

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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In re PARMALAT SECURITIES LITIGATION

This document relates to: 05 Civ. 04015

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DR. ENRICO BONDI, Extraordinary  
Commissioner of Parmalat Finanziaria, S.p.A.,  
Parmalat S.p.A. and other affiliated entities in  
Extraordinary Administration under the laws of  
Italy,

Plaintiff,

v.

BANK OF AMERICA CORPORATION;  
BANK OF AMERICA NATIONAL TRUST  
& SAVINGS ASSOCIATION;  
BANC OF AMERICA SECURITIES LLC;  
BANC OF AMERICA SECURITIES LIMITED;  
BANK OF AMERICA INTERNATIONAL LTD.  
and BANK OF AMERICA, N.A.

Defendants.

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MASTER DOCKET

04 MD 1653 (LAK) ECF Case

ELECTRONICALLY FILED

1:05 Civ. 04015 (LAK)

**BANK OF AMERICA'S AND DR. ENRICO BONDI'S JOINT MOTION TO STAY**

The Bank of America defendants (“BoA”) and Plaintiff Dr. Enrico Bondi respectfully move this Court for an administrative order staying this action (No. 05 Civ. 04015) pending the satisfaction of certain conditions in the settlement that BoA has reached with Dr. Bondi.

Currently, this Court has pending before it two motions in this action: a Motion for Summary Judgment on the Grounds of In Pari Delicto (Docket # 389) and a Motion in Limine to Exclude Testimony of Stefania Chiaruttini, Oliver Galea, Roberto Megna, and Franco Lagro (Docket # 384). BoA and Dr. Bondi seek to stay both of those motions without prejudice, as they relate to the *Bondi v. Bank of America* action (No. 05 Civ. 4015), pending the satisfaction of certain conditions in the settlement agreement, including the entry of a bar order. BoA and Dr. Bondi agree that the summary judgment motion and the motion to exclude the Italian witnesses should otherwise proceed as they relate to actions other than *Bondi v. Bank of America*.<sup>1</sup>

“The power to stay proceedings is incidental to the power inherent in every court to control the disposition of the causes on its own docket with economy of time and effort for itself, for counsel, and for litigants.” *LaSala v. Needham & Co., Inc.*, 399 F. Supp. 2d 421, 427 (S.D.N.Y. 2005) (quoting *Landis v. N. Am. Co.*, 299 U.S. 248, 254, 57 S. Ct. 163 (1936)). A stay is appropriate here not only to conserve the parties’ and Court’s time and resources, but also, significantly, to preserve the terms of the settlement. *See, e.g.*, 13B Charles A. Wright, et al., *Federal Practice & Procedure* § 3533.2 (2009) (“[A] court may stay proceedings if the parties

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<sup>1</sup> BoA filed the Motion for Summary Judgment jointly with Grant Thornton International (“GTI”) and Grant Thornton LLP (“GT-US”) to dismiss the following actions, Nos. 04 Civ. 9771, 05 Civ. 4015, 06 Civ. 0704, and 06 Civ. 2991. BoA and Dr. Bondi request a stay of this motion only as it relates to 05 Civ. 4015. Therefore, a stay will have no impact on BoA’s Motion for Summary Judgment against Parmalat Capital Finance Ltd. (“PCFL”) in No. 06 Civ. 0704, GTI’s and GT-US’s Motion for Summary Judgment against Dr. Bondi in No. 04 Civ. 9771, and GTI’s Motion for Summary Judgment against PCFL in No. 06 Civ. 2991.

Similarly, BoA filed the Motion in Limine jointly with GTI and GT-US in the following actions, Nos. 04 Civ. 9771, 05 Civ. 4015, and 04 Civ. 0030. Again, BoA and Dr. Bondi request a stay of this motion only as it relates to 05 Civ. 4015. Therefore, a stay will have no impact on GTI’s and GT-US’s Motion in Limine against Dr. Bondi in No. 04 Civ. 9771 and GTI’s and GT-US’s motion against Class Plaintiffs in No. 04 Civ. 0030.

are working toward settlement, or if the parties have agreed but the settlement requires approval by someone else”); *cf. In re Parmalat Secs. Litig*, No. 04-md-1653 (S.D.N.Y. Nov. 22, 2006) (staying discovery in light of Deloitte’s settlement negotiations with Dr. Bondi).

For the foregoing reasons, BoA and Dr. Bondi respectfully request that this Court enter a stay of proceedings in the *Bondi v. Bank of America* action pending the consummation of their settlement.

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**CERTIFICATE OF SERVICE**

I hereby certify that on this 28th day of July, 2009, I, Daniel A. McLaughlin, caused true and correct copies of the foregoing Bank of America's and Dr. Enrico Bondi's Joint Motion to Stay to be served by the Court's CM/ECF system and email upon all parties.

/s/ Daniel A. McLaughlin

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Daniel A. McLaughlin