

**IN THE COURT OF COMMON PLEAS
CUYAHOGA COUNTY, OHIO**

MATTHEW L. FORNSHELL,)	CASE NO. 06-CV-592402
)	
Plaintiff,)	CONSOLIDATED WITH
)	CASE NO. 04-CV-548887
vs.)	
)	
FIRSTMERIT BANK, N.A.,)	
)	JUDGE JOSE A. VILLANUEVA
Defendant,)	

NOTICE OF PROPOSED SETTLEMENT AND HEARING

TO: All persons or entities that are listed on Exhibit A to the Receiver’s Revised Proposed Schedules of Allowed Unsecured Claims, filed on or about June 30, 2008 in the action captioned *Doug White, Director, Ohio Department of Commerce v. Joanne C. Schneider et al.*, Case No. CV-04-548887 (referred to hereinafter as the “Investors”).

This Notice describes a lawsuit commenced by Matthew L. Fornshell, as Receiver, on behalf of the Investors and against defendant FirstMerit Bank, N.A. (“FirstMerit”) to recover the Investors’ losses through the receivership (the “Action”), and it also describes the proposed settlement of the Action. You have received this Notice because you may be one of the people whose rights will be affected by the Action and the proposed settlement. If you wish to object to or comment in favor of the proposed settlement, you must do so in the manner described below on or before August 10, 2011.

This Notice contains important information. You should read it carefully and discuss it with your attorney, if you have one in this case. (If you do not have an attorney, you may wish to consult one.) You may review documents related to the proposed settlement at the Receiver’s website: www.szd.com/schneider.

On Monday, August 15, 2011, at 2:00 P.M., the Court will conduct a hearing on whether to approve the proposed settlement. Investors need not attend the hearing or take any action in order to remain eligible to share in the proposed settlement. They may object to or comment in favor of the settlement and address the Court, if they so choose, in keeping with the procedure described below.

I. Purpose of this Notice

This Notice is given to you pursuant to the proposed settlement of the Action. The Notice tells you about the Action, the proposed settlement, the attorneys’ fees and expenses of Mr. Fornshell’s counsel, your right to object to or comment in favor of the proposed settlement, and your right to participate in the final hearing on the proposed settlement.

II. History of Lawsuit

Mr. Fornshell filed the Action against FirstMerit in May 2006. He did so pursuant to the Court's order that explicitly authorized him "to represent and pursue directly the interests of the Investors against FirstMerit Corporation and/or its affiliates . . . arising out of or relating to the conduct of the Schneiders" and/or the companies they controlled.

In the Action, Mr. Fornshell alleges that FirstMerit bears responsibility for the Investors' losses, given the assistance it allegedly lent to the Schneiders in their fraudulent scheme to sell promissory notes. FirstMerit denies all wrongdoing and disputes its liability under the claims brought by Mr. Fornshell.

The parties have vigorously litigated the Action over the course of more than five years, and have engaged in extensive motion practice and discovery. The Parties recognize the time and expense that would be incurred by further litigation of this action and the uncertainties inherent in such litigation.

Counsel for the parties engaged in good faith, arms'-length negotiations concerning a possible settlement of the Action, and entered into a Settlement Agreement on July 19, 2011.

Mr. Fornshell's entry into the Settlement Agreement was not an admission as to the lack of merit of any of the claims asserted in the Action, and FirstMerit's entry into the Settlement Agreement was not an admission of wrongdoing or liability. FirstMerit denies all allegations of wrongdoing, fault, liability or damage to the Receiver or the Investors, denies that it engaged in any wrongdoing or violation of law or breach of duty, and believes that it acted properly at all times, but wishes to settle the litigation on the terms and conditions stated in the Settlement Agreement in order to eliminate the burden and expense of further litigation and to put the claims to be released hereby to rest finally and forever.

The Court has not made any decisions on the claims made in the Action.

III. Terms of Proposed Settlement

What follows is a summary of the terms of the proposed settlement that are fully set forth in the Settlement Agreement. Further information may be had by referring to the Settlement Agreement and other papers in the Action that (1) are filed with the Clerk of the Court, all of which may be inspected during regular business hours at the Court, or (2) are available at the Receiver's website: www.szd.com/schneider.

The principal terms of the proposed settlement are as follows:

A. Consideration Given to the Receivership and the Investors

Under the terms of the proposed settlement, if certain conditions are satisfied, FirstMerit will cause to be paid a total of Ten Million Five Hundred Thousand Dollars (US\$10,500,000) (the "Settlement Payment"). The Settlement Payment would be paid to the Receiver within five

(5) business days following entry of an Order of Final Judgment in the Action. After payment of attorneys' fees and litigation expenses, Mr. Fornshell intends to distribute the remainder to Investors in proportion to the size of their authorized claims against the Receivership. The payment of attorneys' fees and litigation expenses and distribution to the Investors would occur after the Order of Final Judgment has become "Final" pursuant to the Settlement Agreement.

If the Court approves the proposed settlement and Mr. Fornshell's plan of distribution, Mr. Fornshell estimates that the Settlement Payment will cover approximately 17 percent of the Proposed Schedule of Allowed Unsecured Claims of Investors filed with the Court by Mr. Fornshell on June 30, 2008. Investors may eventually receive further distributions from the Receivership, to the extent such funds become available from other sources.

B. Dismissal With Prejudice and Release of Claims

If the settlement is approved by the Court, all claims that were or could have been asserted in the Action on behalf of the Receivership or the Investors will be dismissed with prejudice and on the merits. By accepting a distribution from the settlement, each Investor will be deemed to have released all claims they might have against FirstMerit arising from or related in any way to their investment with the Schneiders. In addition, the Court will enter an order that permanently bars, enjoins, and restrains the Investors, with certain exceptions set forth in Section V of this Notice, from pursuing any such claims against FirstMerit (the "Injunction"). However, accepting a distribution from this settlement will not preclude an Investor from participating in other distributions from the Receivership, if any funds become available.

IV. Attorneys' Fees and Expenses

The law firms of Cohen Rosenthal & Kramer LLP and Yarger Radel & Pentz LLP represent Mr. Fornshell in the lawsuit against FirstMerit. The firms have received no compensation for their work to-date on the Action, and have advanced out-of-pocket costs associated with the litigation.

Under the terms of their written agreement with the Receivership, attorneys for the Receiver will receive one-fourth of the settlement proceeds, or Two Million Six Hundred Twenty Five Thousand Dollars (\$2,625,000), as their fees in the case. The law firms will also receive reimbursement of their expenses, which currently total approximately One Hundred Twenty Seven Thousand Dollars (\$127,000). FirstMerit shall have no responsibility for, and no liability with respect to, the fee and expense allocation among Mr. Fornshell's counsel and/or any other person who may assert any claim thereto.

V. Exclusion of the Young Plaintiffs and Non-Participating Investors

Fourteen Investors are plaintiffs or have asked to become plaintiffs in their own lawsuit against FirstMerit, captioned *Young v. FirstMerit Bank, N.A.*, Case No. 06-CV-591332 (the "Young Plaintiffs"). The Young Plaintiffs will not participate in, and are not bound by, the proposed settlement, including the Injunction. However, any Young Plaintiff wishing to participate in the proposed settlement, and thereby become subject to and bound by the

Injunction, may affirmatively choose to do so by sending written notice to Joshua R. Cohen, counsel for Mr. Fornshell, at Cohen Rosenthal & Kramer LLP, 700 West St. Clair Avenue, Suite 400, Cleveland, Ohio 44113, jcohen@crklaw.com. Such written notice will be effective only if it is received prior to the Court's issuance of an order approving the settlement.

Any Investor may decline to participate in the proposed settlement by making an objection in accordance with the procedures set forth in Section VIII of this Notice, and by not withdrawing that objection prior to the entry of any order approving the settlement. Any Investor may also decline to participate in the proposed settlement by filing an appeal from any order approving the proposed settlement. Investors who decline to participate in the proposed settlement are referred to as "Non-Participating Investors." Non-Participating Investors will not be subject to or bound by the Injunction. *However, Non-Participating Investors will not be eligible to receive any portion of the Settlement Payment.*

VI. Questions About the Proposed Settlement

Investors may review a copy of the proposed Settlement Agreement and related documents at www.szd.com/schneider. Investors may also direct questions concerning the settlement to Attorney Joshua R. Cohen either by telephone (216.781.7956) or e-mail (jcohen@crklaw.com). **Please do not call or e-mail the Court or the Clerk of the Court with questions about the proposed settlement.**

VII. The Final Settlement Hearing

On Monday, August 15, 2011 at 2:00 P.M., the Court will hold a hearing (the "Final Settlement Hearing") to consider: (a) whether the proposed settlement should be approved as fair and reasonable; and (b) whether a final judgment should be entered dismissing the claims on behalf of the Receiver and the Investors with prejudice and on the merits, and imposing the Injunction, as required by the Settlement Agreement. The Final Settlement Hearing will be held before the Honorable José A. Villeneuve, Cuyahoga County Justice Center, Courtroom 20-A, 1200 Ontario Street, Cleveland, Ohio 44113-1678. The hearing is open to the public.

VIII. Opportunity to Be Heard

At the Final Settlement Hearing, Investors may (a) object to or comment in favor of the proposed settlement; (b) submit written materials for the Court's consideration; and/or (c) ask to be personally heard at the hearing, or have their personal attorney do so, at their own expense.

However, Investors and/or their attorneys are entitled to object to or comment on the proposed settlement, have any written materials considered by the Court, or be heard at the Final Settlement Hearing only if they file with the Clerk of the Court and serve upon counsel for Mr. Fornshell and FirstMerit, by no later than August 10, 2011, the following materials: (a) a notice of intent to appear, which must include the following caption and case number:

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(b) a detailed statement of any specific objections to or comments on the proposed settlement or any other matter relating to the proposed settlement; and (c) all written materials, including any evidence, that the Investor and/or his counsel wishes the Court to consider. Investors must also indicate on their submission whether they wish to address the Court at the hearing.

The above materials shall be considered filed with the Clerk of the Court on the date they are hand delivered or postmarked, first class mail, postage prepaid, to:

Clerk of Courts
Cuyahoga County Court of Common Pleas
1200 Ontario Street
Cleveland, Ohio 44113-1678;

and shall be considered served upon counsel for Mr. Fornshell and FirstMerit on the date they are hand delivered or postmarked, first class mail, postage prepaid, or e-mailed to both:

Joshua R. Cohen
Cohen Rosenthal & Kramer LLP
700 West St. Clair Avenue, Suite 400
Cleveland, Ohio 44113
jcohen@crklaw.com

-and-

David F. Adler
Jones Day
North Point
901 Lakeside Avenue
Cleveland, Ohio 44114
dfadler@jonesday.com

Any person who does not make his objections known in the manner and within the time provided above shall be deemed to have waived such objections; shall be foreclosed from ever making objections to the proposed settlement and to any Order of Final Judgment that the Court may enter; and shall be foreclosed from appealing such Order of Final Judgment. If you are satisfied with the proposed settlement and do not wish to be heard with respect to its terms, you need not appear at the Final Settlement Hearing or take any other action.

Dated: July 20, 2011