

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
(WEST PALM BEACH DIVISION)**

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

CASE NO. 11-80331-CIV/HURLEY

Plaintiff,

vs.

BANK OF AMERICA, N.A.,

Defendant.

**MOTION FOR EXTENSION OF TIME
OF TRIAL DATE AND CASE MANAGEMENT DEADLINES**

Defendant Bank of America, N.A. (“Bank of America”), by and through its undersigned counsel, hereby files this Motion for Extension of Time of Trial Date and Case Management Deadlines, and states as follows:

1. Plaintiff (“Receiver”) initiated this action on March 23, 2011. [Dkt. 1]
2. On April 19, 2011, this Court entered its Order Setting Trial Date & Discovery Deadlines, Referring Case to Mediation & Referring Discovery to United States Magistrate Judge (“Trial Order”) setting this case for trial on the trial calendar commencing April 2, 2012. [Dkt. 8].
3. On December 13, 2011, this Court entered its Order Granting the parties’ Joint Motion for Extension of Pre-Trial Deadlines (“Pretrial Extension Order”), extending only the deadline for filing summary judgment motions by thirty (30) days, and the deadline for submitting expert disclosures by sixty (60) days. [Dkt. 50].
4. On December 22, 2011, this Court issued its Order Granting in Part and Denying

in Part Defendant's Motion to Dismiss ("Dismissal Opinion and Order"). [Dkt. 51].

5. The Court's Dismissal Opinion and Order, *inter alia*, granted Defendant's Motion and dismissed without prejudice Counts VI-VIII, which are claims pursuant to Chapter 726 of the Florida Uniform Fraudulent Transfers Act ("FUFTA").

6. On January 9, 2012, the Receiver filed his Amended Complaint for Damages and Demand for Jury Trial ("Amended Complaint"), wherein he reasserted certain causes of action and amended and re-pled his FUFTA claims.

7. Pursuant to Federal Rule 12(a)(4) and Local Rule 7.1, Defendant's new deadline to answer or otherwise respond to the Receiver's Amended Complaint is January 26, 2012.

8. Under the Pretrial Extension Order, there are a number of pretrial deadlines set for the near future, including a deadline of January 23, 2012 for summary judgment motions, and a mediation cutoff date of January 30, 2012.

9. Given that Receiver just filed his Amended Complaint, Defendant requires additional time to analyze and investigate the new allegations contained therein, particularly with respect to the amended FUFTA claims, and then answer or otherwise respond to the Amended Complaint. Thereafter, Defendant will require additional time to conduct pretrial discovery and prepare motions for summary judgment and/or prepare for trial on the amended complaint. Indeed, given the timing of the filing of the Receiver's Amended Complaint, Defendant's summary judgment deadline (January 23) currently falls before its deadline to answer or otherwise respond to the Amended Complaint (January 26).

10. The Parties are and have been actively engaged in discovery, including written discovery and depositions, and are working amicably and in good faith towards the completion of discovery. Both Parties have exchanged requests for production of documents, and both

Parties have responded and produced documents pursuant to the requests for production. Four depositions have been completed, and the Parties are currently scheduling depositions covering a number of Rule 30(b)(6) topics directed to Defendant.

11. Defendants anticipate that certain additional discovery will be noticed and served based upon the Receiver's documents produced to date, and require additional time to determine whether or not the allegations in the Amended Complaint require additional discovery. The contemplated and potential additional discovery will further support and inform the opinions of expert witnesses, and will create and supplement the factual record for motions for summary judgment.

12. Based upon the foregoing, Defendant respectfully requests an extension of the trial date and case management deadlines of one hundred and eighty (180) days from the current deadlines so that Defendant has sufficient time to analyze and respond to the Amended Complaint, so that the Parties can conduct discovery and prepare the case for trial, and so that the Court has sufficient time to make a determination as to the disposition of potentially dispositive motions.

13. The Receiver does not oppose an extension of certain pretrial deadlines, but only agrees to a thirty (30) day extension of the summary judgment deadline to February 22, 2012, and a thirty (30) day extension of the mediation cutoff date to February 24, 2012.

14. Defendant does not believe that the time period proposed by the Receiver allows sufficient time for the orderly resolution of the issues set forth herein and the completion of discovery so that this case is ready for trial.

15. This motion has not been interposed for delay and will not prejudice any Party, but will allow the Parties and the Court sufficient time to decide the case on the merits.

WHEREFORE, Defendant Bank of America, N.A., respectfully requests to extend the trial date and case management deadlines by 180 days from the current deadlines, and to grant such other and further relief as is just and proper.

CERTIFICATE OF COMPLIANCE WITH LOCAL RULE 7.1(a)(3)

I HEREBY CERTIFY that, in accordance with Local Rule 7.1(a)(3), the undersigned has conferred with the Receiver's counsel regarding the issues raised in this Motion, and agree, in part, to the entry of the relief requested herein. Specifically, the Receiver does not oppose a thirty (30) day extension of the deadlines for (1) motions for summary judgment, and (2) the mediation cutoff date.

Date: January 9, 2012

Respectfully submitted,

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Attorneys for Defendant Bank of America, N.A.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 9th day of January, 2012, I electronically caused the foregoing document to be filed with the Clerk of the Court using CM/ECF. I also certify that the foregoing document is being served this day on all counsel of record via transmission of Notices of Electronic Filing generated by CM/ECF.

/s/ Juan A. Gonzalez, Esq. _____
Juan A. Gonzalez

SERVICE LIST

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ORDER

THIS CAUSE, having come before the Court by Defendant's Motion for Extension of of Time of Trial Date and Case Management Deadlines, and the Court having considered the Motion and other pertinent portions of the record, and good cause appearing, it is hereby

ORDERED AND ADJUDGED that:

1. Bank of America's Motion for Extension of Trial Date and Case Management Deadlines is GRANTED.

2. The trial date and case management deadlines are hereby extended 180 days from the current deadlines.

DONE AND ORDERED in Chambers at West Palm Beach, Florida on this _____ day of January, 2012.

DANIEL T.K. HURLEY
UNITED STATES DISTRICT JUDGE

Copies to: All counsel of record