

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

STEVEN CHECCHIA, on behalf of himself
and all other similarly situated,

Plaintiff

CASE NO. 2:21-cv-3585

v.

BANK OF AMERICA, N.A.,

Defendant

_____ /

**PLAINTIFF’S AND CLASS COUNSEL’S RESPONSE TO INVALID
NOTICE OF OPT-OUT AND OBJECTION OF VICTOR M. CROWN**

Plaintiff and Class Counsel¹ hereby file their response to the invalid opt-out and objection filed by an individual who is *not* a Settlement Class member and is, therefore, not entitled to either opt-out of or object to the Settlement.

Attached as *Exhibit 1* is a document first purporting to opt-out of the Settlement and second inconsistently purporting to object to the Settlement. Fundamentally, assuming someone is actually a Settlement Class member, either that person may opt-out and not be bound by the Settlement, if approved, or remain in the Settlement Class and object, but he cannot do both.

Contemporaneous with the filing of this Response, the Supplemental Declaration of Cameron R. Azari, Esq. on Implemental and Adequacy of Notice Plan is being filed, in which Mr. Azari, on behalf of the Settlement Administrator, confirms in paragraph 17 that there is no record of a Victor M. Brown or the Estate of Lourdes Theodossis being a Settlement Class member in the Settlement Class list compiled using Defendant’s account level transaction data.

¹ All capitalized terms used herein shall have those same meanings as those defined in Section I of the Settlement Agreement.

Review of the pages in *Exhibit 1* confirms the person submitting that document accessed the Settlement Website and printed both the Postcard Notice and the Long Form Notice. This is most apparent from the inclusion of a blank version of the Postcard Notice, a comparable copy of which the Court can review on the Settlement Website at <http://nsfodfeechecksettlement.com/Content/Documents/Postcard%20Notice.pdf>.

Following receipt of the document purporting to both opt-out from and object to the Settlement, Class Counsel, Jeff Ostrow, contacted Mr. Crown by telephone to inform Mr. Crown that he is not a member of the Settlement Class and to further clarify his intentions because of the conflicting statements in *Exhibit 1*. Attached as *Exhibit 2* is email correspondence Mr. Ostrow sent to Mr. Crown immediately after their telephone call to memorialize what they discussed—that Mr. Crown did not understand what it meant to object and that once explained to him it is not his intent to object to the Settlement. His opt-out was precautionary to protect claims against Defendant that have nothing to do with this Action. Mr. Ostrow wrote the following to Mr. Crown:

This confirms a telephone call you and I had a few minutes ago regarding the Opt-Out Notice and Notice of Intent to Object that you sent to the Settlement Administrator postmarked on June 24, 2023.

During the call, I advised you that the Settlement Administrator did a search and that neither you, Victor M. Crown, nor the Estate of Lourdes Theodossis, are members of the *Checchia v. Bank of America* settlement class. You informed me that you did not get a notice in the mail and only learned of the *Checchia v. Bank of America* settlement by searching the Internet, and that you saw there was a June 24, 2023, deadline to opt-out of or object to the settlement. You further advised that both you and the Estate of Lourdes Theodossis (your mother's estate) had accounts at Bank of America. You advised that you have a 7th Circuit Order dated June 12, 2015, which provides for \$90,000 in tax credits to the estate and that you did not want to give up any rights you have thereunder.

You thought by failing to timely opt-out of or object to the settlement, you could perhaps jeopardize your rights under the 7th Circuit Order, and that is why you sent in the letter on June 24, 2023. I advised you that you don't have to opt-out of the settlement because neither you nor the estate are included in it. Notwithstanding, I told you that we would make sure that the Court knows that you want to opt-out as a precaution to preserve your rights under the 7th Circuit Order. You also told me that you did not know what objecting was and only did it to further preserve your

rights under the 7th Circuit Order. You advised that you have no intention of holding up the settlement for other class members, because you don't actually have any issues with the settlement. To that end, you agreed to withdraw your objection.

Please reply to this email confirming that even though you and the estate are not in the settlement class, you, individually, and on behalf of the estate, still want to opt-out of the settlement and further that you, individually, and on behalf of the estate, agree to withdraw the objection to the settlement.

Exhibit 2.

Despite Mr. Ostrow's follow-up telephone calls with Mr. Crown, where he assured Mr. Ostrow he would send a reply email with a notice withdrawing his objection, Mr. Crown has not done so. Mr. Crown advised Mr. Ostrow that he has to access a computer at a local library to check and respond to his email. Should Class Counsel receive the written confirmation it will be presented to the Court.

Regardless, the Court should find that no objection to the Settlement has been presented because the fundamental condition to have standing to object to a class action settlement is that the objector is a settlement class member. Mr. Crown, individually or as a representative of the Estate of Lourdes Theodossis, is *not* a Settlement Class member in the Settlement. Therefore, the Court should ignore ***Exhibit 1.***

Further, there is no basis to include Mr. Crown or the Estate of Lourdes Theodossis as an opt-out to the Settlement. Thus, the Final Approval Order should not list either as an opt-out.

Substantively, ***Exhibit 1*** does not actually present any objection to the terms of the Settlement, including Class Counsel's requested attorneys' fees and costs and the Service Award for the Class Representative. Thus, if the Court were to consider the document as an objection, it should be overruled.

Dated: July 14, 2023

Respectfully submitted,

/s/ Jeff Ostrow

Jeff Ostrow (pro hac vice)
Jonathan M. Streisfeld (pro hac vice)
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Philadelphia, PA 19104
215-985-9177
kgrunfeld@golomblegal.com

Class Counsel

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on July 14, 2023, the foregoing document was filed electronically on the CM/ECF system, which caused all CM/ECF participants to be served by electronic means. A copy of this document will be emailed to Victor Crown who is not registered with the CM/ECF system.

/s/ Jeff Ostrow

Jeff Ostrow

EXHIBIT 1

**Victor M. Crown
PO Box 59011
Chicago, Illinois 60659-0011**

June 24, 2023

**Checchia v. Bank of America Settlement
PO Box 2696
Portland, OR 97208- 2696**

**United States Courthouse
Eastern District of Pennsylvania
601 Market Street
Philadelphia PA 19106**

**Jeff Ostrow
Jonathan Streisfeld
Kopelowitz Ostrow PA
1 West Las Olas Blvd – Suite 500
Fort Lauderdale, FL 33301**

**Brian A. Kahn
McGuirewoods LLP
201 North Tryon Street – Suite 3000
Charlotte NC 28202**

RE: OPT OUT notice on BOA settlement; notice of intent [to object]

Dear Respondent [Clerk of the Court]

I am, as provided under legal notice in Checchia v. Bank of America NA Settlement herewith now exercising my legal rights and opting out of

notice of pending class action and proposed settlement that was filed in federal district court for the Eastern District of Pennsylvania.

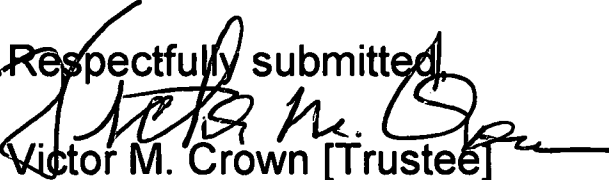
This applies to Bank of America NA account number ending in [5384] which affects Estate of Lourdes Theodossis [Victor M. Crown – ADM] and overdraft charges and fees assessed after January 1, 2017.

This applies to Bank of America NA account number ending in [4374] which affects Victor M. Crown and overdraft charges and fees assessed after January 1, 2017.

The submission of this letter [6-24-2023] then herewith now permits [allows] customer [Victor M. Crown] to object to settlement and is herewith asking letter be construed as a notice of intention to object.

The legal citation affecting this objection is **First National Bank of Jacksboro v. Lasater – 196 US 115 (1905) [judicial estoppel – bankruptcy trustee]** – This case affirms legal authority of a bankruptcy trustee to assert a right of action and that “trustees in bankruptcy are not bound to accept property of an onerous or unprofitable character and they have a reasonable amount of time to assert title as a judgment creditor in [the] civil cases”.

This applies to correction order filed by 7th CirCA in Docket No. 15-1734 on 6-12-2015 and dismissals of the civil case filed against estate on 9-19-2017 and 4-30-18 in favor of representative [trustee]

Respectfully submitted,

Victor M. Crown [Trustee]
PO Box 59011
Chicago, Illinois 60659-0011

6-24-2023 [regular mail]

Bank of America

4374

08031702
08031703

BANK OF AMERICA, N.A. (THE "BANK")

Transaction History

ESTATE OF LOURDES THEODOSSIS

BOFA CORE CHECKING

VICTOR M CROWN ADM, EXE OR PER REP

..... 0384

→ IRM 21.5.3.4.11 input

IRM 4.10.7.2.9.8 (1-1-2026)

Form 8546

Bank records
Bank of America
ESR-62 Account

Last Posting Date 08/02/2017

Date/Time Period 8/3/2017 01:00:00A

→ IRM 3.17.10.5 - 16ss of check

IRM 4.10.7 (effective 1-10-26)

Since Last Statement Summary

Last Statement Date 07/24/2017

Balance Last Statement (\$)

Deposits/Credits (+)

Withdrawals/Debits (-)

Available Balance (\$)

#Counts include posted items only. Intraday items are not included in the counts

Balance Last Statement, Deposits/Credits, Withdrawals/Debits may not total to Available Balance

IRM 5.11.4.9 input

no erroneous levy

IRM 5.19.6.13.4

erroneous levy input

-\$137.58
\$0.00 Holds (-)
\$0.00 Pending Credits (+)

-\$137.53 input

\$ 710.00
~~\$ 698.00~~
Acct No - 5384-BOA

Date	Description	Type	Amount	Available Balance
08/23/2017	Monthly Maintenance Fee	Fee	-\$12.00	-\$137.53
08/08/2017	RETURN OF POSTED CHECK / ITEM (RECEIVED ON 08-07) ELECTRONIC TRANSACTION	Credit	\$60.00	-\$125.53
08/07/2017	NSF RETURNED ITEM FEE FOR ACTIVITY OF 08-07 POSTING DATE 08-07-17. POST ELECTRONIC TRANSACTION	Fee	-\$35.00	-\$175.53
06/07/2017	TREASURY DIRECT DES: TREAS DRCT ID: 1386607880MAAB1 INDN: Victor M. Crown, EXE CO ID: 9051736158 PPD	Other Payment	-\$50.00	-\$140.53
Statement Period as of 05/24/2017				
06/23/2017	Monthly Maintenance Fee	Fee	-\$12.00	-\$90.53
05/18/2017	APA TREAS 310 DES: MISC PAY ID RS1713500017841 INDN: Victor M. Crown, Admin CO ID: 9101036151 PPD	Deposit	\$4.69	-\$78.53

For additional information or service, please contact the Customer Service Center at 1-800-432-1000

* Items included in Previous Statement(s)

00-14-0036M 11-2010

NIL

..... 5384

59.00

Date	Description	Type	Amount	Available Balance
05/11/2017	Extended Overdrawn Balance Change	Fee	-\$35.00	-\$83.72
05/04/2017	OVERDRAFT ITEM FEE FOR ACTIVITY OF 05-04 POSTING DATE 05-04-17 POST	Fee	-\$35.00	-\$48.22
05/04/2017	TREASURY DIRECT DES: TREAS DRCT ID: L386607860MAA80 IND: Victor M Crown EXE CO	Other Payment	-\$15.00	-\$13.22
05/02/2017	TREASURY DIRECT DES: TREAS DRCT ID: L386607860MAA8Z IND: Victor M. Crown. EXE CO	Other Payment	-\$10.00	\$1.78
05/02/2017	TREASURY DIRECT DES: TREAS DRCT ID: X550419779MAANC IND: Victor M Crown IND AD CO	Other Payment	-\$20.00	\$11.78
05/02/2017	IL TLR cash withdrawal from CHK 538A Confirmation#: 3974530489 Banking Ctr LINCOLN AND PETERSON #0000366 IL	Debit	-\$10.00	\$1.78
05/01/2017	IL TLR cash withdrawal from CHK 538A Confirmation#: 0147811283 Banking Ctr LINCOLN AND PETERSON #0000366 IL	Debit	-\$60.00	\$41.78
04/20/2017	TREASURY DIRECT DES: TREAS DRCT ID: X230594023MAA6B IND: Lourdes Thiopoulos Fed CO	Other Payment	-\$25.00	\$101.78
04/27/2017	IL TLR cash withdrawal from CHK 538A Confirmation#: 1620476257 Banking Ctr LINCOLN AND PETERSON #0000366 IL	Debit	-\$140.00	\$125.78
04/24/2017	IL TLR cash withdrawal from CHK 530A Confirmation#: 0107023118 Banking Ctr LINCOLN AND PETERSON #0000366 IL	Debit	-\$541.20	\$266.78
04/21/2017	Monthly Maintenance Fee	Fee	-\$12.00	\$907.98
04/21/2017	TREASURY DIRECT DES: TREAS DRCT ID: X550419779MAA8B IND: Victor M. Crown IND AD CO	Other Payment	-\$5.00	\$818.98
04/20/2017	APA TREAS 310 DES: MISC PAY ID: RS1711000906117 IND: Victor M Crown, Admin CO	Deposit	\$19.00	\$824.98
04/20/2017	APA TREAS 310 DES: MISC PAY ID: RS1711000006116 IND: Victor M Crown Admin CO	Deposit	\$69.00	\$909.98

For additional information of services please contact the Customer Service Center at 1-800-432-1000.

** Items(s) included in Previous Statement(s)

NIL

..... 5394

482.00
Page 2

Date	Description	Type	Amount	Available Balance
04/20/2017	Counter Credit	Deposit	\$750.00	\$754.98
04/14/2017	IL TLR cash withdrawal from CHK 5384 Confirmation# 0119465374 Banking Ctr LINCOLN AND PETERSON #0000366 IL	Debit	-\$12.00	\$4.98
04/08/2017	TREASURY DIRECT DES TREAS DRCT ID:L386807880MAABV ID:9051738158 PPD INDN:Victor M Crown, EXE CO	Other Payment	-\$3.00	\$19.98
04/06/2017	IL TLR cash withdrawal from CHK 5384 Confirmation# 4240837088 Banking Ctr LINCOLN AND PETERSON #0000366 IL	Debit	-\$100.00	\$19.98
04/05/2017	APA TREAS 310 DES MISC PAY ID:RS1708500002040 ID:9101038151 PPD INDN:Victor M Crown, Admin CO	Deposit	\$75.89	\$119.98
04/05/2017	APA TREAS 310 DES MISC PAY ID:RS1708500002048 ID:9101038151 PPD INDN:Victor M. Crown, Admin CO	Deposit	\$75.89	\$24.20
Statement Period as of 03/25/2017				
03/24/2017	Monthly Maintenance Fee	✓ Fee	-\$12.00	-\$31.40
03/09/2017	APA TREAS 310 DES MISC PAY ID:RS1708800001739 ID:9101038151 PPD INDN:Victor M. Crown, Admin CO	Deposit	\$100.00	-\$19.40
03/06/2017	RETURN OF POSTED CHECK / ITEM (RECEIVED ON 03-03) ELECTRONIC TRANSACTION	Credit	\$30.00	-\$119.40
03/03/2017	NSF- RETURNED ITEM FEE FOR ACTIVITY OF 03-03 POSTING DATE 03-03-17 POST ELECTRONIC TRANSACTION	✓ Fee	-\$35.00	-\$149.40
03/03/2017	TREASURY DIRECT DES TREAS DRCT ID:L386807880MAABV ID:9051738158 PPD INDN:Victor M. Crown, EXE CO	Other Payment	-\$30.00	-\$114.40
03/02/2017	APA TREAS 310 DES MISC PAY ID:RS1708100006309 ID:9101038151 PPD INDN:Crown, Victor Max CO	Deposit	\$75.06	-\$84.40
Statement Period as of 02/22/2017				
02/21/2017	Monthly Maintenance Fee	✓ Fee	-\$12.00	-\$159.40

For additional information or service, please contact the Customer Service Center at 1-800-432-1000

Item(s) included in Previous Statement(s)

NIL

459.00
..... 5384

Steven Checchia v. Bank of America, N.A.

NOTICE OF PENDING CLASS ACTION AND PROPOSED SETTLEMENT

READ THIS NOTICE FULLY AND CAREFULLY; THE PROPOSED SETTLEMENT MAY AFFECT YOUR RIGHTS.

IF YOU HAD A CONSUMER CHECKING AND/OR SAVINGS ACCOUNT WITH BANK OF AMERICA, N.A. ("BANA"), AND PAID CERTAIN OVERDRAFT FEES OR NON-SUFFICIENT FUNDS FEES BETWEEN MAY 19, 2017, AND FEBRUARY 16, 2023, YOU MAY BE ENTITLED TO A PAYMENT FROM A CLASS ACTION SETTLEMENT.

The Court for the Eastern District of Pennsylvania has authorized this Notice; it is not a solicitation from a lawyer.

SUMMARY OF YOUR OPTIONS AND THE LEGAL EFFECT OF EACH OPTION

DO NOTHING.	If you were assessed, paid, and were not refunded the types of fees that are being challenged in this case, then you will receive a payment from the Settlement Fund so long as you do not opt-out of the Settlement (described in the next box).
OPT-OUT and EXCLUDE YOURSELF FROM THE SETTLEMENT; RECEIVE NO PAYMENT BUT RELEASE NO CLAIMS.	You can choose to opt-out of the Settlement which means you are excluding yourself from the Settlement. This means you choose not to participate in the Settlement. You will keep your legal right to bring your individual claims against BANA, but you will not receive a payment from this Settlement. The deadline to opt-out of the Settlement is JUNE 24, 2023 . If you opt-out, but still want to recover against BANA, then you will have to file a separate lawsuit or claim.
OBJECT TO THE SETTLEMENT.	If you do not opt-out, but instead wish to object to the Settlement or any matters described in the Class Notice, you may do so by filing with the Court a notice of your intention to object. The deadline to object to the Settlement is JUNE 24, 2023 .

These rights and options—*and the deadlines to exercise them*—along with the material terms of the Settlement are explained in this Class Notice.

Checchia v. Bank of America, N.A. Settlement
P.O. Box 2696
Portland, OR 97208-2696

Legal Notice

**If you had a consumer checking
and/or savings account with
Bank of America, N.A., and paid
certain Overdraft Fees or NSF
Fees between May 19, 2017, and
February 16, 2023, you may be
entitled to payment from a class
action settlement.**

**1 (888) 771-2047
NSFODFeeCheckSettlement.com**

Class Counsel and BANA’s Counsel, not later than 15 days before the Final Fairness Hearing or as the Court may otherwise direct, a document containing the following: (i) the amount of fees sought by the attorney for representing the objector and the factual and legal justification for the fees being sought; (ii) a statement regarding whether the fees being sought were calculated on the basis of a lodestar, contingency, or other method; (iii) the number of hours already spent by the attorney and an estimate of the hours to be spent in the future; and (iv) the attorney’s hourly rate.

If you fail to comply with the provisions herein, you will waive and forfeit any and all rights to appear and/or object separately and will be bound by the terms of the Settlement Agreement and the orders and judgments of the Court.

To be timely, written notice of an objection must be filed or received by the Settlement Administrator and/or Court by **JUNE 24, 2023**, and served at the same time to Class Counsel and Defendant’s counsel to the following addresses:

SETTLEMENT ADMINISTRATOR	CLERK OF COURT	CLASS COUNSEL	BANA’S COUNSEL
Checchia v. Bank of America Settlement P.O. Box 2696 Portland, OR 97208-2696	United States Courthouse Eastern District of Pennsylvania 601 Market Street Philadelphia, PA 19106	Jeff Ostrow Jonathan Streisfeld KOPELOWITZ OSTROW P.A. 1 West Las Olas Blvd. Suite 500 Fort Lauderdale, FL 33301 Jeffrey Kaniel KALIELGOLD PLLC 1100 15th Street N.W. 4th Floor Washington, D.C. 20005 Kenneth J. Grunfeld GOLOMB SPIRT GRUNFELD 1835 Market Street Suite 2900 Philadelphia, PA 19103	Brian A. Kahn MCGUIREWOODS LLP 201 North Tryon Street Suite 3000 Charlotte, NC 28202

20. What is the difference between objecting and opting-out of the Settlement?

Objecting is telling the Court that you do not believe the Settlement is fair, reasonable, and adequate for the Settlement Class, and asking the Court to reject it. You can object only if you do not opt-out of the Settlement. If you object to the Settlement and do not opt-out, then you are entitled to a Settlement Class Member Payment if the Settlement is approved, but you will release claims you might have against BANA. Opting-out is telling the Court that you do not want to be part of the Settlement, and do not want to receive a Settlement Class Member Payment or release claims you might have against BANA for the claims alleged in this lawsuit.

21. What happens if I object to the Settlement?

If the Court sustains your objection, or the objection of any other Settlement Class Member, then there may be no Settlement. If you object, but the Court overrules your objection and any other objection(s), then you will be part of the Settlement.

THE COURT’S FAIRNESS HEARING

22. When and where will the Court decide whether to approve the Settlement?

The Court will hold a Final Fairness Hearing on **JULY 24, 2023**. At this hearing, the Court will consider whether the Settlement is fair, reasonable, and adequate. If there are objections, the Court will consider them. The Court may also decide how much to award Class Counsel for Attorneys’ Fees and Costs and how much the Class Representative should get as a Service Award for acting as the Class Representative.

A settlement has been reached with Bank of America, N.A. ("BANA") in a class action lawsuit about Non-Sufficient Funds Fees ("NSF Fees") and Overdraft Fees ("OD Fees") related to certain ACH and check transactions that were charged on accounts from May 19, 2017, through February 16, 2023.

Who is included? BANA records indicate that you are a "Settlement Class member" in this Settlement because you fit the following Settlement Class definition: All Accountholders of BANA consumer checking and/or savings accounts who, during the Class Period, paid and were not refunded a NSF Fee and/or OD Fee in connection with (a) an ACH entry on their Account that was submitted by the merchant or the merchant's bank with a "REDEP CHECK" indicator; or (b) a physical check (not an ACH transaction) that was re-presented for payment after having initially been returned for non-sufficient funds and charged a NSF Fee within the preceding twenty-eight calendar days.

What does the Settlement provide? BANA will create a \$8,000,000 Settlement Fund. After deducting Attorneys' Fees and Costs, a Service Award to the Class Representative, and the Settlement Administration Costs, the Net Settlement Fund will be divided pro rata among all Settlement Class Members.

What are my options? If you do nothing and the Settlement is approved by the Court and becomes final, you will automatically receive a Settlement Class Member Payment and your rights will be affected. If you do not want to be legally bound by the Settlement and receive a Settlement Class Member Payment, you must opt-out of the Settlement by June 24, 2023. Unless you opt-out, you will not be able to sue or continue to sue BANA for any claim made in this lawsuit or released by the Settlement Agreement. If you stay in the Settlement (and do not opt-out), you may object to it by June 24, 2023.

The Court's Final Fairness Hearing. The Court will hold a Final Fairness Hearing on July 24, 2023. At this hearing, the Court will decide whether to approve: (1) the Settlement; (2) Class Counsel's request for Attorneys' Fees of up to 33% of the Settlement Fund and reimbursement of Costs; and (3) a Service Award of \$5,000 for the Class Representative. You or your lawyer may appear at the hearing at your own expense, but you do not have to.

More information, including a detailed Long Form Notice and the full Settlement Agreement, are available at NSFODFeeCheckSettlement.com or by calling 1 (888) 771-2047.

VICTOR M. CROWN
P.O. BOX 59011
Chicago, IL 60659-6011

CAROL STREAM IL 601

24 JUN 2023 PM 11 L



Cherchen v. Bank of America Settlement
P.O. BOX 2696
Portland, OR 97208-2696

9595555555

RE: OPT OUT NOTICE - NOTICE OF INTENT (TO OBJECT)

EXHIBIT 2

From: Jeff Ostrow
Sent: Thursday, July 6, 2023 7:04 PM
To: [REDACTED]
Subject: Checchia v. Bank of America - Opt-Out Notice and Notice of Intent to Object

Mr. Crown:

This confirms a telephone call you and I had a few minutes ago regarding the Opt-Out Notice and Notice of Intent to Object that you sent to the Settlement Administrator postmarked on June 24, 2023.

During the call, I advised you that the Settlement Administrator did a search and that neither you, Victor M. Crown, nor the Estate of Lourdes Theodossis, are members of the *Checchia v. Bank of America* settlement class. You informed me that you did not get a notice in the mail and only learned of the *Checchia v. Bank of America* settlement by searching the Internet, and that you saw there was a June 24, 2023, deadline to opt-out of or object to the settlement. You further advised that both you and the Estate of Lorudes Theodossis (your mother's estate) had accounts at Bank of America. You advised that you have a 7th Circuit Order dated June 12, 2015, which provides for \$90,000 in tax credits to the estate and that you did not want to give up any rights you have thereunder.

You thought by failing to timely opt-out of or object to the settlement, you could perhaps jeopardize your rights under the 7th Circuit Order, and that is why you sent in the letter on June 24, 2023. I advised you that you don't have to opt-out of the settlement because neither you nor the estate are included in it. Notwithstanding, I told you that we would make sure that the Court knows that you want to opt-out as a precaution to preserve your rights under the 7th Circuit Order. You also told me that you did not know what objecting was and only did it to further preserve your rights under the 7th Circuit Order. You advised that you have no intention of holding up the settlement for other class members, because you don't actually have any issues with the settlement. To that end, you agreed to withdraw your objection.

Please reply to this email confirming that even though you and the estate are not in the settlement class, you, individually, and on behalf of the estate, still want to opt-out of the settlement and further that you, individually, and on behalf of the estate, agree to withdraw the objection to the settlement.

Sincerely,

Jeff Ostrow

Class Counsel



Jeff Ostrow
Managing Partner
KOPELOWITZ OSTROW
FERGUSON WEISELBERG GILBERT
One West Las Olas Blvd., Suite 500
Fort Lauderdale, Florida 33301
Main: 954-525-4100 • **Direct:** 954-332-4200
Fax: 954-525-4300 • **Web:** www.kolawyers.com

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In accordance with Internal Revenue Service Circular 230, we advise you that unless otherwise stated, any discussion of a federal tax issue in this communication or in any attachment is not intended to be used, and it cannot be used, for the purpose of avoiding federal tax penalties.