

IN THE UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA  
MIAMI DIVISION

VERONICA DORADO, individually and on  
behalf of a class of similarly situated persons,

Plaintiff,

v.

BANK OF AMERICA, N.A.,

Defendant.

CIVIL ACTION NO: 1:16-cv-21147-UU

CLASS ACTION

JURY TRIAL DEMANDED

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**APPLICATION FOR CLASS REPRESENTATIVE SERVICE AWARD**

On December 15, 2016, this Court entered an order preliminarily approving a class action Settlement (the “Settlement”) that requires Defendant Bank of America, N.A. (“BANA”) to establish a \$29,000,000.00 cash Settlement Fund, provide borrowers with the mandatory disclosures relating to post-payment interest in a form approved by the FHA/HUD Commissioner, and pay all class administration costs. *See* Dkt. 113. The Court’s Preliminary Approval Order provides that the Settlement is “fair, just, reasonable, and adequate as to members of the Settlement Class, subject to further consideration at the Final Approval Hearing,” designated Plaintiff Veronica Dorado as a Class Representative, and directed that “[a]ny application by Settlement Class Counsel for . . . a class representative service award shall be filed with the Court no later than January 23, 2017.” *Id.* at 2, 10 (emphasis omitted).

Pursuant to the Preliminary Approval Order, Class Counsel hereby respectfully seek approval of a class representative service award of \$10,000 to be paid to Dorado out of the Settlement Fund. As part of the Settlement in this case, BANA agreed not to oppose a service

award of up to \$10,500.00 to Dorado. Dkt. 107-2 at 5. Class Counsel submit that a \$10,000.00 service award is fair and reasonable in light of Dorado's contribution to the litigation and the overall benefit to the Class achieved by the Settlement. Further, it represents a mere 0.0003% of the Settlement Fund.

Service awards for class representatives promote the public policy of encouraging individuals to undertake the responsibility of representative lawsuits. *Smith v. Res-Care, Inc.*, 2015 U.S. Dist. LEXIS 145266, at \*28 (S.D. W. Va. Oct. 27, 2015). "While the Eleventh Circuit has not expressly set forth guidelines for courts to use in determining incentive awards, there is ample precedent for awarding incentive compensation to class representatives at the conclusion of a successful class action." *Allapattah Servs., Inc. v. Exxon Corp.*, 454 F. Supp. 2d 1185, 1218 (S.D. Fla. 2006) (quoting *Ingram v. Coca-Cola Co.*, 200 F.R.D. 685, 694 (N.D. Ga. 2001)).

Here, Dorado's efforts played a valuable role in achieving the Settlement on behalf of the Class. Not only did Dorado initiate this case for the benefit of the class as a whole, she took an active role in it. *See* Ex. A [Decl. of Kevin Epps] at ¶¶ 7-8. Dorado participated in the crafting of the pleadings and settlement negotiations, spent hours on the phone with Class Counsel discussing responses to BANA's discovery requests, and was responsive to Class Counsel throughout the litigation. *Id.* She should be rewarded for stepping forward to invest her time and face the substantial risk of potential cost-shifting remedies if the case was unsuccessful to ensure that the Class' interests were vindicated. *See Morgan v. Pub. Storage*, No. 14-cv-21559, 2016 U.S. Dist. LEXIS 54937, at \*47 (S.D. Fla. Mar. 9, 2016) (Ungaro, J.) (noting that class representative "undertook substantial risk in acting as a named Plaintiff against a sophisticated

defendant that could have pursued cost-shifting remedies had a settlement not been reached or Plaintiff not prevailed”).

In determining personal service awards, courts consider, among other things, the class representative's contribution to the class action, including assistance with investigating claims, negotiating, responding to discovery, attending meetings, coordinating and communicating with Class Counsel on behalf of the class, and the result achieved. Courts have found a \$10,000 service award to be reasonable in similar cases. *See Spicer v. Chicago Bd. Options Exch.*, 844 F. Supp. 1226, 1266 (N.D. Ill. 1993) (incentive award of \$10,000 to each representative); *In re Residential Doors Antitrust Litig.*, MDL No. 1039, 1998 U.S. Dist. LEXIS 4292, at \*32 (E.D. Pa. Apr. 2, 1998) (awarding an incentive award of \$10,000 to each of the four Class representatives); *Dewey v. Volkswagen of Am.*, 728 F. Supp. 2d 546, 610 (D.N.J. 2010) (“For these reasons, and because the agreed upon amount is consistent with other cases, the Court will approve payment of \$10,000 to each representative plaintiff”); *Bellinghausen v. Tractor Supply Co.*, 306 F.R.D. 245, 267-68 (N.D. Cal. 2015) (awarding incentive award of \$10,000).

The mailed and published notices advised the Class that Class Counsel would apply for an incentive award for Dorado of up to \$10,500.00, and no objections were received. To Class Counsel’s knowledge, none of the more than 500,000 class members has exercised his or her right to opt-out of the class to date (because the deadline for class members to opt out or object to the settlement is February 6, 2017, Class Counsel will provide the final number of opt outs or objections in their motion for final approval of the settlement). A low opt-out rate from the Class Members who will be responsible for paying the service award “is evidence that the requested [award] is fair.” *In re Friedman’s, Inc.*, No. 1:03-cv-3475-WSD, 2009 U.S. Dist. LEXIS 43758,

at \*18 (N.D. Ga. May 22, 2009); *see also Turner v. GE*, No. 2:05-cv-186-FtM, 2006 U.S. Dist. LEXIS 65144, at \*23 (M.D. Fla. Sept. 13, 2006) (approving incentive award in absence of objections).

### **CONCLUSION**

For the foregoing reasons, Class Counsel respectfully request that the Court award Plaintiff Veronica Dorado a class representative service award of \$10,000.00.

Respectfully submitted this 23rd day of January 2017.

/s/ Brett M. Amron

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**CERTIFICATE OF SERVICE**

I hereby certify that the foregoing **APPLICATION FOR CLASS REPRESENTATIVE SERVICE AWARD** was electronically filed with the Clerk of Court using the CM/ECF system, which will automatically serve notification of such filing to all counsel of record as follows:

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This 23rd day of January, 2017.

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