

**UNITED STATES COURT OF APPEALS
FOR THE ELEVENTH CIRCUIT**

JONATHAN E. PERLMAN, Esq., as court
appointed Receiver of Creative Capital
Consortium, LLC, et al.,

Plaintiff-Appellant,

vs.

Appeal No.: 12-13436

BANK OF AMERICA, N.A.,

Defendant-Appellee.

**APPELLEE BANK OF AMERICA, N.A.'S FIRST REQUEST FOR
EXTENSION OF TIME TO FILE APPELLEE'S BRIEF**

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Counsel for Defendant-Appellee

**CERTIFICATE OF INTERESTED PERSONS AND
CORPORATE DISCLOSURE STATEMENT**

Appellee Bank of America, N.A. (“BANA”) hereby makes the following statements pursuant to Federal Rule of Civil Procedure 26.1 and 11th Cir. R. 26.1-1. The following persons have an interest in the outcome of this appeal:

1. A Creative Capital Concept\$, LLC – Receivership Entity
2. BAC North America Holding Company
3. BANA Holding Corporation
4. Bank of America, N.A., Appellee
5. Bank of America Corporation
6. Blum, W. Barry – lead counsel for Appellant
7. Cimo, David – counsel for Appellant
8. Contreras-Martinez, Carmen – counsel for Appellant
9. Creative Capital Consortium, LLC – Receivership Entity
10. Culleiton, Joseph E. – counsel for Appellee
11. G\$Trade Financial, Inc. – Receivership Entity
12. Genovese Joblove & Battista, P.A. – counsel for Appellant
13. Gonzalez, Juan A. – counsel for Appellee
14. Hackett, Mary J. – counsel for Appellee
15. Hopkins, James M. – United States Magistrate Judge
16. Hurley, Daniel T.K. – the Honorable District Court Judge
17. Josephs Jack, P.A. – counsel for Appellant, predecessor to The Josephs Law Firm

18. Josephs, Michael R. – counsel for Appellant
19. Kaufman, Dora Faye – counsel for Appellee
20. Lemoie, David – counsel for Appellant
21. Liebler, Gonzalez & Portuondo, P.A. – counsel for Appellee (law firm)
22. NB Holdings Corporation
23. Perlman, Jonathan E., Court-appointed Receiver – Appellant
24. Pickens, Dustin N. – counsel for Appellee
25. Reed Smith, LLP – counsel for Appellee (law firm)
26. Reverse Auto Loan, LLC – Receivership Entity
27. Root, Gretchen Woodruff – counsel for Appellee
28. The Dream Makers Capital Investments, LLC – Receivership Entity
29. The Josephs Law Firm – counsel for Appellant (law firm)
30. United Investment Club, LLC – Receivership Entity
31. Unity Entertainment Group, Inc. – Receivership Entity
32. Watterson, Kim M. – counsel for Appellee
33. Wealth Builders Circle, LLC – Receivership Entity

BANA is a wholly owned subsidiary of BANA Holding Corp., which is a wholly owned subsidiary of BAC North America Holding Company, which is a wholly owned subsidiary of NB Holdings Corp., which is a wholly owned subsidiary of Bank of America Corporation (“BAC”). BAC is a publicly traded entity. BAC common stock is listed on the New York Stock Exchange (“NYSE”)

under the symbol BAC. BAC does not have any parent corporations and no publicly held company has an ownership interest of 10% or more of BAC.

/s/ Kim M. Watterson

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Counsel for Defendant-Appellee

Dated: November 19, 2012

**APPELLEE BANK OF AMERICA, N.A.'S FIRST REQUEST FOR
EXTENSION OF TIME TO FILE APPELLEE'S BRIEF**

Defendant-Appellee Bank of America, N.A. ("BANA") moves this Court for an Order extending the deadline for the Appellee's Brief under Federal Rule of Appellate Procedure 26(b) and 11th Cir. R. 26-1. BANA requests a 60-day extension resulting in a deadline of February 8, 2013. In support of this motion, counsel for BANA respectfully represents as follows:

1. These two consolidated appeals involve questions relating to the district court's order dismissing plaintiff's lawsuit against BANA and subsequent ruling that the plaintiff's motion for reconsideration of the dismissal order was untimely.

2. This is BANA's first request for an extension of time. Oral argument has not been scheduled, and no party would be prejudiced by the granting of this motion. The current briefing schedule requires the Appellee's Brief to be filed by Monday, December 10, 2012. Counsel for BANA requests that this Court extend the time to file the Appellee's Brief by 60 days, resulting in a new deadline of February 8, 2013.

3. Plaintiff-Appellant Jonathan E. Perlman sought multiple extensions of time, totaling over three months, to file the Appellant's Opening Brief. BANA did not oppose any of these motions, and this Court granted all of them.

4. The Plaintiff-Appellant's Brief was originally due on August 7, 2012. Plaintiff requested an extension of 60 days in anticipation of the consolidation of

that appeal (from the district court's order dismissing the case) and a second appeal (from the district court's denial of reconsideration). This Court granted the motion and established a due date of October 9, 2012. Plaintiff subsequently moved for consolidation of the two appeals and the briefing schedules, as anticipated. This Court granted the motion and established a due date of October 29, 2012. Plaintiff requested a one-week extension over the phone, which was granted, resulting in a due date of November 5, 2012. Finally, Plaintiff requested an additional four-day extension, which this Court granted. The Appellant's Opening Brief was filed on November 9, 2012, about three months after the original due date in the first appeal.

5. Good cause exists for this request. Counsel for BANA has begun to work on its Appellee's Brief, but counsel's schedule during the briefing period encompasses numerous pre-existing deadlines including an oral argument in Kansas City, Missouri on two consolidated appeals in the U.S. Court of Appeals for the Eighth Circuit; an oral argument in New York City on an appeal in the U.S. Court of Appeals for the Second Circuit; and merits briefing on appeals in this Court, the California Supreme Court, and the Pennsylvania intermediate appellate court, to name a few.

6. Additional time to prepare the Appellee's Brief will help to ensure that counsel has responded to the arguments presented in the Appellant's Brief and has presented all of the factual and legal arguments that will assist this Court in the resolution of the appeal.

7. The ordinary practice of counsel is to request a more usual 30-day extension. Here, good cause exists for BANA to request 60 days instead. A 30-day extension would result in a deadline for the Appellee's Brief of shortly after the New Year. Those thirty days would also encompass the intervening holidays—both Thanksgiving and the late-December holidays. In light of the holidays, and to be able to accommodate both completion of the brief and client review, BANA requests a 60-day extension.

8. Pursuant to 11th Cir. R. 26-1, BANA states that its counsel has consulted opposing counsel and that opposing counsel has no objection to, and consents to, the relief sought.

For the foregoing reasons, BANA respectfully requests that this Court extend the time to file the Appellee's Brief by 60 days, resulting in a new deadline of February 8, 2013.

/s/ Kim M. Watterson

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CERTIFICATE OF SERVICE

I hereby certify that on this 19th day of November, 2012, a true and correct copy of the foregoing was served upon the following via ECF:

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