

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

DONNA MOORE, FRENCHOLA HOLDEN
and KEITH MCMILLON, individually and on
behalf of all others similarly situated,

Plaintiffs,

v.

GMAC MORTGAGE, LLC, GMAC BANK
and CAP RE OF VERMONT, INC.,

Defendants.

Civil Action No. 2:07-cv-04296-PD

**PLAINTIFFS' UNOPPOSED MOTION FOR FINAL APPROVAL OF CLASS
ACTION SETTLEMENT, CERTIFICATION OF SETTLEMENT CLASS, APPROVAL
OF PLAN OF ALLOCATION, APPOINTMENT OF CLASS REPRESENTATIVES,
AND APPOINTMENT OF LEAD CLASS COUNSEL AND CLASS COUNSEL**

Plaintiffs Donna Moore, Frenchola Holden and Keith McMillon (collectively, "Plaintiffs" or "Named Plaintiffs"), on behalf of themselves and all others similarly situated, by and through their undersigned counsel, hereby move for final approval of the class action Settlement¹ which received preliminary approval from this Court on April 29, 2014 (Dkt. No. 283), for certification of the Class for settlement purposes only, appointment of Named Plaintiffs as representatives of the Class, and appointment of Lead Class Counsel and Class Counsel. The Settlement presented

¹ All capitalized terms used throughout this motion shall have the meanings ascribed to them in the Settlement Agreement ("Settlement Agreement") filed with this Court on January 24, 2014 (*see* Dkt. No. 272-3) and attached as Exhibit 1 to the Declaration of Edward W. Ciolko in Support of Plaintiffs' Unopposed Motion for Final Approval of Class Action Settlement, Certification of Settlement Class, Approval of Plan of Allocation, Appointment of Class Representatives, and Appointment of Lead Class Counsel and Class Counsel, and Unopposed Motion for an Award of Attorneys' Fees, Reimbursement of Litigation Costs, and Case Contribution Awards for the Named Plaintiffs, filed contemporaneously herewith in support of this motion. Plaintiffs file this motion in conjunction with their Unopposed Motion for Award of Attorneys' Fees, Reimbursement of Litigation Costs, and Case Contribution Awards for the

for final approval was entered into between Named Plaintiffs and Defendants GMAC Mortgage, LLC (“GMAC Mortgage”), GMAC Bank (now known, and herein referred to, as “Ally Bank”), and Cap Re of Vermont, LLC (“Cap Re”) (collectively, “Defendants”), and is described in the accompanying Memorandum of Law in Support of Unopposed Motion for Final Approval of Class Action Settlement, Certification of Settlement Class, Approval of Plan of Allocation, Appointment of Class Representatives, and Appointment of Lead Class Counsel and Class Counsel. If approved, the Settlement would fully and finally resolve this Action alleging violations of Section 8(a) and (b) of the Real Estate Settlement Procedures Act of 1974 (“RESPA”), 12 U.S.C. §§ 2607(a) and (b).

By this motion, Named Plaintiffs request an Order:

1. Granting final approval to the Settlement in this Action pursuant to Federal Rule of Civil Procedure 23(e) on the terms in the Settlement Agreement that was fully executed as of December 10, 2013, and previously filed with the Court on January 24, 2014 (Docket No. 272-3), upon a finding that the Settlement is fair, reasonable, and adequate in light of the factual, legal, practical and procedural considerations raised by this Action.

2. Granting certification of the following Class for Settlement purposes only upon a finding that the Class meets each of the requirements of Federal Rules of Civil Procedure 23(a) and 23(b)(3):

All persons who obtained residential mortgage loans originated and/or acquired by GMAC Mortgage, Ally Bank, and/or their affiliates on or after January 1, 2004, with private mortgage insurance which was reinsured by Cap Re.

3. Approving the Parties’ Plan of Allocation as described in detail in the Memorandum of Law in Support of Unopposed Motion for Final Approval of Class Action

Named Plaintiffs (the “Fee Motion”).

Settlement, Certification of Settlement Class, Approval of Plan of Allocation, Appointment of Class Representatives, and Appointment of Lead Class Counsel and Class Counsel.

4. Appointing Named Plaintiffs Donna Moore, Frenchola Holden, and Keith McMillon as representatives of the Class.

5. Appointing the law firm Kessler Topaz Meltzer & Check, LLP as Lead Class Counsel, and the law firms Bramson, Plutzik, Mahler & Birkhaeuser, LLP, Berke, Berke & Berke, and Travis & Calhoun, P.C. as Class Counsel, pursuant to Federal Rule of Civil Procedure 23(g).

6. For such other and further relief as the Court may deem just and proper.

In support of their request, Named Plaintiffs assert that the proposed Settlement is fair, reasonable, adequate, and consistent with the provisions of Federal Rule of Civil Procedure 23. Defendants do not oppose this motion.

The grounds for this motion are set forth in the following papers filed contemporaneously herewith:

A. Memorandum of Law in Support of Unopposed Motion for Final Approval of Class Action Settlement, Certification of Settlement Class, Approval of Plan of Allocation, Appointment of Class Representatives, and Appointment of Lead Class Counsel and Class Counsel; and

B. Declaration of Edward W. Ciolko in Support of (1) Plaintiffs' Unopposed Motion for Final Approval of Class Action Settlement, Certification of Settlement Class, Approval of Plan of Allocation, Appointment of Class Representatives, and Appointment of Lead Class Counsel and Class Counsel, and (2) Unopposed Motion for an Award of Attorneys' Fees, Reimbursement of Litigation Costs, and Case Contribution Awards for the Named Plaintiffs, and all exhibits attached thereto.

WHEREFORE, Named Plaintiffs request that the Court grant this motion and enter the [Proposed] Final Approval Order and Final Judgment submitted herewith.

Dated: August 6, 2014

**KESSLER TOPAZ
MELTZER & CHECK, LLP**

/s/ Edward W. Ciolko

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*Counsel for Plaintiffs and the Proposed
Settlement Class*

CERTIFICATE OF SERVICE

I hereby certify that on August 6, 2014, I electronically filed the foregoing with the Clerk of Court using the CM/ECF system, which will send notification of such filing to the counsel of record in this matter who are registered on the CM/ECF.

/s/ Edward W. Ciolko
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