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## Chase Agrees To Pay \$11.5M To End Escrow Interest Suit

By **Emilie Ruscoe**

Law360 (April 12, 2021, 6:00 PM EDT) -- JPMorgan Chase Bank NA has agreed to pay \$11.5 million to end a proposed class of homeowners' claims that the bank failed to pay interest on funds held in escrow for mortgages as required by certain state laws, which, if approved, would end the suit in federal court on Long Island.

In a motion filed Friday seeking preliminary approval of the settlement deal, plaintiffs Rachel and Ariel Cymbalista, a Nassau County couple, told U.S. District Judge Rachel P. Kovner and U.S. Magistrate Judge Lois Bloom of New York's Eastern District that the settlement results from "hard fought" negotiations over several months, and said the proposed deal represents "fair, reasonable and adequate consideration to the settlement class, while entirely mitigating the litigation risk."

As part of the deal, Chase would pay interest on escrow to members of the proposed class for three years on top of the \$11.5 million sum, which means the bank would ultimately pay about \$18.75 million in connection with the deal. With the three years' of continued payments, the borrowers said, they would be paid back about 65% of their estimated damages.

The borrowers cited a pending interlocutory appeal in a similar case against Bank of America as a reason they wanted to settle, noting that if the bank's appeal prevailed in that case, their own claims were likely to be dismissed.

The parties told the court they'd reached an agreement in principle in February, and initially aimed to file their motion for preliminary approval by April 1.

An amended version of the complaint that was filed the same day as the request for an initial nod for the settlement named only six of the 13 states originally included in the agreement. The plaintiffs said a review of data showed that the damages weren't great enough in the other seven states. The settlement covers class claimants in Connecticut, Maryland, Minnesota, New York, Rhode Island and Wisconsin.

The Cymbalistas launched the action in January 2020, accusing Chase of breach of contract and violating New York's general obligations and business laws.

The couple said Chase held their mortgage while they made payments on their single-family home from 2004 to 2011. The Cymbalistas said that the terms of their mortgage required funds associated with their account to be held in escrow, to cover insurance and property taxes, but that they didn't earn the interest Chase was required by New York state law to pay.

Chase sought to **shed the suit in June 2020**, arguing that the federal National Bank Act preempts New York's General Obligations Law, which requires banks to pay 2% interest on amounts held in escrow.

The Cymbalistas' suit is part of a wave of litigation filed following a 2018 decision by the Ninth Circuit finding that California's escrow interest requirement wasn't automatically preempted by federal law.

On Monday, a representative for Chase declined to comment, and representatives for the other

parties did not immediately respond to requests for comment.

The Cymbalistas are represented by Oren Giskan of Giskan Solotaroff & Anderson LLP, Joseph S. Tusa of Tusa PC and Rachel Geman of Lieff Cabraser Heimann & Bernstein LLP.

Chase is represented by Noah A. Levine, Alan Schoenfeld and Ryan M. Chabot of WilmerHale.

The case is Cymbalista et al v. JPMorgan Chase Bank NA, case number 2:20-cv-00456, in the U.S. District Court for the Eastern District of New York.

—Additional reporting by Dean Seal and Jon Hill. Editing by Karin Roberts.

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