

**IN THE UNITED STATES DISTRICT COURT
 FOR THE WESTERN DISTRICT OF NORTH CAROLINA
 CHARLOTTE DIVISION
 3:07cv11**

**ELENA M. DAVID; ARLEEN J. STACH; and
 VICTOR M. HERNANDEZ,**

Plaintiffs

Vs.

ORDER

**J. STEELE ALPHIN; AMY WOODS
 BRINKLEY; EDWARD J. BROWN, III;
 CHARLES J. COOLEY; RICHARD M.
 DeMARTINI; BARBARA J. DESOER;
 JAMES H. HANCE; LIAM E. McGEE;
 EUGENE M. McQUADE; ALVARO G.
 de MOLINA; MICHAEL E. O'NEILL;
 OWEN G. SHELL, JR.; R. EUGENE
 TAYLOR; F. WILLIAM VANDIVER, JR.;
 BRADFORD H. WARNER; CHARLES W.
 COKER; STEVEN JONES; KENNETH D.
 LEWIS; BANK OF AMERICA
 CORPORATION; BANK OF AMERICA
 CORPORATION CORPORATE
 BENEFITS COMMITTEE,**

Defendants.

_____)

THIS MATTER is before the court on defendants’ “Motion to Continue Stay of Discovery as to issues of Market Timing Involving Bank of America and its Affiliated Mutual Funds Until May 7, 2010” (#163). Plaintiffs’ have filed a timely response asserting strong arguments as to why the stay should not be continued a third

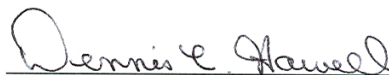
time, including arguments that the information sought is relevant to affirmative defenses asserted by defendants, that matters before the MDL panel have not been resolved as anticipated by defendants, and that discovery in this matter is coming to a close.

Plaintiffs have presented the court with compelling arguments in its response. The court waited until April 26, 2010, to consider any Reply that defendants might have to such arguments. None was filed and defendants failed to file a Notice with the court as required by Local Civil Rule 7.1(E).

ORDER

IT IS, THEREFORE, ORDERED that defendants' "Motion to Continue Stay of Discovery as to issues of Market Timing Involving Bank of America and its Affiliated Mutual Funds Until May 7, 2010" (#163) is **DENIED**, the **STAY** is **LIFTED**, and plaintiffs are instructed to serve appropriate discovery requests promptly.

Signed: April 27, 2010



Dennis L. Howell
United States Magistrate Judge



