MARY SUSAN DARNELL SMITH : NUMBER: 520,113

THROUGH HER AGENT SUZANNE

SMITH UPCHURCH

VERSUS : FIRST JUDICIAL DISTRICT COURT

MCGUIRE FUNERAL HOME, INC.,

WILLIAM J. MCGUIRE, CITIZENS BANK

& TRUST COMPANY OF VIVIAN,

LOUISIANA, INC., REGIONS BANK,

CAPITAL ONE, NATIONAL

ASSOCIATION, FIRST GUARANTY

BANK and AMERICAN BANK AND

TRUST COMPANY : CADDO PARISH, LOUISIANA

**JUDGMENT ON MOTION TO BIFURCATE**

The Court has thoroughly considered the Motion to Bifurcate Trial, filed June 14, 2013 by Mary Susan Darnell Smith through her agent Suzanne Smith Upchurch, Elbert Newman Graves and Linda Wallace Hooper, on behalf of the certified class; the reply to the motion filed July 31, 2013 by Defendant First Guaranty Bank (FGB) in which FGB agrees with bifurcation; the opposition filed August 2, 2013 by Regions Bank (Regions); oral arguments of counsel and applicable law. Noting that the predominant issue will be whether the banks violated La. R.S. 37:861[[1]](#footnote-1), the Court is of the view that efficiency considerations greatly militate in favor of bifurcation of liability and damages in this class action lawsuit (not polyfurcation as addressed in *Spitzfaden v. Dow Corning Corp*., 833 So.2d 512 (La. App. 4 Cir. 2002). Accordingly:

IT IS ORDERED, ADJUDGED AND DECREED that the Motion to Bifurcate Trial, filed June 14, 2013 by Mary Susan Darnell Smith through her agent Suzanne Smith Upchurch, Elbert Newman Graves and Linda Walker Hooper on behalf of the certified class, is granted with all liability issues tried in the first proceeding and damages, if necessary, to be determined in a subsequent proceeding.

Signed this 7th day of November, 2013 in Shreveport, Caddo Parish, Louisiana.

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SCOTT J. CRICHTON

DISTRICT JUDGE

DISTRIBUTION:

J. Patrick Hennessy, Counsel for plaintiffs (Representative Plaintiffs)

Kristina B. Gustavson, Counsel for Regions Bank

Andre G. Coudrain, Counsel for American Bank and Trust Co.

1. See *Smith v. McGuire Funeral Home, Inc.,* No. 46,326, 70 So.3d 873 (La. App. 2 Cir. 2011). [↑](#footnote-ref-1)