

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MASSACHUSETTS

In re: Bank of America Home Affordable  
Modification Program (HAMP) Contract  
Litigation

No. 1:10-md-02193

**DEFENDANTS' MOTION TO DISMISS  
CONSOLIDATED CLASS ACTION COMPLAINT**

Pursuant to Federal Rule of Civil Procedure 12(b)(6), Defendants Bank of America, N.A. and BAC Home Loans Servicing, L.P. (collectively, "Bank of America"), hereby move that this Court dismiss all counts of the Consolidated Class Action Complaint ("Complaint"). As set forth more fully in the accompanying Memorandum of Law, the Complaint fails to state a claim upon which relief can be granted, and Bank of America is entitled to judgment as a matter of law.

WHEREFORE, Bank of America respectfully requests that this Court dismiss all counts of the Complaint against it with prejudice.

Dated: February 22, 2011

Respectfully submitted,

Bank of America, N.A. and BAC Home Loans  
Servicing, L.P.,  
By their attorneys,

/s/ James W. McGarry

James W. McGarry (BBO No. 633726)  
jmcgarry@goodwinprocter.com  
Mark Tyler Knights (BBO No. 670991)  
mknights@goodwinprocter.com  
GOODWIN PROCTER LLP  
53 State Street  
Boston, Massachusetts 02109  
Tel.: 617.570.1000  
Fax: 617.523.1231

**LOCAL RULE 7.1(A)(2) CERTIFICATE AND CERTIFICATE OF SERVICE**

I hereby certify pursuant to District of Massachusetts Local Rule 7.1(A)(2) that I have conferred with counsel for Plaintiffs regarding the relief requested in this Motion and Plaintiffs have not assented to the relief requested.

I further certify that this document filed through the ECF system will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF) and paper copies will be sent to those indicated as non registered participants on February 22, 2011.

/s/ James W. McGarry \_\_\_\_\_