

# Court says Merrill must pay two former brokers \$10 million

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(Reuters) - A U.S. district court confirmed on Monday that [Bank of America Corp's](#) Merrill Lynch must pay \$10.2 million to two former brokers for unpaid deferred compensation, denying the firm's petition to vacate the award.

The original ruling was made by a Financial Industry Regulatory Authority panel in early April. Many of the 3,300 [brokers](#) who left Merrill after Bank of America's purchase of the firm in late 2008 are pursuing claims that the acquisition constituted "good reason" for collecting their deferred pay.

Merrill denied all requests to collect [deferred compensation](#), according to prior filings in the arbitration handled by FINRA, Wall Street's self-regulator.

The \$10.2 million award to Florida brokers Tamara Smolchek and Meri Ramazio was among the largest of the individual deferred compensation cases brought against Merrill. The award included \$5.2 million in compensatory damages and \$5 million in punitive damages.

The ruling by the U.S. court for the Southern District of Florida comes after Merrill agreed to a proposed \$40 million [class](#) action settlement last month with 1,400 ex-brokers over deferred payments.

But that deal would primarily help "lower-producing" brokers, according to Charles McCallum III, a lawyer in Vestavia Hills, Alabama, who represents the lead plaintiffs in the class action case.

Individual cases, like that of Smolchek and Ramazio, are still being heard by FINRA arbitration panels. Merrill's failed effort to overturn the award to Smolchek and Ramazio could persuade other brokers to think twice before signing onto the class settlement, say securities industry lawyers.

"I think what this tell us is that brokers are better off bringing their actions before an arbitration panel than to settle for any class action settlement," said Michael Taaffe, an attorney in the firm of Shumaker, Loop & Kendrick in Sarasota, Florida, who represented Smolchek and Ramazio and also represents more than 1,000 other former Merrill brokers in deferred pay claims.

COURT: NO BIAS FOUND

Merrill filed a petition to vacate the \$10.2 million award claiming the arbitration panel's chairwoman was biased against the [brokerage](#).

Merrill had alleged that Chairwoman Bonnie Pearce did not properly disclose that she was married to a lawyer, Robert Pearce, who had represented clients against Merrill.

But in late May, it was revealed that Merrill had prior knowledge that Robert Pearce was the husband of the chairwoman before the start of the arbitration hearings, countering one of Merrill's arguments.

The court said it found no basis to overturn the arbitration panel's ruling and concluded that Merrill "has not sufficiently demonstrated evident partiality on the part of the panel or that the panel engaged in misconduct or exceeded its powers."

A Bank of America spokesman said the company is reviewing the decision.

(Reporting By Ashley Lau in New York; Editing by Kenneth Barry and Jennifer Merritt)

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