

Exhibit 5

to

**Affirmation of Michael A. Rollin in Support of Order to
Show Cause Why The Court Should Not Continue The Trial
Following The September Trial Dates to Allow Discovery
Concerning Newly Disclosed Evidence**

1 SUPREME COURT OF THE STATE OF NEW YORK
2 COUNTY OF NEW YORK : PART 39

3 -----X

4 In the Matter of the Application of

5 THE BANK OF NEW YORK MELLON,
6 (As Trustee Under Various Pooling and Servicing
7 Agreements and Indenture Trustee Under Various
8 Indentures) et al,

9
10 Petitioners,

11
12 For an Order Pursuant to CPLR Section 7701,
13 Seeking Judicial Instructions and Approval of
14 a Proposed Settlement.

15 -----X

16 Index No. 651786/11

17
18 October 12, 2012
19 60 Centre Street
20 New York, New York

21 B E F O R E: HONORABLE BARBARA R. KAPNICK, JSC

22 A P P E A R A N C E S:

23
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1 Bank of New York, but the people that Mr. Reilly represents
 2 were not there, and the people that Mr. Loeser represents
 3 were not there, and, I guess, there were some other people
 4 not there too.

5 So lawyers, being the suspicious group as we are,
 6 may say, Well, we weren't there, how did they get to this?
 7 We really want to know how they got to this.

8 As Mr. Loeser said, after the 26 depositions and
 9 the experts and whatever, they say, You know what? I think
 10 this turned out pretty well, we think it is a good
 11 settlement, Judge, sign off. That would be a nice way for
 12 it to end. I might be a little optimistic, but okay.

13 I understand, and Bank of America is paying
 14 everybody's fees, and your fees, and Mayer Brown fees, and
 15 expert fees and they weren't there. So I get why there is
 16 concern. I bet you I would feel that way too. And, I dare
 17 say, maybe if you ever were on that side you might feel
 18 that way too. You are usually on that side, so maybe you
 19 don't know. So I can see what is fueling the problem.

20 I also see that you want me to sign a very, very
 21 comprehensive order approving, rubber stamping after the
 22 fact your negotiations your investigations, everything you
 23 did as being okay, good, excellent, you get an A plus.

24 I have to see things. So to the extent that you
 25 objected to every single question through this deposition,

1 many, many, many of the questions. I mean, everything you
 2 guys read to me had objections that were longer than the
 3 answers. It is going to be a long process. It is going to
 4 be problematic.

5 I think you might have to rethink just a little
 6 bit what you might think might be more reasonable to let
 7 him answer, and you have to think about how you may want to
 8 conduct it so that you get the most out of the depositions.

9 I understand, I think, where you are coming from.
 10 And, I mean, I am boiling it down to, sort of, almost like
 11 layman's language; but that's kind of what I think this is
 12 all about.

13 Ms. Patrick said at one point, I don't want
 14 people to know my negotiation strategies. That's why I get
 15 what I get, or what do what I do. But some of it is going
 16 to have to come out because that's what they want to know
 17 because they weren't there, right?

18 MS. PATRICK: Well, your Honor, with regard to
 19 who was and wasn't there, let me just make a couple of
 20 points.

21 THE COURT: Sure.

22 MS. PATRICK: You will remember that we were here
 23 some time ago when Mr. Karlinsky up for AIG. AIG was not
 24 uninformed about what was going on here. AIG was trying to
 25 hijack this process for its own securities claim.