

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA**

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**FEDERAL DEPOSIT INSURANCE  
CORPORATION,**

**Plaintiff,**

**v.**

**THE BANK OF NEW YORK,**

**Defendant.**

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**Civil Action No. 06-1975 (ESH)**

**ORDER**

For the reasons stated in the accompanying Memorandum Opinion, it is hereby **ORDERED** that defendant's motion to dismiss [# 5] is **DENIED**, plaintiff's "Emergency Motion to Stay Related Cases" [# 8] is **GRANTED IN PART**, and plaintiff's motion for judgment [# 15] is **GRANTED**; and it is

**FURTHER ORDERED** that defendant, the Noteholders, and any persons acting in concert with defendant or the Noteholders are hereby permanently enjoined from relitigating the issue of whether early amortization triggered by the appointment of NextBank's receiver is enforceable, except in the context of the pending D.C. Circuit appeal, *Bank of N.Y. v. FDIC*, 453 F. Supp. 2d 82 (D.D.C. 2006), *appeal docketed*, No. 06-5358 (D.C. Cir. Nov. 3, 2006); and it is

**FURTHER ORDERED** that, within five calendar days of this Order, defendant shall distribute to plaintiff the net cash distributable to the Transferor as described under "Transferor Allocations/Distributions" on the monthly distribution statements, consisting of the Transferor share of finance charge collections, the interest earned on the Collections Account, the Transferor

share of principal collections, minus the Transferor allocated servicing fees, plus earned interest;  
and it is

**FURTHER ORDERED** that defendant shall continue to make the scheduled monthly payments of “Transferor Allocations/Distributions,” as described on the monthly distribution statements, to the FDIC unless this Court’s judgment of September 27, 2006, is reversed.

s/  
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ELLEN SEGAL HUVELLE  
United States District Judge

Date: January 29, 2007