

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

<b>ACTUS, LLC</b>	)	
	)	
<b>Plaintiff,</b>	)	<b>Civil Action No. 2:09-cv-102-TJW</b>
	)	
<b>v.</b>	)	
	)	<b>JURY TRIAL DEMANDED</b>
<b>BANK OF AMERICA CORP., et al.,</b>	)	
	)	
<b>Defendants.</b>	)	

**STIPULATED MOTION FOR DISMISSAL WITH PREJUDICE**

Plaintiff Actus, LLC and Defendant Capital One Financial Corporation, pursuant to Fed. R. Civ. P. 41(a)(2) and (c), hereby move for an order dismissing all claims in this action WITH PREJUDICE and dismissing all counterclaims as MOOT, subject to the terms of that certain agreement entitled "SETTLEMENT AND LICENSE AGREEMENT" and dated September 3, 2010, with each party to bear its own costs, expenses and attorneys fees.

Dated: September 13, 2010

**CAPITAL ONE FINANCIAL  
CORPORATION**

By: /s/ J. Rodney Gilstrap  
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Respectfully Submitted,

**ACTUS, LLC**

By: /s/ William E. Davis, III  
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**CERTIFICATE OF SERVICE**

The undersigned certifies that the foregoing document was filed electronically in compliance with Local Rule CV-5(a). As such, this motion 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(e), all other counsel of record not deemed to have consented to electronic service were served with a true and correct copy of the foregoing by certified mail, return receipt requested, on this the 13th day of September, 2010.

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*/s/ J. Rodney Gilstrap*

