

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

ELLEN STOODY-BROSER,

Plaintiff,

No. C 08-02705 JSW

v.

BANK OF AMERICA, N.A. and BANK OF
AMERICA CORPORATION,

**NOTICE OF QUESTIONS FOR
HEARING**

Defendants.

TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD, PLEASE TAKE
NOTICE OF THE FOLLOWING QUESTIONS FOR THE HEARING SCHEDULED ON
AUGUST 21, 2009 AT 9:00 A.M.:

The Court has reviewed the parties' papers and, thus, does not wish to hear the parties
reargue matters addressed in those pleadings. If the parties intend to rely on authorities not
cited in their briefs, they are ORDERED to notify the Court and opposing counsel of these
authorities reasonably in advance of the hearing and to make copies available at the hearing. If
the parties submit such additional authorities, they are ORDERED to submit the citations to the
authorities only, with reference to pin cites and without argument or additional briefing. *Cf.*
N.D. Civil Local Rule 7-3(d). The parties will be given the opportunity at oral argument to
explain their reliance on such authority. The Court suggests that associates or of counsel
attorneys who are working on this case be permitted to address some or all of the Court's
questions contained herein.

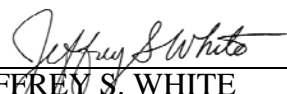
1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

The parties shall each have 20 minutes to address the following questions:

1. Considering the passage of time and this Court's previous ruling, is the motion to stay this action (docket no. 42) moot? If not, what further relief do Defendants seek from that motion?
2. Defendants argue that the gravamen of the complaint is that Defendants engaged in transactions that inured to their benefit at the expense of Plaintiff and the purported class and that regardless of how she legally characterizes her claims, material misrepresentations and omissions serve as the factual predicate for Plaintiff's state law claims.
 - a. Is the failure to provide objective recommendations for investment instead of investing trust assets in affiliated proprietary mutual funds inherently misleading?
 - b. Where, specifically, in the complaint are the misrepresentations or omitted material facts relating to those transactions?
 - c. In what part of the complaint does Plaintiff challenge Defendants' failure to disclose material facts?
3. If the Court were to grant Defendants' motion to dismiss, on what basis could it give Plaintiff leave to amend?
4. Do the parties have anything further they wish to address?

IT IS SO ORDERED.

Dated: August 20, 2009



JEFFREY S. WHITE
UNITED STATES DISTRICT JUDGE