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16 BANK OF AMERICA, N.A.

17 **UNITED STATES DISTRICT COURT**  
18 **SOUTHERN DISTRICT OF CALIFORNIA –**  
19 **SAN DIEGO DIVISION**

20 IN RE: BANK OF AMERICA  
21 CALIFORNIA UNEMPLOYMENT  
22 BENEFITS LITIGATION  
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Case No. 21-MD-02992-LAB-MSB

**DEFENDANT BANK OF  
AMERICA, N.A.'S STATUS  
REPORT**

Courtroom: 14A – 14th Floor  
Judge: Hon. Larry Alan Burns

Pursuant to the Court's June 15, 2021 Order, *see* Dkt. No. 16, Defendant Bank of America, N.A. ("Bank of America") submits the following status report.

**I. Related Cases**

There are two related cases pending in state or federal court that have not joined this multidistrict litigation:

1. *Sorensen v. Bank of America, N.A.*, Case No. 30-2021-01193785-CL-BT-CJC, was filed on April 5, 2021, and is pending in the Superior Court of California, County of Orange. *Sorensen* involves a single common law claim of conversion based on Bank of America blocking an EDD debit card account. Bank of America filed a demurrer on June 28, 2021, which has been noticed for hearing on July 29, 2021. Plaintiff, who is representing himself, has been notified of the July 19, 2021 status conference before this Court.

2. *Abarr et al. v. Bank of America, N.A.*, Case No. 3:21-cv-01203-BEN-AGS was filed on July 1, 2021, and is currently pending in the United States District Court for the Southern District of California before Judge Roger T. Benitez. *Abarr* involves the following causes of action: (1) Electronic Funds Transfer Act, (2) Fourteenth Amendment Due Process, (3) California Due Process, (4) California Consumer Privacy Act, (5) California Customer Records Act, (6) California Unfair Competition Law, (7) negligence and negligence per se, (8) breach of contract, (9) breach of implied contract, (10) breach of the implied covenant of good faith and fair dealing, (11) breach of fiduciary duty, (12) breach of contract (third-party beneficiaries), and (13) breach of implied covenant of good faith and fair dealing (third-party beneficiaries). On July 6, 2021, the *Abarr* plaintiffs filed a notice of related case, relating *Abarr* to this multidistrict litigation. Dkt. No. 4. Counsel for the *Abarr* plaintiffs also represents other parties in this multidistrict litigation and thus is aware of the July 19, 2021 status conference before this Court.

## II. Defendant's Proposed Agenda Items

Bank of America proposes the following agenda items for the July 19, 2021

Status Conference:

- Whether all of the actions, including both class actions and individual actions, should be subject to a single consolidated amended complaint.
- Whether the Court should follow the timeline set forth in Local Civil Rule 16.1 in scheduling a Case Management Conference and issuing a Case Management Order.
- Whether to continue the existing discovery stay pending the Court's ruling on Bank of America's anticipated motion to dismiss any consolidated amended complaint.
- Whether Bank of America needs to separately respond to any related action that is not subject to a consolidated amended complaint, including those filed following the filing of a consolidated amended complaint.
- Briefing schedule and page limits for Bank of America's anticipated motion to dismiss any consolidated amended complaint.
- Whether the Employment Development Department ("EDD") will remain a party.

Bank of America has identified these agenda items in bullet points, as instructed by the Court, but would be happy to submit its position on these or any of Plaintiffs' proposed agenda items in advance of the Status Conference if doing so would be helpful to the Court.

1 Dated: July 6, 2021

Respectfully Submitted,

3 By: /s/ Yvonne W. Chan

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**CERTIFICATE OF SERVICE**

I hereby certify that I electronically filed the foregoing with the clerk of the court for the United States District Court for the Southern District of California by using the CM/ECF system on July 6, 2021. I further certify that all participants in the case are registered CM/ECF users and that service will be accomplished by the CM/ECF system. I certify under penalty of perjury that the foregoing is true and correct.

Executed: July 6, 2021 /s/ Yvonne W. Chan