

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
CASE NO. 09-MD-02106-CIV-GOLD/GOODMAN**

**IN RE: FONTAINEBLEAU LAS VEGAS
CONTRACT LITIGATION**

MDL No. 2106

This document relates to all actions.

STIPULATION RE DESIGNATION OF RECORD ON REMAND

Whereas this action was originally styled as *Avenue CLO Fund, Ltd., et al. v. Bank of America, et al.*, and filed in the United States District Court for the District of Nevada (District of Nevada Case No. 09-CV-01047) on June 9, 2009 (“Avenue Action”);

Whereas on December 2, 2009, the United States Judicial Panel on Multidistrict Litigation (“JPML”) transferred this case to the United States District Court for the Southern District of Florida (becoming S.D. Fla. Case No. 09-cv-23835) and coordinated it with an action styled as *Fontainebleau Las Vegas, LLC v. Bank of America, N.A., et al* (S.D. Fla. Case No. 09-cv-21879) (“Trustee Action”);

Whereas on January 4, 2010, the JPML transferred a related action styled as *ACP Master, Ltd., et al. v. Bank of America, N.A., et al.*, filed in the United States Court for the Southern District of New York on September 21, 2009 (S.D.N.Y. Case No. 09-CV-8064) (“Aurelius Action”) to the United States Court for the Southern District of Florida (becoming S.D. Fla. Case No. 10-cv-20236) to be consolidated with the Avenue Action and the Trustee Action;

Whereas on September 20, 2010, final judgment was entered dismissing the Trustee Action [D.E. 141];¹

Whereas on April 19, 2011, the Aurelius Action was dismissed without prejudice pursuant to a stipulation providing that the Aurelius plaintiffs, whose interests had been acquired by the Avenue plaintiffs, could pursue their claims against Bank of America, N.A. (“BANA”) in the Avenue Action [D.E. 238];

Whereas on December 13, 2013, the JPML issued a Remand Order, remanding the Avenue Action to the District of Nevada [D.E. 392];

Whereas Plaintiffs and BANA are required to designate the record to be remanded to the District of Nevada;

Whereas Plaintiffs and BANA desire to designate the entire record of the coordinated proceedings with the exception of documents that relate solely to the Trustee Action;

Whereas Plaintiffs and BANA desire to include any documents that were filed in the underlying dockets for the Avenue Action and the Aurelius Action that were not filed on the master MDL docket;

Whereas Plaintiffs and BANA desire that any and all documents that were filed under seal in connection with the MDL be sent to the District of Nevada;

NOW, THEREFORE, IT IS HEREBY STIPULATED AND AGREED by the undersigned counsel for Plaintiffs and BANA that the record to be remanded shall contain:

¹ All docket entry numbers refer to entries on the master docket of Case No. 09-md-2106.

1. All documents filed on the master docket, Case No. 09-md-2106, except the following docket entries, which relate solely to the Trustee Action: 3, 77, 92, 104, 135, 139, 141, 168, 169.

2. The following docket entries on the underlying docket for the Avenue Action, Case No. 09-cv-23835, that are not on the master docket: 77, 112, 115 - 126, 130, 134, 135, 145.

3. The following docket entries on the underlying docket for the Aurelius Action, Case No. 10-cv-20236, that are not on the master docket: 1 - 27, 29 - 31, 45, 53, 60 - 65, 67 - 70, 73.

4. All documents filed under seal in the MDL, Case No. 09-md-2106, including those identified by the following docket entry numbers on the master docket: 254 - 261, 267 - 283, 288 - 299, 302 - 309, 311 - 317, 320 - 324, 332 - 334, 367.

Date: January 13, 2014

By: /s/ Jamie Zysk Isani
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CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the foregoing **STIPULATION RE DESIGNATION OF RECORD ON REMAND** was filed with the Clerk of the Court using CM/ECF. I also certify that the foregoing document is being served this day on all counsel of record or pro se parties identified on the attached Service List in the manner specified either via transmission of Notices of Electronic Filing generated by CM/ECF or in some other authorized manner for those counsel or parties who are not authorized to receive electronically the Notice of Electronic Filing.

Dated: January 13, 2014.

/s/ Lorenz M. Prüss

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