

THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF NORTH CAROLINA  
ASHEVILLE DIVISION  
CIVIL CASE NO. 1:11cv35

SYNOVUS BANK, )  
)  
Plaintiff, )  
)  
vs. )  
)  
CHARLES KIMMEL, )  
JEREMY KIMMEL, JAY LURIE, and )  
ELIZABETH POST, )  
)  
Defendants/ )  
Third-Party Plaintiffs, )  
)  
vs. )  
)  
SYNOVUS FINANCIAL CORP. d/b/a )  
NATIONAL BANK OF SOUTH )  
CAROLINA, et al., )  
)  
Third-Party Defendants. )  
\_\_\_\_\_ )

MEMORANDUM OF  
DECISION AND ORDER

**THIS MATTER** is before the Court on the Plaintiff Synovus Bank’s Motion to Dismiss the Defendants’ Second Amended Counterclaims [Doc. 35] and the Third Party Defendant Synovus Financial Corp.’s Motion to Dismiss Defendants’ Second Amended Third Party Claims [Doc. 36].

Also pending before the Court is the case of Synovus Bank v. Coleman, Civil Case No. 1:11cv66 (W.D.N.C.). The facts, legal issues, and causes of

action asserted by the parties in the present case are virtually identical to those presented in Coleman, and the same attorneys represent the Defendants in both cases. Even though the cases have not been consolidated, the decision of this Court in the Order being entered contemporaneously herewith in Coleman addresses and disposes of all of the issues raised by the motions currently before the Court in this matter. The Order in Coleman, therefore, is incorporated herein, and the current motions will be disposed of in accord therewith.

### **ORDER**

**IT IS, THEREFORE, ORDERED** that the Plaintiff Synovus Bank's Motion to Dismiss the Defendants' Second Amended Counterclaims [Doc. 35] is **GRANTED IN PART** and **DENIED IN PART**. Specifically, the Bank's Motion to Dismiss the Defendants' ILSA claim is **DENIED**. In all other respects, the Bank's Motion to Dismiss is **GRANTED**, and all of the Defendants' counterclaims, with the exception of their ILSA claim, are **DISMISSED WITH PREJUDICE**.

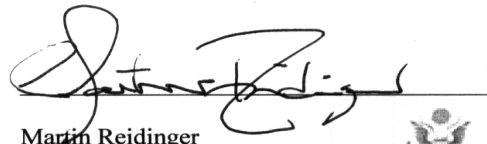
**IT IS FURTHER ORDERED** that the Third Party Defendant Synovus Financial Corp.'s Motion to Dismiss Defendants' Second Amended Third Party

Claims [Doc. 36] is **GRANTED**, and the Defendants' Second Amended Third Party Claims against Synovus Financial Corp. are hereby **DISMISSED WITH PREJUDICE**.

**IT IS FURTHER ORDERED** that the parties shall conduct an initial attorneys' conference within fourteen (14) days of the entry of this Order and shall file a Certificate of Initial Attorneys' Conference within seven (7) days thereafter.

**IT IS SO ORDERED.**

Signed: August 15, 2012



Martin Reidinger  
United States District Judge

