describing discrepancies between the database of potential class members provided by Defendant to Plaintiff prior to settlement and the database of potential class members provided by Defendant to the settlement administrator. The parties filed a joint request that the Court allow them until August 7, 2013 to file a stipulation to amend the settlement agreement and the Court's preliminary approval order.

1 On August 7, 2013, the parties filed an amended settlement
2 agreement and a proposed amended order granting preliminary
3 approval of the class action settlement. In those documents, the
4 Class Period has been shortened. It previously ran from December
5 2, 2008 through the date the Court granted preliminary approval.
6 In the amended documents, the Class period runs from December 2,
7 2008 through December 31, 2011. In addition, the total settlement
8 fund has been reduced from \$2,900,000 to \$2,775,000. The parties
9 have provided no explanation for these changes.

10 Within five days of the date of this order, the parties shall
11 file a joint letter brief explaining why these changes were made
12 and how they affect (1) those individuals who would still be in
13 the class if the amended settlement is approved and (2) those
14 individuals who would have been a part of the class under the old
15 definition, who would no longer be part of the class if the
16 amended settlement is approved.

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18 IT IS SO ORDERED.

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20 Dated: 8/27/2013



CLAUDIA WILKEN
United States District Judge

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