

FILED
San Francisco County Superior Court

FEB 25 2004

GORDON PARK-LI, Clerk
Deputy Clerk

**IN THE SUPERIOR COURT
CITY AND COUNTY OF SAN FRANCISCO
STATE OF CALIFORNIA**

MILLER

Plaintiff,

vs.

BANK OF AMERICA

Defendant.

Case# CGC-99-301917

VERDICT

ORIGINAL

VERDICT FORM
Miller V. Bank of America
San Francisco Superior Court Case No. 301917

I. INTENTIONAL MISREPRESENTATION

1. Did Bank of America make a false representation of an important fact to members of the class?

Yes No

If your answer to question 1 is yes, then answer question 2. If you answered no, answer no further questions in Section I and go to Section II.

2. Did Bank of America know that the representation was false, or did it make the representation recklessly and without regard for its truth?

Yes No

If your answer to question 2 is yes, then answer question 3. If you answered no, answer no further questions in Section I and go to Section II.

3. Did Bank of America intend that members of the class rely on the representation?

Yes No

If your answer to question 3 is yes, then answer question 4. If you answered no, answer no further questions in Section I and go to Section II.

4. Did members of the class reasonably rely on the representation?

Yes No

If your answer to question 4 is yes, then answer question 5. If you answered no, answer no further questions in Section I and go to Section II.

5. Was reliance by the class on Bank of America's representations a substantial factor in causing harm to the class?

Yes No

If your answer to question 5 is yes, then answer question 6. If you answered no, answer no further questions in Section I and go to Section II.

6. What are the damages to the class?
- a. Economic loss \$ _____

II. NEGLIGENT MISREPRESENTATION

1. Did Bank of America make a false representation of an important fact to members of the class?

Yes No

If your answer to question 1 is yes, then answer question 2. If you answered no, answer no further questions in Section II and go to Section III.

2. Did Bank of America have reasonable grounds for believing the representation was true when it made it?

Yes No

If your answer to question 2 is no then answer question 3. If you answered yes, answer no further questions in Section II and go to Section III.

3. Did Bank of America intend that the class rely on the representation?

Yes No

If your answer to question 3 is yes, then answer question 4. If you answered no, answer no further questions in Section II and go to Section III.

4. Did the class reasonably rely on the representation?

Yes No

If your answer to question 4 is yes, then answer question 5. If you answered no, answer no further questions in Section II and go to Section III.

5. Was reliance by the class on Bank of America's representations a substantial factor in causing harm to the class?

Yes No

If your answer to question 5 is yes, then answer question 6. If you answered no, answer no further questions in Section II and go to Section III.

6. What are the damages to the class?
- a. Economic loss \$ _____

III. CONSUMER LEGAL REMEDIES ACT (CLRA)

1. Did Bank of America falsely represent that its direct deposit accounts are safe and secure for holding government benefits and that the funds in those accounts are instantly available to the account holder?

____ Yes No

If your answer to question 1 is yes, then answer question 2. If you answered no, answer no further questions in Section III and go to Section IV.

2. Did Bank of America make the representation in a transaction which was intended to result in, or actually resulted in, members of the class opening and/or maintaining a direct deposit account to hold his government benefits income?

____ Yes ____ No

If your answer to question 2 is yes, then answer question 3. If you answered no, answer no further questions in Section III and go to Section IV.

3. What are the damages to the class?

\$ _____

4. Did the class suffer substantial economic or emotional damage resulting from the Bank's conduct?

____ Yes ____ No

If your answer to question 4 is yes, then answer question 5. If you answered no, answer no further questions in Section III and go to Section IV.

5. Do you find an additional award is appropriate?

____ Yes ____ No

If your answer to question 5 is yes, then answer question 6. If you answered no, answer no further questions in Section III and go to Section IV.

6. What additional amount (up to \$5,000 per class member who suffered substantial economic or emotional damage) do you award?

\$ _____

IV. CONSUMER LEGAL REMEDIES ACT

1. Did Bank of America falsely represent that it has the right to use Social Security funds from direct deposit accounts that receive government benefits, including Social Security funds, to pay overdrafts, insufficient funds fees (NSFs), and money claims it has against class members?

Yes No

If your answer to question 1 is yes, then answer question 2. If you answered no, answer no further questions in Section IV and go to Section V.

2. Did Bank of America make the representation in a transaction which was intended to result in, or actually resulted in, members of the class opening and/or maintaining a direct deposit account to hold his government benefits income?

Yes No

If your answer to question 2 is yes, then answer question 3. If you answered no, answer no further questions in Section IV and go to Section V.

3. What are the damages to the class?

\$ 75,077,836.00

4. Did the class suffer substantial economic or emotional damage resulting from the Bank's conduct?

Yes No

If your answer to question 4 is yes, then answer question 5. If you answered no, answer no further questions in Section IV and go to Section V.

5. Do you find an additional award is appropriate?

Yes No

If your answer to question 5 is yes, then answer question 6. If you answered no, answer no further questions in Section IV and go to Section V.

6. What additional amount (up to \$5,000 per class member who suffered substantial economic or emotional damage) do you award?

\$ 1000.00

V. EMOTIONAL DISTRESS DAMAGES FOR PLAINTIFF PAUL MILLER

1. Did plaintiff Paul Miller suffer emotional distress as a result of the Bank of America's conduct?

Yes No

If your answer to question 1 is yes, then answer question 2. If you answered no, answer no further questions in Section V and go to Section VI.

2. What are plaintiff Paul Miller's damages for emotional distress?

\$ 275,000.00

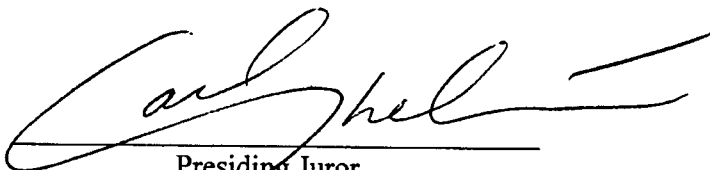
VI. PUNITIVE DAMAGES

1. Have plaintiffs shown by clear and convincing evidence that punitive damages should be awarded against Bank of America?

Yes _____ No

Have the presiding juror sign and date this form when completed.

Signed:


Presiding Juror

Dated:

February 25, 2004

SUPERIOR COURT OF CALIFORNIA
County of San Francisco

FILED
San Francisco County Superior Court

MAR 4 2005

GORDON PARK-LI, Clerk

Case Number: ~~CGC-99-301917~~ Deputy Clerk

PAUL MILLER, individually and on behalf of others
similarly situated

Plaintiff(s)

vs.

BANK OF AMERICA N.T. & S.A. a California
corporation, and DOES 1-50,

Defendant(s)

CERTIFICATE OF MAILING
(CCP 1013a (4))

I, DANIAL LEMIRE, a Deputy Clerk of the Superior Court of the County of San Francisco, certify that I am not a party to the within action.

On March 4, 2005 I served the attached JUDGMENT by placing a copy thereof in a sealed envelope, addressed as follows:

JAMES C. STURDEVANT, Esq.
MARK JOHNSON, Esq.
The Sturdevant Law Firm
475 Sansome St., Suite 1750
San Francisco, CA 94111

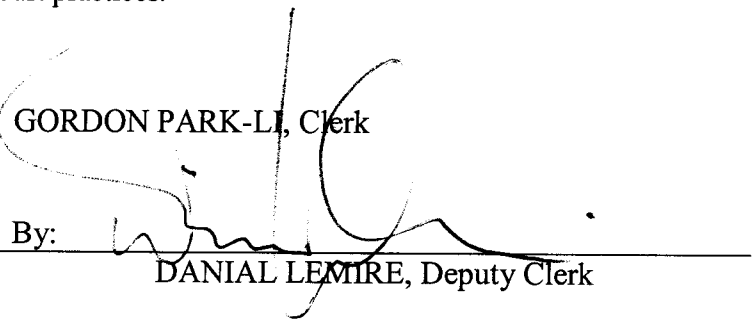
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and, I then placed the sealed envelopes in the outgoing mail at 400 McAllister Street, San Francisco, CA. 94102 on the date indicated above for collection, attachment of required prepaid postage, and mailing on that date following standard court practices.

Dated: March 4, 2005

GORDON PARK-LI, Clerk
By: 
DANIAL LEMIRE, Deputy Clerk