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8 **UNITED STATES DISTRICT COURT**
9 **SOUTHERN DISTRICT OF CALIFORNIA**
10 **SAN DIEGO DIVISION**

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12 IN RE: BANK OF AMERICA
13 CALIFORNIA UNEMPLOYMENT
14 BENEFITS LITIGATION

Case No. 21-md-02992-LAB

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17 **ORDER RE: CASE**
18 **MANAGEMENT**

19 This multidistrict litigation, involving two dozen member cases, a putative
20 class, and hundreds of individual plaintiffs, was transferred to this Court by a
21 conditional transfer order of the Judicial Panel on Multidistrict Litigation on June 4,
22 2021. The Court held a preliminary conference on July 19, 2021 to address:

- 23 1) A schedule for proceeding with the litigation;
24 2) An organizational structure for plaintiffs' counsel;
25 3) Administrative closure of the cases consolidated into the *Yick* action prior
26 to transfer;
27 4) Discovery, including whether the Court's discovery stay should remain in
28 place; and
5) Inclusion of the California Employment Development Department
("EDD") as a defendant.

1 Having heard the parties on each of these issues, the Court issues the following
2 **ORDERS:**

3 1) Plaintiffs' Interim Co-Lead Counsel (designated below) must file a single
4 master consolidated complaint on or before **August 17, 2021**. The
5 complaint shall include all claims on behalf of the putative class. Any
6 individual plaintiffs' claims involving similar facts and legal theories to the
7 putative class's claims should be included. Interim co-lead counsel
8 (designated below) may include other individual plaintiffs' claims at its
9 discretion. Any individual plaintiff's claims alleged in a member case but
10 not included in the consolidated pleading are **STAYED**. The consolidated
11 pleading shouldn't include any claims against the California Employment
12 Development Department. All such claims alleged in any member case are
13 **STAYED**.

14 2) Defendant must file any answer or motion to dismiss the master
15 consolidated complaint on or before **October 1, 2021**. If Defendant chooses
16 to file a motion to dismiss, the memorandum of points and authorities in
17 support of that motion must be no longer than 40 pages. Plaintiffs' response
18 to any motion to dismiss must be no longer than 40 pages and filed on or
19 before **November 15, 2021**, and any reply must be no longer than 20 pages
20 and filed on or before **December 15, 2021**. The Court will reserve
21 **January 10, 2021 at 11:30 a.m.** for the hearing on that motion, but counsel
22 must nevertheless call chambers to confirm that hearing date prior to filing
23 the motion.

24 3) Cotchett, Pitre, & McCarthy LLP and Altshuler Berzon LLP are appointed
25 as Interim Co-Lead Counsel. In that role, those firms will be responsible
26 for: (a) determining the litigation strategy on behalf of Class Action
27 Plaintiffs; (b) promoting the orderly and efficient conduct of this litigation
28 and avoiding unnecessary duplication and unproductive efforts; (c) acting

1 as spokesperson (either personally or by designee) for the Plaintiff class at
2 pretrial conferences; (d) delegating work responsibilities; (e) entering into
3 stipulations (either personally or by designee) necessary for the conduct of
4 the litigation with opposing counsel; and (f) communicating with
5 Defendant's counsel and the Court on behalf of Class Action Plaintiffs and
6 the class. No plaintiff may make any request for or response to discovery,
7 initiate or file any other pretrial or trial proceedings (except that individual
8 plaintiffs not already involved in a member case may file new complaints),
9 or file or respond to any dispositive motion except through Interim Co-Lead
10 Counsel.

11 4) Casey Gerry Schenk Fancavilla Blatt & Penfield LLP ("Casey Gerry") is
12 appointed as Interim Liaison Counsel for the class plaintiffs. The Law
13 Office of Daniel G. Shay is appointed as Interim Liaison Counsel for
14 individual plaintiffs. Liaison counsel will be responsible for: (a) working
15 with Interim Co-Lead Counsel to delegate work responsibilities to other
16 plaintiffs' counsel in a fair and orderly manner; (b) monitoring the activities
17 of all plaintiffs' counsel to ensure that plaintiffs' pretrial preparation is
18 conducted effectively, efficiently, and economically, that schedules are
19 met, and that unnecessary expenditures of time and expense are avoided;
20 (c) being available for communications to and from this Court, including
21 by distributing orders and other directions from the Court to counsel;
22 (d) providing plaintiffs' counsel (as required by applicable Court rules)
23 with the local rules, standing orders, and guidelines of the U.S. District
24 Court for the Southern District of California, standing orders of the Court,
25 and the rules of the undersigned District Judge and Magistrate Judge Berg,
26 and ensuring that any updates and changes to the local rules, standing
27 orders, and guidelines of this District or the Court are timely communicated
28 to counsel as needed; (e) working with all plaintiffs' counsel where it is

1 appropriate and relevant to their responsibilities; (f) creating and
2 maintaining a master service list of all Class Action Parties and their
3 respective counsel, and promptly advising the Court and Defendant's
4 counsel of any changes to the same; (g) distributing to counsel, as
5 appropriate, any orders, notices, and correspondence from the Court that
6 are not electronically filed, as well as any discovery, pleadings,
7 correspondence, or other documents from Defendant's counsel that are not
8 electronically filed; (h) for class Interim Liaison counsel only, obtaining
9 and maintaining time records for class plaintiffs' counsel, and preparing
10 and submitting related reports to the Court as requested; (i) communicating
11 with the Court as delegated by Interim Co-Lead Counsel; and (j)
12 participating in any settlement conferences together with Interim Co-Lead
13 Counsel.

14 5) Magistrate Judge Berg may lift the discovery stay in whole or in part.
15 Interim Co-Lead Counsel and Interim Liaison Counsel are **ORDERED** to
16 participate in a discovery conference with Judge Berg via Zoom on
17 **August 5, 2021 at 9:30 a.m.** Judge Berg will issue an order with
18 procedures for the discovery conference. Any part of the discovery stay not
19 lifted by Judge Berg will expire upon Bank of America's filing of an
20 answer.

21 6) The Clerk is ordered to administratively close the following cases, which
22 were consolidated with *Yick v. Bank of America* prior to transfer:

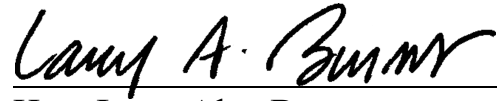
- 23 a. *Wilson v. Bank of America*, 21-cv-1087;
- 24 b. *Oosthuizen v. Bank of America*, 21-cv-1088;
- 25 c. *McClure v. Bank of America*, 21-cv-1089;
- 26 d. *Rodriguez v. Bank of America*, 21-cv-1090;
- 27 e. *Willrich v. Bank of America*, 21-cv-1093;
- 28 f. *Cajas v. Bank of America*, 21-cv-1094;

g. *Mosson v. Bank of America*, 21-cv-1095; and

h. *Stephanie Smith v. Bank of America*, 21-cv-1115.

IT IS SO ORDERED.

Dated: July 20, 2021



Hon. Larry Alan Burns
United States District Judge