

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF LOUISIANA

SUMAN DEWAN GUPTA, NEEL  
DEWAN GUPTA, JAGAN DEWEN  
GUPTA, and NARINDER M. GUPTA  
M.D.,

Plaintiffs

Versus

MERRILL LYNCH F/K/A MERRILL  
LYNCH & CO., INC., A SUBSIDIARY  
OF BANK OF AMERICA, MERRILL  
LYNCH BANK AND TRUST COMPANY  
(CAYMAN) LIMITED, and ANIL K.  
CHATURVEDI, *individually*,

Defendants

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\* CIVIL ACTION  
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\* CASE NO: 2:12-cv-01787-JTM-ALC  
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\* JUDGE JANE TRICHE MILAZZO  
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\* HON. ALMA L. CHASEZ  
\* MAGISTRATE JUDGE  
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**DEFENDANT ANIL K. CHATURVEDI’S MOTION TO DISMISS  
PURSUANT TO RULE 12(b)(1), (3) and (6),  
OR IN THE ALTERNATIVE TO COMPEL ARBITRATION,  
OR IN THE ALTERNATIVE TO TRANSFER VENUE**

Pursuant to Federal Rules of Civil Procedure 12(b)(1), (3) and (6), defendant Anil K. Chaturvedi moves to dismiss this action and the various claims brought by plaintiff Suman Dewan Gupta, Neel Dewan Gupta, Jagan Dewen Gupta and Narinder M. Gupta M.D. (“Plaintiffs”), on the grounds that:

- Plaintiffs’ claims should be dismissed pursuant to Rule 12(b)(1) and (3) because they are subject to arbitration provisions contained in the agreement between the Trust and Merrill Lynch, Pierce, Fenner & Smith Incorporated, Mr. Chaturvedi’s employer; and
- Plaintiffs’ breach of fiduciary duty claim should be dismissed pursuant to Rule 12(b)(6) because it is subject to a three-year statute of limitations which has run.

In the alternative, if this Court finds that dismissal is not appropriate, Mr. Chaturvedi seeks an order from this Court compelling arbitration. In the further alternative, if this Court finds that

neither dismissal nor arbitration are appropriate, Mr. Chaturvedi seeks transfer of this action from this District to the Southern District of New York pursuant to 28 U.S.C. § 1406(a).

In further support of this Motion, Mr. Chaturvedi refers to the accompanying memorandum in support and requests that this Court dismiss Plaintiffs' claims with prejudice and in their entirety.

Respectfully submitted,

/s/ Catherine E. Lasky  
**GLADSTONE N. JONES (#22221), T.A.**  
**LYNN E. SWANSON (#22650)**  
**CATHERINE E. LASKY (#28652)**  
**KERRY A. MURPHY (#31382)**  
**Jones, Swanson, Huddell & Garrison, L.L.C.**  
601 Poydras Street, Suite 2655  
New Orleans, Louisiana 70130  
Telephone: (504) 523-2500  
**Counsel for Anil K. Chaturvedi**

**CERTIFICATE OF SERVICE**

I hereby certify that I have on this 2nd day of November, 2012, served a copy of the foregoing upon all counsel of record by CM/ECF filing.

/s/ Catherine E. Lasky