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UNPUBLISHED OPINION. CHECK COURT  
RULES BEFORE CITING.

Court of Chancery of Delaware.  
Re: CBOT Holdings, Inc.

v.  
CHICAGO BOARD OPTIONS EXCHANGE, INC.  
C.A. No. 2369-VCN.

Submitted: Oct. 4, 2007.

Filed: Oct. 10, 2007.

[Kenneth J. Nachbar](#), Esquire, Morris, Nichols, Arsht  
& Tunnell LLP, Wilmington, DE.

[Andre G. Bouchard](#), Esquire, Bouchard, Margules &  
Friedlander, P.A., Wilmington, DE.

[Samuel A. Nolen](#), Esquire, Richards, Layton &  
Finger, P.A., Wilmington, DE.

[JOHN W. NOBLE](#), Vice Chancellor.

\*1 Dear Counsel:

I have Plaintiffs' Motion to Lift Stay to Allow for the Filing of a Third Amended Complaint and the Commencement of Discovery and Mr. Nolen's response of October 5, 2007, on behalf of the Defendants. [\[FN1\]](#) This matter was stayed on August 3, 2007, pending action by the United States Securities and Exchange Plaintiffs but also to incorporate the effect of any action taken by the SEC. There is no apparent reason why the modifications cannot be accomplished in one step, instead of the two-step process proposed by the Plaintiffs.

[FN1](#). I acknowledge that the Plaintiffs have requested a teleconference regarding their application. Although requests of this nature are regularly accommodated, no useful purpose would be served, in this instance, by gathering counsel together.

Finally, the Plaintiffs' motion implicitly--if not explicitly--predicts the action that the SEC will take. Perhaps their projections will be proven accurate. In that event, it would likely have been better if this

action had moved forward. The parties, of course, are free to forecast the future as they see fit. It is not, however, for the Court, in this instance, to look around those proverbial corners. The future course, if any, of this litigation, including the appropriate scope of any discovery, will likely be influenced in significant part by action of the SEC. This was a reason in August 2007 for deferring to the SEC; this reason remains viable in October 2007.

Accordingly, the Plaintiffs' motion to lift the stay is denied, without prejudice.

IT IS SO ORDERED.

Very truly yours,

*/s/ John W. Noble*

Not Reported in A.2d, 2007 WL 3051155 (Del.Ch.)

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