

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION**

ACTUS, LLC,

Plaintiff,

v.

BANK OF AMERICA CORP., et al.

Defendants.

CIVIL ACTION NO. 2:09-cv-102-TJW

JURY TRIAL DEMANDED

UNOPPOSED MOTION FOR EXTENSION OF TIME

COMES NOW Plaintiff, Actus, LLC (“Actus”) and files this Unopposed Motion for Extension of Time to Respond to Defendant Capital One Financial Corp’s (“Capital One”) Motion to Dismiss for Failure to State a Claim:

Capital One filed its motion to dismiss on July 13, 2009. (Dkt. 128) Actus’ response is currently due on August 4, 2009. Actus respectfully requests additional time to file its response up to and including August 20, 2009. This extension is not for purposes of delay but to allow adequate time to respond.

Counsel for Actus conferred with counsel for Capital One Financial Corp. and does not oppose the relief requested herein.

Dated: July 31, 2009

Respectfully Submitted,

ACTUS, LLC

By: /s/ William E. "Bo" Davis, III

William E. "Bo" Davis III
Texas State Bar No. 24047416
The Davis Firm, PC
111 West Tyler Street
Longview, Texas 75601
Phone: 903-230-9090
Fax: 903-230-9661

ATTORNEY FOR PLAINTIFF
ACTUS, LLC

CERTIFICATE OF CONFERENCE

The undersigned certifies that he conferred with counsel for Capital One Financial Corp. and that Capital One Financial Corp. does not oppose the relief requested herein.

/s/ William E. "Bo" Davis, III
William E. "Bo" Davis, III

CERTIFICATE OF SERVICE

The undersigned certifies that the foregoing document was filed electronically in compliance with Local Rule CV-5(a). As such, this document was served on all counsel who are deemed to have consented to electronic service. Local Rule CV-5(a)(3)(A). Pursuant to Fed. R. Civ. P. 5(d) and Local Rule CV-5(d) and (e), all other counsel of record not deemed to have consented to electronic served were served with a true and correct copy of the foregoing by email, on this the 31st day of July, 2009.

/s/ William E. "Bo" Davis, III
William E. "Bo" Davis, III