

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA  
MIAMI DIVISION

CASE NO. 1:09-MD-02036-JLK

IN RE CHECKING ACCOUNT )  
OVERDRAFT LITIGATION )  
 )  
THIS DOCUMENT RELATES TO: )  
FIRST TRANCHE ACTIONS )  
 )  
*Tornes, et al. v. Bank of America, N.A.,* )  
S.D. Fla. Case No. 108-cv-23323-JLK )  
 )  
*Yourke, et al. v. Bank of America, N.A.,* )  
S.D. Fla. Case No. 1:09-cv-21963-JLK )  
N.D. Cal. Case No. 3:09-2186 )  
\_\_\_\_\_ )

**NOTICE OF SUPPLEMENTAL FILING TO RESPONSE IN OPPOSITION TO  
PLAINTIFF'S MOTION TO REQUIRE POSTING OF APPEAL BONDS**

Objectors, Martin Carapia and Fatima Dorego (“Objectors”), through their undersigned counsel, hereby gives notice of the filing of attached Exhibit “A”, because of the inadvertent omission to attach it to its opposition papers in DE2394.

Objectors hereby file the aforescribed Exhibit “A.”

DATED: January 13, 2012

By: /s/ Patrick Sweeney  
Patrick Sweeney  
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Sweeney & Sweeney, S.C.  
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Attorney for Objectors Martin Carapia  
and Fatima Dorego

**CERTIFICATE OF SERVICE**

I hereby certify that on this 13<sup>th</sup> day of January, 2012, Objectors Martin Carapia and Fatima Dorego’s Notice of Striking was filed and served electronically via the Court’s CM/ECF system.

By: /s/ Patrick Sweeney  
Patrick Sweeney

**EXHIBIT A**

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UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA

SHAWNDEE HARTLESS, on Behalf of Herself,  
All Others Similarly Situated, and the General  
Public,  
  
Plaintiff,  
  
v.  
  
CLOROX COMPANY,  
  
Defendant.

Civil No. 06cv2705-CAB

**ORDER DENYING MOTION FOR RULE 7  
APPEAL BOND AND, IN THE  
ALTERNATIVE, ORDERING PAYMENT  
TO BE HELD IN CLIENT TRUST  
[Doc. No. 125]**

On March 21, 2011, plaintiff file a motion for a Rule 7 appeal bond. [Doc. No. 125.] On April 21, 2011, objector Sonia Newman filed an opposition to the motion. [Doc. No. 126.] On April 22, 2011, objector Sam P. Cannata filed an opposition to the motion. [Doc. No. 128.]<sup>1</sup> On April 29, 2011, plaintiff filed a reply to the oppositions. [Doc. No. 129.] The Court addressed the motion during a hearing on May 6, 2011. Leslie Hurst, Esq., appeared on behalf of plaintiff. Janine Menhennet, Esq., appeared on behalf of objector Sonia Newman. There were no other appearances, although Ms. Menhennet stated that she represented “the interests” of all of the objectors.

Plaintiff requested an order requiring objectors Sonia Newman, Omar Rivero and Sam Cannata to jointly and severally post an appeal bond in the amount of \$7500 to cover appellee’s costs on appeal. During the hearing, the Court questioned whether the amount requested was excessive. Ms. Menhennet

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<sup>1</sup>No opposition was filed by objector Omar Rivero.

1 then represented on behalf of objector Newman that, in lieu of an appeal bond, Ms. Newman would be  
2 willing to make a \$3,000 payment to plaintiff's counsel's client trust account, to be held as security  
3 towards any appellate costs ultimately recovered by plaintiff. That agreement was acceptable to  
4 plaintiff.

5 Therefore, the Court hereby **DENIES** plaintiff's motion for an appeal bond. In the alternative,  
6 the Court orders that objector Newman provide plaintiff with a payment of \$3,000 on or before May 13,  
7 2011.<sup>2</sup> The payment will be held in plaintiff's counsel's client trust account as security for any future  
8 appellate costs awarded to plaintiff. At the conclusion of the appeal, the \$3,000 payment will be  
9 credited towards any appellate costs awarded to plaintiff. If the appellate costs ultimately awarded to  
10 plaintiff are less than \$3,000 (or if plaintiff does not recover any appellate costs), then any remaining  
11 amount is to be refunded to Ms. Newman. If appellate costs ultimately awarded to plaintiff exceed  
12 \$3,000, then Ms. Newman will be responsible for paying plaintiff the additional costs incurred over  
13 \$3,000.

14 **IT IS SO ORDERED.**

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16 DATED: May 6, 2011

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20 **CATHY ANN BENCIVENGO**  
21 United States Magistrate Judge  
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<sup>2</sup> This payment is on behalf of all of the objectors. Ms. Newman will seek contribution from the other objectors, but agrees that she will make the full payment to plaintiff.