

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
Eastern Division

IN RE) MDL No. 1264
BANKAMERICA CORP.) Senior Judge Nangle
SECURITIES LITIGATION) ALL CASES

NOTICE OF PROPOSED CLASS ACTION SETTLEMENT, ATTORNEYS' FEES AND EXPENSES APPLICATIONS, APPLICATION FOR REIMBURSEMENT OF CLASS REPRESENTATIVE COSTS AND EXPENSES, HEARING DATE, AND CLASS MEMBERS' RIGHT TO SHARE IN SETTLEMENT FUND

*Please read this notice carefully and completely. If you owned stock in either **BankAmerica Corporation** or **NationsBank Corporation** during the period **August through October, 1998**, you may be a member of one or more of the Classes in this action. If you are a member of any of the Classes in this action, your rights **will** be affected by this settlement. **You may be entitled to share in the proceeds of the settlement. You will not** be permitted to opt-out of this action if you have not previously opted-out.*

Claims Deadline: *Claimants must submit written proofs of claim, on the Claim Form accompanying this notice, postmarked no later than **July 15, 2002**.*

Securities brokers and other nominees: *Please see instructions **Section XIII** on page 8.*

I. Summary of proposed settlement.

This case was brought on behalf of the shareholders of the former NationsBank Corporation ("NationsBank") and the former BankAmerica Corporation ("BankAmerica") to assert claims arising out of the merger of the two corporations on September 30, 1998 (the "Merger"). The Merger formed the corporation now known as Bank of America Corporation ("Bank of America").

Under the settlement, defendants will pay the total sum of \$490 million, plus interest from March 6, 2002. Of this sum, \$333.2 million, plus interest, will be paid to the two NationsBank Classes, and \$156.8 million, plus interest, will be paid to the two BankAmerica Classes. The membership of these four Classes is defined later in this notice in Section III on page 2. The settlement amount computes to an average per share recovery of \$0.34 per share to eligible members of the NationsBank Classes and \$0.22 per share to eligible members of the BankAmerica Classes, prior to adjustment for non-participating shares. These average share amounts are calculated before deduction of attorneys' fees and expenses. NationsBank Class members who owned their shares as of the close of the merger on September 30, 1998, but who sold their shares before October 14, 1998, will receive a reduced recovery as to their sold shares. BankAmerica Class members who purchased shares between October 1, 1998 and October 13, 1998, inclusive, and who sold those shares before October 14, 1998, will receive a reduced recovery as to their sold shares. Class members who fail to submit properly completed Claim Forms to the Claims Administrator by July 15, 2002 will not be eligible to participate in the recovery, unless the Court extends the time for filing a claim for good cause shown.

The settling parties do not agree on the issues of liability and damages and do not agree on the average amount of damages per share, if any, that would be recoverable if the case was not settled and plaintiffs, or any of them, prevailed at trial. The issues on which the parties disagree are stated in detail in Section VII on page 5.

Counsel for each of the Classes intend to apply to the Court for an award of attorneys' fees and reimbursement of expenses incurred in the prosecution of the consolidated cases. The total attorneys' fees which will be sought will not exceed twenty-five percent (25%) of the recovery. The maximum total attorneys' fees to be sought to be paid by the NationsBank Classes will be \$83.3 million, and the maximum total attorneys' fees to be sought to be paid by the BankAmerica Classes will be \$39.2 million. The attorneys' fees will bear interest at the same rate and in the same manner as the settlement proceeds until paid out. Counsel for the NationsBank Classes will seek to have an award of actual costs and expenses, including the estimated expenses of notice and administration, to be reimbursed by those Classes in an amount not to exceed \$7 million. Counsel for the BankAmerica Classes will seek to have an award of actual costs and expenses, including the estimated expenses of notice and administration, to be reimbursed by those Classes in an amount not to exceed \$4.5 million. Up to an additional \$200,000 will be sought to reimburse those plaintiffs who incurred costs and expenses directly related to class representation. The total requested fees and expenses amount to an average of \$0.09 per NationsBank share and \$0.06 per BankAmerica share, prior to adjustment for non-participating shares.

Additional information concerning the settlement can be obtained by accessing the Internet web-site established for this settlement by Class Counsel, by contacting the Claims Administrator, or by contacting the Lead Counsel for the respective Classes.

The web-site can be accessed at:

<http://www.bankofamericasettlement.com>.

The Claims Administrator can be reached at:

Claims Administrator
BankAmerica Corp. Securities Litigation
c/o Heffler Radetich & Saitta L.L.P.
P.O. Box 5413
Mount Laurel, NJ 08054-5413
Telephone: (215) 320-6395

Lead Counsel for the NationsBank Classes can be reached at:

Martin M. Green
Joe D. Jacobson
Jonathan F. Andres
Green Schaaf & Jacobson, P.C.
7733 Forsyth Blvd., Suite 700
St. Louis, MO 63105
Telephone: (314) 862-6801

Lead Counsel for the BankAmerica Classes can be reached at:

Arthur N. Abbey
Stephen T. Rodd
James S. Notis
Abbey Gardy, LLP
212 East 39th Street
New York, NY 10016
Telephone: (212) 284-5191

The reasons for settlement relate primarily to the numerous and complex unresolved legal and factual issues in the case which, in combination, make the outcome of any trial and any subsequent appeal highly uncertain, and present a substantial possibility that one or more of the Classes would ultimately obtain either no recovery or a recovery of less than the amounts obtained through the proposed settlement.

II. Important dates.

On May 30, 2002, beginning at 9:30 a.m., the United States District Court for the Eastern District of Missouri will hold a hearing before the Honorable John F. Nangle, United States Senior District Judge, on the proposed settlement. This hearing will be held at the Thomas F. Eagleton Courthouse, 111 South Tenth Street, St. Louis, Missouri 63102. The issues to be considered at the hearing will include: the proposed settlement agreement, the plans of allocation of settlement proceeds, Class Counsels' application for attorneys' fees, Class Counsels' application for reimbursement of expenses, reimbursement of expenses and lost wages for representative plaintiffs, and any objection to the fore-

going. The deadline for filing objections is May 13, 2002.

The Court may continue the date for the hearing, or for any portion thereof, to a subsequent date without further written notice.

A Claim Form is included as part of this notice. If the Court approves the settlement, whether as proposed or as modified by the Court, each Class member who wishes to receive a payment from the settlement proceeds must deliver a properly completed and signed Claim Form to the Claims Administrator postmarked no later than the Claim Closing Date of July 15, 2002. ***If the Claims Administrator does not receive your properly completed and signed Claim Form post-marked no later than July 15, 2002, you may not receive any payment in the settlement.***

III. Are you eligible to share in the settlement proceeds?

You may be eligible to share in the settlement proceeds if: (1) you are a member of one or more of the Classes certified by the Court; and (2) you timely complete, sign and deliver your Claim Form and supporting documents. ***If you do not timely complete, sign and deliver your Claim Form and supporting documents, you will be bound by the terms of the Settlement even though you may not share in the settlement proceeds.***

A. The four Classes and who is included in them.

(1) ***The "NationsBank Holder Class."*** All common and preferred shareholders of NationsBank who were entitled to vote on the Merger of NationsBank and BankAmerica or who held their shares in NationsBank as of the close of business on September 30, 1998.

(2) ***The "NationsBank Purchaser Class."*** All purchasers of NationsBank securities between August 4, 1998 and September 30, 1998.

(3) ***The "BankAmerica Holder Class."*** All common and preferred shareholders of BankAmerica who were entitled to vote on the Merger, or who held their shares in BankAmerica as of the close of business on September 30, 1998.

(4) ***The "BankAmerica Purchaser Class."*** All purchasers of BankAmerica securities between August 4, 1998 and September 30, 1998, and all purchasers of Bank of America securities between October 1, 1998 and October 13, 1998.

B. Persons excluded from the Classes.

Certain persons who would otherwise fall within the definition of one or more of the Classes are excluded from the four Classes. The persons excluded from the Classes are: (1) the defendants; (2) Bank of America, its subsidiaries and affiliates, both in its own right and as the successor in interest of BankAmerica and NationsBank; (3) the officers and directors of Bank of America, BankAmerica, and NationsBank; (4) members of the

immediate families of any of the defendants; (5) any entity in which any of the defendants has a controlling interest; and (6) the legal representatives, heirs, successors, predecessors in interest, affiliates or assigns of any of the defendants.

The defendants are Bank of America Corporation, David A. Coulter, James H. Hance Jr., John J. Higgins, Hugh L. McColl Jr., Marc D. Oken, and Michael E. O'Neill. The individual defendants were all officers or directors of Bank of America or its predecessors at times material to the allegations in the complaint. The phrase "officers and directors," as used in definitions of the Classes, means officers and directors of the respective corporations, and does not include branch bank officers.

Also excluded from the Classes are all persons who requested exclusion or "opted-out" of this action pursuant to the Notice of Pendency of Class Action dated May 9, 2000 (the "Prior Notice").

IV. Nature of the action and status of the proceedings.

The action and its status as of May 9, 2000, was described in detail in the Prior Notice, which was delivered by U.S. Mail to all persons identified as being a member of one or more of the Classes, as listed in the records of Bank of America's transfer agent, in the records of brokers and other nominees, and through other sources of information. A copy of the Prior Notice can be downloaded from the internet at: <http://www.bankofamericasettlement.com>.

After the mailing of the Prior Notice, the following events of note occurred:

Approximately 1,250 potential class members opted out of the class action. The opt-outs totaled less than one percent of the potential class members.

The Consolidated Amended Complaint was further amended to include claims against defendants based on California state law. The NationsBank Classes and the BankAmerica Purchaser Class added claims that substantially overlapped the California state law claims asserted in the *Desmond* action, a California state court action. The *Desmond* action was discussed in the Prior Notice. The Court had issued a stay of the *Desmond* action. The United States Court of Appeals for the Eighth Circuit affirmed the stay, and the United States Supreme Court denied the *Desmond* plaintiffs' application for review by petition for *writ of certiorari*.

The BankAmerica Holder Class added claims that substantially overlapped the California state law claims asserted in the *Giorgetti* action. These additional claims were asserted when, by agreement of the parties and by order of the Court and by order of the California Superior Court, the *Giorgetti* action was effectively transferred from California state court to federal court and consolidated with this action effective December 28, 2001.

V. Background to the settlement.

Before entering into settlement discussions, counsel for the NationsBank and BankAmerica Classes conducted a thorough investigation and extensive pretrial discovery relating to the events and transactions underlying the claims, including, among other things: inspecting and analyzing over one and one-half million pages of documents produced by defendants and non-parties (including the D.E. Shaw companies and their accountants; the financial advisors, accountants, and former employees of BankAmerica and NationsBank; and more than 25 investment brokerage firms whose analysts followed the stock and financial performance of BankAmerica and NationsBank); reviewing hundreds of hours of audiotape; taking videotaped deposition testimony, primarily in New York, San Francisco and Charlotte, North Carolina, from over 75 fact witnesses between October 2000 and January 2002; reading and analyzing lengthy deposition transcripts of testimony given before the Securities and Exchange Commission; defending over 55 videotaped depositions taken of representative plaintiffs between April 1999 and June 2001; employing a computer forensics company to copy and analyze the hard drives of computers used by and belonging to several individual defendants and one non-defendant senior executive of NationsBank; serving defendants with extensive requests for admissions and submitting with defendants a joint stipulation to the Court of over 1,500 stipulations of fact; retaining and consulting extensively between November 1998 and January 2002 with more than ten experts and consultants on accounting, discovery, regulatory, and damage issues, and disclosing the reports and rebuttal reports prepared by plaintiffs' designated experts, all of whom defendants deposed; and analyzing the reports of defendants' seven designated expert witnesses and taking depositions of those expert witnesses.

Counsel for the NationsBank Classes filed a motion for partial summary judgment on the issue of liability against defendants and filed numerous motions to exclude evidence at trial. Counsel for both Classes filed legal briefs in opposition to defendants' motions for summary judgment and motions to exclude plaintiffs' expert witnesses from testifying at trial. At the time the parties entered into the settlement discussions, the Court had not ruled on any of these motions. The parties also exhaustively briefed the issue of whether the Court should order a single trial or separate trials for the claims brought by the NationsBank and BankAmerica Classes, respectively. While the Court had ordered separate trials, it was reconsidering this order and, at the time the parties entered into the settlement discussions, the Court was scheduled to hear arguments from the parties on the issue of separate trials.

Before agreeing to the proposed stipulation, the parties engaged in three days of mediation with the assistance of a retired United States District Judge, Nicholas H. Politan. Counsel and representatives of the defendants, their insurers, and of the NationsBank and

BankAmerica Classes, including three representative plaintiffs for the NationsBank Classes, participated in the mediation. On the third day of the mediation, which concluded January 31, 2002, counsel for the parties reached an agreement in principle on the terms of the proposed settlement. The mediator opined, in writing, that the terms of the proposed settlement are fair, reasonable and adequate.

The NationsBank and BankAmerica Classes' counsels' decision to recommend the proposed settlement was made with knowledge of the facts and circumstances underlying each Classes' claims, and the strengths and weaknesses of those claims and of the various defenses defendants have asserted against the claims. In determining to recommend the proposed settlement, counsel for the NationsBank Classes and the BankAmerica Classes have separately and collectively evaluated the extensive pre-trial investigation, their factual and expert discovery, and have considered all of the known risks involved in prosecuting the claims through the pending pre-trial motions, trial, post-trial motions, and likely appeals.

The risks considered by counsel include that some of the legal issues presented by the claims and the defenses are novel, and that there are no reported decisions to provide clear guidance on how a federal district court or appellate court would interpret certain provisions of the applicable law. Counsel for the Classes have also taken into account the uncertainty and risk inherent in any litigation, especially highly complex litigation such as this, and that several of the defenses asserted, if successful at trial or on appeal, would completely eliminate or severely reduce any recovery of damages by the Classes. Based upon counsels' consideration of all known risk factors, counsel determined that the proposed settlement was fair, reasonable and adequate, and in the best interests of each Class.

The measure of damages resulting from defendants' actions or omissions, if any, that each of the Classes could prove was a matter of significant dispute and the subject of sharply conflicting expert opinion testimony.

Defendants have vigorously defended against all of the claims, have consistently denied any liability to the Classes, and have disputed the existence of any damages to the Classes even if liability were established.

VI. Terms of the settlement and related matters.

The complete terms of the proposed settlement are set forth in the Stipulation and Agreement of Compromise and Settlement ("Stipulation") signed by the parties, which is on file with the Office of the Clerk, Thomas F. Eagleton Courthouse, 111 South Tenth Street, St. Louis, Missouri 63102, and is available for review on the Internet web-site <http://www.bankof-americasettlement.com>. The key financial terms are:

The defendants will pay a total of \$490 million, of which \$333.2 million is to be paid to the NationsBank Classes and \$156.8 million is to be paid to the Bank-

America Classes. Attorneys' fees and all expenses will be paid out of these sums.

The settlement funds will accrue interest at the 90-day Treasury Bill Rate, as adjusted from time to time, beginning March 6, 2002, until paid.

NationsBank Classes. There are an estimated 962 million NationsBank shares potentially eligible to participate in the settlement for the NationsBank Classes. The number actually participating will be reduced by the number of shares held by: (a) persons who are excluded from the NationsBank Classes, such as defendants and their immediate family members; (b) persons who opted-out of the Classes; and (c) persons who do not timely submit a properly completed and signed Claim Form. The average recovery per share of NationsBank stock held by members of the NationsBank Classes is estimated at \$0.34 per share prior to deduction for attorneys' fees and reimbursement of expenses incurred in the prosecution of the consolidated actions and prior to deduction of any award of lost wages and reimbursable expenses paid to representative plaintiffs and prior to adjustment for non-participating shares. If the Court awards the maximum amount of attorneys' fees and expenses which may be requested, the average recovery per share is estimated at \$0.25 per share prior to adjustment for non-participating shares. The per share recovery will be increased by the fact of non-participating shares; the amount of the resulting per share increase cannot be estimated at this time. The per share recovery will also be increased by accrued interest. Shares sold prior to the opening of trading on October 14, 1998, will receive a recovery equal to one-tenth (1/10) of the recovery for shares Class members continued to hold October 14, 1998. Persons who sold their shares prior to the closing of the Merger on September 30, 1998, will not receive any payment in the settlement.

BankAmerica Classes. There are an estimated 686.5 million BankAmerica shares and 7.5 million Bank of America shares potentially eligible to participate in the settlement for the BankAmerica Classes. The number actually participating will be reduced by the number of shares held by: (a) persons who are excluded from the BankAmerica Classes, such as defendants and their immediate family members; (b) persons who opted-out of the Classes; and (c) persons who do not timely submit a properly completed and signed Claim Form. The average recovery per share of BankAmerica stock purchased and/or held by members of the BankAmerica Classes (subject to the variations in the allocation plan described below at Section X at page 7) is estimated to be \$0.22 per share prior to deduction for attorneys' fees and reimbursement of expenses incurred in the prosecution of the consolidated actions and prior to deduction of any award of lost wages and reimbursable expenses paid to representative plaintiffs, and prior to adjustment for non-participating shares. If the Court awards the maximum amount of attorneys' fees and expenses which may be requested, the average recovery per share is estimated at \$0.16 per share prior to adjustment for non-parti-

icipating shares. The per share recovery will be increased by the fact of non-participating shares; the amount of the resulting per share increase cannot be estimated at this time.

In consideration for these payments to the NationsBank Classes and the BankAmerica Classes, the defendants and others will be released by the members of the Classes from all claims that were asserted, or which could have been asserted, in the consolidated actions, and all claims of the class members, whether direct, class, or derivative, arising out of the Merger or from the bank's relationship with D.E. Shaw. This release will benefit, in addition to the defendants, Bank of America's present and former officers, directors, employees, agents, attorneys, financial advisors, commercial bank lenders, investment bankers, insurers, accountants, representatives, trustees, affiliates, associates, parents, subsidiaries, general and limited partners and partnerships, heirs, executors, administrators, successors and assigns.

The Settlement will become effective at such time as a Judgment entered by the Court approving the Settlement is final and no longer subject to appeal.

VII. Potential outcome of case if not settled.

The settling parties disagree as to both liability and damages, and do not agree on the average amount of damages per share that would be recoverable by any of the Classes if plaintiffs were to have prevailed on each federal securities law claim alleged.

The issues on which the settling parties disagree include: (a) the appropriate economic and statistical models for determining the amount the market price of BankAmerica and Bank of America stock was allegedly artificially inflated (if at all) during the relevant Class Periods, and the amount of any such inflation; (b) the appropriate economic and statistical models for determining the amount the market price of Bank of America stock dropped, if at all, in reaction to its announcement of a \$372 million loss on the D.E. Shaw credits, and the amount of any such drop; (c) the appropriate accounting standards and regulatory asset classifications to be applied to the D.E. Shaw credits from time to time to determine the correct amount and appropriate time for disclosure of BankAmerica's loss related to D.E. Shaw; (d) whether the D.E. Shaw credits should have been accounted for as a loan or an investment or otherwise; (e) the applicability of the so-called "bounce back" provision of the Private Securities Litigation Reform Act ("PSLRA"), 15 U.S.C. § 78u-4(3), and whether this provision eliminates the Classes' legal entitlement to damages; (f) the extent to which Class members who held both NationsBank stock and BankAmerica stock suffered any damages, specifically whether these cross shareholdings were offsetting for purposes of calculating damages; (g) the extent to which the NationsBank Class claims stand in direct contradiction to the BankAmerica Class claims so that none of the members of any of the Classes suffered any damages; (h) the legal significance,

if any, of an investigation conducted by the United States Securities and Exchange Commission ("SEC") concerning BankAmerica's reporting of its relationship with D.E. Shaw, and the extent to which Bank of America could deny, if at all, any finding of fact in a July 30, 2001 SEC Consent Order agreed to by it finding that it violated the reporting provisions of federal securities laws in failing to disclose the nature of the relationship and the risks inherent in it, or the extent to which Bank of America could create the impression that the Consent Order is without factual basis; (i) the extent defendants' allegedly materially false and misleading statements affected the market price of BankAmerica stock, if at all, at various times during the Class Period; (j) the extent the Joint Proxy-Prospectus and other filings by BankAmerica with the SEC, including the August 28 and September 15, 1998 forms 8-K, were materially false and misleading, if at all; (k) whether D.E. Shaw's trading losses would have been material to NationsBank shareholders voting on the Merger; (l) the extent the non-disclosure of D.E. Shaw's trading losses influenced the market price of BankAmerica and Bank of America stock, if at all, during the Class Period; (m) whether and when the officers and directors of NationsBank were aware of D.E. Shaw's trading losses and the associated market risk, if any, to BankAmerica prior to the Merger; (n) whether the Merger was a "true merger of equals" or an acquisition of BankAmerica by NationsBank; (o) whether, if the Merger was an acquisition and not a true merger of equals, BankAmerica's shareholders were entitled to a control premium and, if so, how much of a control premium; and (p) the applicability of California law to the Class claims and the impact of California law on the "bounce back" provision of the PSLRA.

VIII. Statement of attorneys' fees and expenses, and reimbursement of costs and expenses of representative plaintiffs.

Class Counsel intend to apply to the Court for an award of attorneys' fees and expenses. The total attorneys' fees which will be sought will not exceed twenty-five percent (25%) of the respective Classes' recovery. Thus, the maximum total attorneys' fees to be sought to be paid by the NationsBank Classes will be \$83.3 million, and the maximum total attorneys' fees to be sought to be paid by the BankAmerica Classes will be \$39.2 million. The attorneys' fees will bear interest at the same rate and in the same manner as the settlement proceeds until paid out. Counsel for the NationsBank Classes will seek to have an award of actual expenses incurred in the prosecution of the consolidated actions on behalf of the NationsBank Classes paid by those Classes from their settlement fund in an amount not to exceed \$7 million. These expenses include the estimated expenses of the class notice and claims administration. The expenses equal approximately two percent (2%) of the NationsBank Classes' recovery. Total fees and expenses to be paid by NationsBank Classes would be approximately nine cents per share prior to adjustment for non-participating shares. Counsel for the BankAmerica Classes will seek to have an award of expenses

incurred in the prosecution of the consolidated actions on behalf of the BankAmerica Classes paid by those Classes from their settlement fund in an amount not to exceed \$4.5 million. These expenses include the estimated expenses of the class notice and claims administration. The expenses equal approximately three percent (3%) of the BankAmerica Classes' recovery. Total fees and expenses to be paid by BankAmerica Classes would be approximately six cents per share prior to adjustment for non-participating shares. Each of the above-referenced amounts would earn interest at the same rate and in the same manner as the settlement funds until paid.

The expenses of notice and claims administration will be borne 56% by the NationsBank Classes and 44% by the BankAmerica Classes. The Classes are using joint notices and joint claims administration to minimize these expenses and are dividing the expenses proportionate to the relative numbers of estimated Class members. If the actual expenses for notice and claims administration exceed the estimate, Class Counsel will apply for reimbursement of the difference.

Class Counsel intend to apply to the Court for an award of reasonable costs and expenses, including lost wages, to those plaintiffs who incurred such costs and expenses directly relating to representation of the class. The maximum award to be requested for any plaintiff who participated in discovery, including appearing at a deposition, will be \$2,000. The maximum award to be requested for any plaintiff who participated directly in the mediation will be \$15,000. The total amount of this costs and expenses reimbursement, if approved by the Court, will be less than one twentieth (1/20) of one percent of the gross recovery.

Counsel believes that the requested percentage fee is fair, reasonable and appropriate, given the substantial commitment in time and expenses advanced by the lawyers involved, the extended period of time of their commitment, the fact that certain partners in the Lead Counsel firms devoted substantially all of their time for a period of years on the prosecution of the case, the high quality of the work performed and the successful results obtained throughout the litigation, the novelty and difficulty of the legal issues presented by the case, the quality of defendants' counsel and their vigorous defense on all issues in the case, and the very substantial risk throughout the time that the case has been pending that the claims would result in either no recovery, or in a minimal recovery, for the Classes.

Counsel will be filing applications for attorneys' fees and for reimbursement of expenses with the Court prior to the settlement hearing. These applications will state the time expended by each lawyer and expenses incurred by each law firm, and will provide the lodestar calculation for fees on an hourly basis for comparison purposes.

IX. Reasons for the settlement.

The principal reasons for the proposed settlement are (a) the immediate and certain benefit it provides to

the Classes and (b) the substantial risk that, absent a settlement, the Classes would ultimately recover a lesser amount or nothing, whether because of an adverse decision by the trial court on the pending motions for summary judgment or to exclude plaintiffs' expert witnesses, an adverse jury verdict, an adverse decision by the trial court on post-trial motions, or an adverse decision by an appellate court.

David P. Oetting, a lead plaintiff and one of the class representatives for the NationsBank Holder Class, has indicated that he plans to object to the settlement on the ground that the amount to be paid to the NationsBank Classes is inadequate, both as a percentage of the settlement amount and in absolute terms.

X. Allocation of settlement proceeds among members of the classes.

Class Counsel are submitting to the Court plans for allocation of the settlement proceeds within each Class. Distribution of the settlement proceeds within each Class is conditioned upon the Court approving the settlement and approving the plans of allocation. The actual allocation will depend upon the decision of the Court. Submission, approval, implementation, or consummation of the plans of allocation are *not* conditions of the settlement, and any order or proceeding relating thereto will not operate to terminate the settlement or to affect its finality.

A. NationsBank Classes.

The plan of allocation for the NationsBank Classes is as follows:

1. The proceeds will be allocated on a *pro rata* basis among all shares eligible for a distribution of the settlement proceeds, except as provided in paragraph 3 below.
2. Members of the NationsBank Holder Class and members of the NationsBank Purchaser Class will be treated equally in the allocation of the settlement proceeds, and neither class will be preferred or disfavored compared to the other.
3. The only shares eligible to participate in the distribution of the settlement proceeds are those shares that were owned by a class member after the close of trading on September 30, 1998. The shares of class members sold prior to the commencement of trading on October 14, 1998, will receive a reduced payment from the settlement proceeds compared to shares continued to be held by class members after the commencement of trading on October 14, 1998. Shares sold prior to the commencement of trading on October 14, 1998 will receive one-tenth (1/10) of the payment made to shares held thereafter.
4. No set-off will be applied to reduce the amount of settlement proceeds payable to any class member who also owned shares in the former BankAmerica Corporation as of the close of trading on September 30, 1998.

B. BankAmerica Classes.

The plan of allocation for the BankAmerica Classes is as follows:

1. Each member of the BankAmerica Classes who timely submits a valid proof of claim will share in the settlement fund (net of any awards of attorneys' fees and expenses and related items) *pro rata*, based on the number of damaged shares held and/or purchased by that member of the BankAmerica Classes.

2. Damaged shares are calculated as follows for each member of the BankAmerica Classes:

a. Each share of BankAmerica common stock, purchased at any time, and owned as of the close of business on September 30, 1998, equals one damaged share;

b. Each share of BankAmerica common stock purchased between October 1, 1998 and October 13, 1998, and sold at a loss between October 1, 1998 and October 13, 1998, equals one-tenth of a damaged share; and

c. Each share of BankAmerica common stock purchased between October 1, 1998 and October 13, 1998, and sold at a loss between October 14, 1998 and December 31, 1998, equals two damaged shares.

3. Shares purchased during the period August 4, 1998 through September 30, 1998 and sold on or before September 30, 1998 will not be eligible to participate in the distribution of the settlement proceeds. For shares purchased between October 1, 1998 and October 13, 1998, and sold at a loss between October 14, 1998 and December 31, 1998, no Class member's recovery for those transactions will exceed their actual losses from those transactions. For the purposes of computing actual losses, a sale at a loss is determined by the difference between the purchase price and sales price. Commissions, taxes and fees shall not be included. The date of purchase or sale is the "contract" or "trade" date as distinguished from the "settlement" date.

4. No set-off will be applied to reduce the amount of settlement proceeds payable to any member of the BankAmerica Classes who also owned shares in the former NationsBank Corporation as of the close of trading on September 30, 1998.

C. Additional provisions.

Class members who fail to submit to the Claims Administrator a properly completed and signed claim form, with supporting documents, postmarked on or before July 15, 2002 shall have their claims disallowed unless the Court orders otherwise for good cause shown.

All checks made payable to Class members in payment of such members' share of the settlement distribution shall bear the endorsement that the check shall be void six months after the date of issuance.

All settlement funds remaining unclaimed one year after the initial date of the settlement distribution, whether by reason of uncashed checks or otherwise, plus any funds designated for the expenses of administration which are not expended, may be contributed as a donation to one or more non-sectarian, not-for-profit Section 501(c)(3) organizations as determined by the Court in its sole discretion. If the unclaimed amounts are substantial, a second distribution may be made, on terms which cannot presently be determined, subject to the approval of the Court.

XI. Submission and processing of Claim Forms.

In order to be eligible to receive any distribution from the settlement, you must complete and sign the attached Claim Form and deliver it to the Claims Administrator, along with the required supporting documentation, so that it is received by the Claims Administrator, or is postmarked by the United States Postal Service, no later than July 15, 2002. *Your Claim Form must be received by the Claims Administrator or postmarked by this date or you will not share in the distribution of the settlement proceeds, unless the Court orders otherwise on good cause shown.*

XII. Settlement fairness, plan of allocation, and attorneys' fees and expenses application hearing.

At the settlement hearing, to be held on May 30, 2002, at 9:30 a.m., at the Thomas F. Eagleton Courthouse, 111 South Tenth Street, St. Louis, Missouri, 63102, the Court will determine whether the proposed settlement is fair, reasonable and adequate, and whether it should be approved as written or as modified by the Court and agreed by the parties.

At this hearing, Class Counsel will submit for the Court's consideration and approval their proposed plans of allocation, their applications for an award of attorneys' fees, and their applications for reimbursement of expenses. These submissions may be heard by the Court on the date set for the settlement hearing or on such future date or dates as the Court may announce. The Classes will not receive written notice of any future hearing dates. The Court's approval of the proposed plans of allocation or of the attorneys' fees or expenses applications is *not* a condition of the approval of the settlement.

The Court may continue the date for the settlement hearing, or for any portion thereof, to a subsequent date without further written notice.

Objections to the proposed Settlement Agreement, the proposed Plans of Allocation, and the applications for attorneys' fees and expenses, by Class members (who have not previously elected to exclude themselves from the Classes) will be considered by the Court, but only if such objections are filed in writing with the Clerk of Court on or before May 13, 2002. In their written objections, each Class member must provide: (a) proof of such person's membership in one or more of the Classes;

(b) a statement or brief stating the basis for the person's objection; and (c) an indication of whether the person wishes to be heard orally at the hearing. Objectors do not need to attend the hearing, either in person or by counsel. Similarly, Class members who support the proposed Settlement Agreement do not need to appear at the hearing. All papers filed with the Clerk of Court shall also be served on the following counsel:

Martin M. Green
Green Schaaf & Jacobson, P.C
7733 Forsyth Blvd., Suite 700
St. Louis, MO 63105
Lead Counsel, NationsBank Classes

Arthur N. Abbey
Abbey Gardy, LLP
212 East 39th Street
New York, NY 10016
Lead Counsel, BankAmerica Classes

Warren R. Stern
Wachtell Lipton Rosen & Katz
51 West 52nd Street
New York, NY 10019
Counsel for the Defendants

XIII. Special notice to banks, securities brokers and other nominees.

By Order of the Court, each bank, brokerage firm, trust company, trustee, depository, and other nominee, or former nominee, for a beneficial owner who is or may be a member of any of the Classes, is required within ten (10) business days of receipt of this notice to either: (1) forward to all such persons or other entities a copy of this notice and the Claim Form; or (2) if you have not already done so in response to the Prior Notice, send to the Claims Administrator, at the address stated at the end of this notice, a computer file (*i.e.*, Word or Excel files, text files, or other commonly available and compatible data formats) of the names and addresses of persons or entities for whom they purchased BankAmerica, NationsBank, or Bank of America securities, or for

whom they held such securities, during the time periods described above. Copies of this notice and of the Claim Form will be mailed to all persons and entities so identified.

Any nominee who has already provided the above-described information to the Claims Administrator pursuant to the Prior Notice will be so notified in writing, and need not perform additional research unless such additional research may result in additional names and addresses of members of any of the Classes.

Nominee holders of BankAmerica, NationsBank, or Bank of America securities will be reimbursed for their actual out-of-pocket expenses incurred in identifying or notifying Class members pursuant to the preceding paragraph to the extent that they provide appropriate documentation of the expenses claimed. The out-of-pocket expenses for which nominee holders shall be reimbursed does not include any service or handling fee. These reimbursement amounts are included in the estimated expenses for claim administration to be paid by the Classes.

FOR MORE INFORMATION

The foregoing information is not all-inclusive. You may obtain additional and more detailed information by any of the following means: (1) visiting the Office of the Clerk of the Court, Thomas F. Eagleton Courthouse, 111 South Tenth Street, St. Louis, Missouri 63102, during normal court hours, in order to inspect the pleadings and other papers maintained there in File No. MDL 1264 (Senior Judge Nangle); or (2) by contacting the Claims Administrator:

Claims Administrator
BankAmerica Corp. Securities Litigation
c/o Heffler Radetich & Saitta L.L.P.
P.O. Box 5413
Mount Laurel, NJ 08054-5413
Tel: (215) 320-6395

or by visiting the web-site:

<http://www.bankofamericasettlement.com>.

DO NOT TELEPHONE THE OFFICE OF THE CLERK OF THE COURT.

All inquiries concerning this notice or the Claim Form by members of the NationsBank and BankAmerica Classes should be made to the Claims Administrator or to the Lead Counsel for the Classes at the addresses previously stated, or by visiting the web-site established by Class Counsel at: <http://www.bankofamericasettlement.com>.

Dated: April 5, 2002.

BY ORDER OF THE COURT
UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
Eastern Division**

_____:	:	
IN RE:	:	MDL No. 1264
BANKAMERICA CORP.	:	Senior Judge Nangle
SECURITIES LITIGATION	:	ALL CASES
_____:	:	

CLAIM FORM AND SUBSTITUTE FORM W-9

This Claim Form is for use by persons and entities entitled to seek distribution of a portion of the settlement proceeds in this case. Please fill in all of the blanks on this Claim Form. Please print in black ink or type your information. Accuracy and clarity are extremely important. This Claim Form is a filing with the Court and any false filings may be subject to serious penalties. Additional information and additional copies of this Claim Form can be obtained on the Internet web-site <http://www.bankamericasettlement.com>.

Please attach to this Claim Form documentary evidence establishing your ownership of the shares claimed to be owned by you on the various dates requested on this Claim Form. This documentary evidence can include brokerage account statements, purchase and sale confirmations, copies of stock certificates, and other documents clearly establishing your ownership of the specified securities on the specified days.

This entire Claim Form, pages 1 through 8, and supporting documents must be received by the Claims Administrator, or be postmarked, no later than **July 15, 2002** at the following address:

Claims Administrator
BankAmerica Corp. Securities Litigation
c/o Heffler, Radetich & Saitta L.L.P.
P.O. Box 5413
Mount Laurel, NJ 08054-5413
Telephone: (215) 320-6395

If you fail to submit your Claim Form by July 15, 2002, your claim may be rejected and you may not receive any payment in the settlement. Do not mail or deliver your Claim Form to the Court or to any of the parties or lawyers. Submit your Claim Form and supporting documents only to the Claims Administrator. Any Claim Forms submitted to other persons or entities, including the Court, will be deemed not to have been submitted.

If the record owner of the securities on the dates mentioned on this Claim Form has since died or become incapacitated, and you now own the securities as heir or in a capacity as personal representative, executor or trustee, or in a similar successor capacity, or now manage the securities as a conservator or trustee for an incapacitated person, please state that fact in the space provided and provide documentary evidence sufficient to show your right to file this Claim Form for the incapacitated record owner or the estate of the deceased former owner.

CLAIM FORM AND SUBSTITUTE FORM W-9

**This Claim Form Must Be Postmarked by:
July 15, 2002**

*Please type or print using black ink.
[If using the peel-off label, skip to Email Address.]*

I. Identity of Claimant

If the information on the name and address label is *completely correct*, peel off the label and affix here. Using the label will speed the processing of claim forms. Complete this page with any information not included on the label, beginning with Email Address.

If the label is *not* completely correct you must complete this page, filling in all information that applies. **DO NOT USE THE LABEL UNLESS THE INFORMATION ON IT IS COMPLETELY CORRECT.**

Name: _____

(If held in Joint Name, please write name of both owners.)

If you are filing this claim on behalf of someone else as a successor-in-interest, conservator or trustee, the person or entity on whose behalf you are filing this claim is the Claimant, and his, her, or its name should be written above. Your name and title should be written here:

If you are a bank or other institution filing a claim on behalf of someone else, and an account number is needed to identify the claimant for your records, please write the account number here:

Address: _____

City: _____ State: _____ Zip Code: _____

Country: _____

Email Address: _____

Telephone Number (Day): _____ (Evening): _____

Person to contact concerning this claim (if different than Claimant):

Name: _____

Telephone Number (Day): _____ (Evening): _____

Claimant's Taxpayer Identification Number:

_____ **OR** _____
Social Security Number Employer Identification Number

The Social Security or Employer Identification number and the telephone number of the Claimant may be used to verify the claim. Failure to provide any of the requested information could delay verification of the claim or may result in rejection of the claim.

Claimant is: Individual _____ Joint Owners _____ Partnership _____ Trust _____
IRA, Keogh or other type of retirement plan (specify type of plan): _____
Corporation _____ Other _____ (specify): _____

II. Informational Questions

Your **must** answer each of the following questions.

1. Have you previously sought exclusion from or “opted-out” from this class action?
_____ Yes _____ No
2. Are you, or have you been at any time from 1998 to the present, a corporate officer or a director of Bank of America Corporation, NationsBank Corporation, or BankAmerica Corporation?
_____ Yes _____ No
3. Are you preparing this Claim Form on behalf of any subsidiary or affiliate of Bank of America?
_____ Yes _____ No
4. Are you an immediate family member, legal representative, heir, successor, predecessor in interest, affiliate or assignee of any one or more of the following defendants: Bank of America Corporation, David A. Coulter, James H. Hance Jr., John J. Higgins, Hugh L. McColl Jr., Marc D. Oken, and Michael E. O’Neill?
_____ Yes _____ No
5. If you answer to any one or more of questions 2, 3, or 4 was “yes,” please state in detail the nature of your relationship with the corporation(s) or defendant(s). If you need additional space, you may attach a sheet of paper on which you have printed your name and taxpayer identification number.

III. Information on Shares Held

You should answer the questions in subpart A if you were a NationsBank shareholder, or if you purchased NationsBank stock, and believe that you may be entitled to a payment from the settlement funds payable to the members of the NationsBank Classes. *If you do not answer the questions in subpart A, the Claims Administrator will assume that you are not making a claim for a payment from the NationsBank Classes' settlement.*

You should answer the questions in subpart B if you were a BankAmerica shareholder, or if you purchased BankAmerica stock, and believe that you may be entitled to a payment from the settlement funds payable to the members of the BankAmerica Classes. *If you do not answer the questions in subpart B, the Claims Administrator will assume that you are not making a claim for a payment from the BankAmerica Classes' settlement.*

You should list all shares as whole numbers only; for fractional shares, round to the next highest whole number (e.g., 57.375 shares should be listed as 58 shares).

A. NationsBank Corporation stock:

1. Did you own shares of NationsBank Corporation stock as of the close of business on September 30, 1998?

_____ Yes _____ No

2. How many shares of NationsBank stock did you own September 30, 1998, as of the close of business?

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3. How many of the shares *included in your answer to question 2*, if any, did you sell during the period October 1 through October 13, 1998?

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4. How many of the shares *included in your answer to question 2*, if any, did you continue to own as of the close of business October 13, 1998?

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B. BankAmerica Corporation stock:

1. Shares held as of September 30, 1998:

a) Did you own shares of BankAmerica Corporation stock as of the close of business on September 30, 1998? Yes No

b) How many shares of BankAmerica stock did you own on September 30, 1998, as of the close of business?

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2. Shares purchased during the period October 1 through October 13, 1998:

a) Did you purchase shares of BankAmerica Corporation (now Bank of America Corporation) stock during the period October 1, 1998 through October 13, 1998, inclusive? Yes No

b) If your answer to question (a) above was "yes," list all purchases during the period October 1, 1998 through October 13, 1998, inclusive:

	<u>Trade Date</u>			<u>Number of</u>				<u>Price</u>	
	<u>Month/Day/Year</u>			<u>Shares Purchased</u>				<u>Per Share</u>	
1.	<input style="width: 20px; height: 20px;" type="text"/>	<input style="width: 20px; height: 20px;" type="text"/>	<input style="width: 20px; height: 20px;" type="text"/>	<input style="width: 20px; height: 20px;" type="text"/>	<input style="width: 20px; height: 20px;" type="text"/>	<input style="width: 20px; height: 20px;" type="text"/>	<input style="width: 20px; height: 20px;" type="text"/>	<input style="width: 20px; height: 20px;" type="text"/>	<input style="width: 20px; height: 20px;" type="text"/>
2.	<input style="width: 20px; height: 20px;" type="text"/>	<input style="width: 20px; height: 20px;" type="text"/>	<input style="width: 20px; height: 20px;" type="text"/>	<input style="width: 20px; height: 20px;" type="text"/>	<input style="width: 20px; height: 20px;" type="text"/>	<input style="width: 20px; height: 20px;" type="text"/>	<input style="width: 20px; height: 20px;" type="text"/>	<input style="width: 20px; height: 20px;" type="text"/>	<input style="width: 20px; height: 20px;" type="text"/>
3.	<input style="width: 20px; height: 20px;" type="text"/>	<input style="width: 20px; height: 20px;" type="text"/>	<input style="width: 20px; height: 20px;" type="text"/>	<input style="width: 20px; height: 20px;" type="text"/>	<input style="width: 20px; height: 20px;" type="text"/>	<input style="width: 20px; height: 20px;" type="text"/>	<input style="width: 20px; height: 20px;" type="text"/>	<input style="width: 20px; height: 20px;" type="text"/>	<input style="width: 20px; height: 20px;" type="text"/>
4.	<input style="width: 20px; height: 20px;" type="text"/>	<input style="width: 20px; height: 20px;" type="text"/>	<input style="width: 20px; height: 20px;" type="text"/>	<input style="width: 20px; height: 20px;" type="text"/>	<input style="width: 20px; height: 20px;" type="text"/>	<input style="width: 20px; height: 20px;" type="text"/>	<input style="width: 20px; height: 20px;" type="text"/>	<input style="width: 20px; height: 20px;" type="text"/>	<input style="width: 20px; height: 20px;" type="text"/>

In stating your "price per share," please exclude the effects of commissions, taxes, fees, etc. If you need additional space for your answer, please attach additional sheets of paper on which you have printed your name and taxpayer identification number.

c) Did you sell any of the shares of BankAmerica stock purchased during the period October 1, 1998 through October 13, 1998 (as listed in question (b) above), during the period October 1, 1998 through December 31, 1998, inclusive? Yes No

d) If your answer to question (c) above was "yes," list all sales during the period October 1, 1998 through December 31, 1998, inclusive, of the shares purchased during the period October 1, 1998 through October 13, 1998 (as listed in question (b) above):

	<u>Trade Date</u>			<u>Number of</u>				<u>Price</u>	
	<u>Month/Day/Year</u>			<u>Shares Sold</u>				<u>Per Share</u>	
1.	<input style="width: 20px; height: 20px;" type="text"/>	<input style="width: 20px; height: 20px;" type="text"/>	<input style="width: 20px; height: 20px;" type="text"/>	<input style="width: 20px; height: 20px;" type="text"/>	<input style="width: 20px; height: 20px;" type="text"/>	<input style="width: 20px; height: 20px;" type="text"/>	<input style="width: 20px; height: 20px;" type="text"/>	<input style="width: 20px; height: 20px;" type="text"/>	<input style="width: 20px; height: 20px;" type="text"/>
2.	<input style="width: 20px; height: 20px;" type="text"/>	<input style="width: 20px; height: 20px;" type="text"/>	<input style="width: 20px; height: 20px;" type="text"/>	<input style="width: 20px; height: 20px;" type="text"/>	<input style="width: 20px; height: 20px;" type="text"/>	<input style="width: 20px; height: 20px;" type="text"/>	<input style="width: 20px; height: 20px;" type="text"/>	<input style="width: 20px; height: 20px;" type="text"/>	<input style="width: 20px; height: 20px;" type="text"/>
3.	<input style="width: 20px; height: 20px;" type="text"/>	<input style="width: 20px; height: 20px;" type="text"/>	<input style="width: 20px; height: 20px;" type="text"/>	<input style="width: 20px; height: 20px;" type="text"/>	<input style="width: 20px; height: 20px;" type="text"/>	<input style="width: 20px; height: 20px;" type="text"/>	<input style="width: 20px; height: 20px;" type="text"/>	<input style="width: 20px; height: 20px;" type="text"/>	<input style="width: 20px; height: 20px;" type="text"/>
4.	<input style="width: 20px; height: 20px;" type="text"/>	<input style="width: 20px; height: 20px;" type="text"/>	<input style="width: 20px; height: 20px;" type="text"/>	<input style="width: 20px; height: 20px;" type="text"/>	<input style="width: 20px; height: 20px;" type="text"/>	<input style="width: 20px; height: 20px;" type="text"/>	<input style="width: 20px; height: 20px;" type="text"/>	<input style="width: 20px; height: 20px;" type="text"/>	<input style="width: 20px; height: 20px;" type="text"/>

In stating your "price per share," please exclude the effects of commissions, taxes, fees, etc. If you need additional space for your answer, please attach additional sheets of paper on which you have printed your name and taxpayer identification number.

e) How many shares of BankAmerica stock did you hold as of the close of business December 31, 1998, of the shares purchased during the period October 1, 1998 through October 13, 1998 (as listed in question (b) above)?

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IV. Submission to Jurisdiction of the Court

Claimant, and the person representing Claimant, if any, submits to the jurisdiction of the United States District Court for the Eastern District of Missouri, Eastern Division, and agrees to be bound by and subject to the terms of the Judgments and Orders of that Court in the consolidated actions, and to furnish such additional information or proof with respect to this Claim Form as the Court may require.

V. Attestation

I certify that I am **NOT** subject to backup withholding under the provisions of Section 3406(a)(1)(C) of the Internal Revenue Code.

Note: If you have been notified by the Internal Revenue Service that you are subject to backup withholding, please strike out the word “NOT” in the sentence above.

The Internal Revenue Service does not require your consent to any provision of this document other than the certification required to avoid backup withholding.

I hereby swear or affirm, under penalty of perjury, that the foregoing answers stated in this Claim Form are true, accurate, and complete. I agree that if after submitting this Claim Form I learn that any of the information stated herein is not correct, I will promptly inform the Claims Administrator of the correct information.

Date: _____

Signature of Claimant.

Type or print Claimant’s name here.

Signature of Joint Claimant.

Type or print Joint Claimant’s name here.

**ACCURATE CLAIMS PROCESSING TAKES A SIGNIFICANT AMOUNT OF TIME,
POSSIBLY UP TO ONE YEAR FROM THE DATE
THAT CLAIM FORMS ARE DUE TO BE FILED.
THANK YOU FOR YOUR PATIENCE.**

REMINDER CHECKLIST

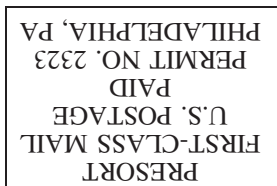
1. Please sign the Claim Form on page 6 of the Claim Form.
2. If this claim is being made on behalf of joint claimants, both must sign.
3. Please remember to return the entire Claim Form, pages 1 through 8, and attach supporting documents:

NationsBank shareholders: Your documents must show all shares held as of September 30, 1998 and as of October 14, 1998.

BankAmerica shareholders: Your documents must show all shares held as of September 30, 1998 and as of October 14, 1998, and as of the close of business December 31, 1998; all purchases of shares from October 1, 1998 through October 13, 1998; and all sales of shares from October 1, 1998 through December 31, 1998.

Your supporting documents can include, but are not limited to, brokerage account statements, purchase and sale confirmations, and copies of stock certificates.
4. If you move, please send us your new address.
5. DO NOT SEND ORIGINALS OF ANY SUPPORTING DOCUMENTS.
6. Keep a copy of your Claim Form and all documentation submitted for your records.
7. You will not receive confirmation that your Claim Form has been received unless you send it via Certified Mail, Return Receipt Requested, or by some other means that will provide you with proof of receipt.

IMPORTANT LEGAL NOTICE ENCLOSED



Claims Administrator
BankAmerica Corp. Securities Litigation
c/o Heffler, Radetich & Saitta L.L.P.
P.O. Box 5413
Mount Laurel, NJ 08054-5413