

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ALABAMA
SOUTHERN DIVISION**

ANN TIFFIN COWDEN,)	
)	
Plaintiff,)	
)	
v.)	CIVIL ACTION 11-0112-WS-N
)	
WACHOVIA SECURITIES, etc., et al.,)	
)	
Defendants.)	

ORDER

This matter is before the Court on the motion of defendant Wachovia Securities (“Wells Fargo”) to stay all proceedings pending appeal. (Doc. 9). The parties have filed briefs in support of their respective positions, (Docs. 10, 19, 20), and the motion is ripe for resolution.

“When a litigant files a motion to stay litigation in the district court pending an appeal from the denial of a motion to compel arbitration, the district court should stay the litigation so long as the appeal is non-frivolous.” *Blinco v. Green Tree Servicing, LLC*, 366 F.3d 1249, 1253 (11th Cir. 2004). While the Court does not embrace all of Wells Fargo’s argument, it does concur that the appeal is not frivolous. The plaintiff, while opposing a stay, does not disagree.

Accordingly, the motion to stay is **granted**. This action is **stayed** pending resolution of Wells Fargo’s appeal.¹

¹ As noted in a previous order, the appeal might have been obviated by a motion to reconsider. Moreover, the plaintiff indicates that Wells Fargo has recently produced documents indicating that the specific accounts at issue are governed by contracts containing their own arbitration clauses, which would moot her objection to arbitration. (Doc. 19 at 3). The Court expects the parties to resolve the arbitration issue efficiently and without unnecessary delay or consumption of judicial resources, trial or appellate.

DONE and ORDERED this 17th day of May, 2011.

s/ WILLIAM H. STEELE
CHIEF UNITED STATES DISTRICT JUDGE