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## BofA Ponies Up \$1M To End TCPA Robocalls Suit

By Y. Peter Kang

Law360, Los Angeles (April 21, 2016, 8:37 PM ET) -- Bank of America Corp. said it will pay \$1 million to resolve a putative class action accusing the bank of making robocalls to unintended recipients in violation of the Telephone Consumer Protection Act, according to documents filed Thursday in Florida federal court.

In a motion seeking preliminary approval of the settlement, BofA said it will pay from \$15 to \$25 each to customers estimated to number 30,000 who received an autodialed call or text message to their cellphone from February 2013 to April 2016 about someone else's BofA account.

For purposes of the settlement, the parties asked U.S. District Judge Harvey E. Schlesinger to certify the class, saying the deal was fair and reasonable and satisfies all the criteria necessary for preliminary approval. Named plaintiff Richard Swift also asked the judge to approve the attorneys' fees and costs of \$250,000 and a service award for him of \$1,500, according to court papers.

A Bank of America spokeswoman said the company denies the allegations but agreed to settle the claims to avoid further legal costs.

"We make every reasonable effort to ensure that we are contacting customers based on their preferences and in compliance with the law," the spokeswoman said.

An attorney for Swift said they were satisfied to have resolved the case.

Swift, a Florida resident, had **filed the suit** in December 2014, accusing the bank and two subsidiaries of unlawfully placing an autodialed call to his cellphone in regard to another customer's debt and without Swift's prior consent.

BofA made 20 or more calls to Swift's cellphone starting in August 2014 about a debt owed by a person he did not know, according to the complaint. Swift never provided his cellphone number to the bank or gave his consent to be called about the debt, the complaint stated.

The bank continued to call even after Swift answered several of the calls and placed calls to the bank to request that the debt collection calls stop, according to the suit.

Swift asked for \$500 for each negligent violation and \$1,500 for each knowing or willful violation of the TCPA, for each member of the putative class.

The parties reached a settlement in principle in February, according to court records.

Swift is represented by Jonathan B. Cohen, Rachel Soffin and John A. Yanchunis of Morgan & Morgan Complex Litigation Group.

BofA is represented by David J. Fioccola and Adam J. Hunt of Morrison & Foerster LLP and Sara F. Holladay-Tobias and Emily Y. Rottmann of McGuireWoods LLP.

The case is Swift v. Bank of America Corp. et al., case number 3:14-cv-01539, in the U.S. District

Court for the Middle District of Florida.

--Additional reporting by Andrew Westney. Editing by Edrienne Su.

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