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## FDIC SUES FORMER D&OS OF COMMUNITY BANK OF WEST GEORGIA

Nov 21, 2012

The FDIC has filed its fifth professional liability lawsuit since early October. Its most recent lawsuit is against the former directors and officers of Community Bank of West Georgia (Villa Rica, Georgia), which went into receivership in June 2009. A copy of the [FDIC's complaint](#) is attached [here](#).

Community Bank of West Georgia (the "Bank" or "Community Bank") opened in March 2003. The FDIC alleges that the Bank's original business plan was to grow its assets for a planned sale within five years. Towards this end, the FDIC contends, the Bank focused on increasing its real estate lending, primarily in ADC and CRE loans and purchase of loan participations.

The FDIC's claims for negligence and gross negligence are rooted in many of the same types of general allegations that have become part of the FDIC's standard pleading mantra: (i) failure to comply with the Bank's own policies and procedures, banking regulations, and prudent lending practices; (ii) failure to adequately monitor and supervise the Bank's lending function; (iii) disregard of regulators' warnings and failing to address obvious problems; (iv) deficient underwriting, risk management, and credit administration practices that left the Bank "fatally exposed to the inevitable cyclical decrease in real estate values." In total, the FDIC seeks to recover losses in excess of \$16.8 million from 20 specific loans and loan participations.

Interestingly, the FDIC once again specifically alleges in its complaint that the defendants are not entitled to the application of Georgia's version of the Business Judgment Rule. This appears to be a patent attempt by the FDIC to "plead around" the Northern District of Georgia's prior rulings in the *Haven Trust* and *Integrity Bank* cases that the Business Judgment Rule shields directors and officers from claims for ordinary negligence. Defendants' counsel will most certainly file a motion to dismiss in this case, and the district court's disposition of this case in view of the *Haven Trust* and *Integrity Bank* rulings will bear watching.

## MEET THE TEAM



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