

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

IN RE: BANK OF AMERICA CALIFORNIA
UNEMPLOYMENT BENEFITS LITIGATION

Case No.: 21md2992-LAB (MSB)

ORDER REQUIRING RESPONSE

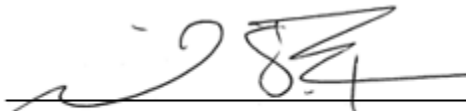
On September 16, 2021, Liaison Counsel for the Individual Plaintiffs filed a “Plaintiffs’ Request to Appear In-Person for the Scheduled Early Neutral Evaluation” which the Court construes as an ex parte motion. (ECF No. 77.) Plaintiffs’ counsel explains that this case involves voluminous documents relevant to the individual plaintiffs’ claims, which Plaintiffs’ counsel have organized and prepared, believing that referencing these documents will facilitate more efficient and productive settlement discussions. (Id. at 2-3.) Because Plaintiffs’ counsel “does not intend to burden defense counsel with the requirement of appearing in person,” Plaintiffs request that counsel be permitted to appear in-person if they elect to do so. (Id. at 3.)

Despite the ex parte nature of this request, the Court notes that Plaintiffs’ counsel has not complied with the requirements set forth in the Civil Local Rules or Judge Berg’s Chambers Rules. See CivLR 83.3(g)(2) (“A motion for an order must not be made ex parte unless it appears by affidavit or declaration (1) that within a reasonable time before the motion the party informed the opposing party or the opposing party’s

1 attorney when and where the motion would be made; or (2) that the party in good faith
2 attempted to inform the opposing party and the opposing party's attorney but was
3 unable to do so, specifying the efforts made to inform them; or (3) that for reasons
4 specified the party should not be required to inform the opposing party or the opposing
5 party's attorney."); Judge Berg's Civil Chambers Rule VII ("[D]eclaration(s) in support of
6 the ex parte motion must describe meet and confer efforts made to resolve the dispute
7 without the Court's intervention.:). While ordinarily, the Court would consider Plaintiffs'
8 failure to comply with these requirements an adequate basis for denying the ex parte
9 motion, in the interest of timely resolving this matter in advance of the September 29,
10 2021, Early Neutral Evaluation Conference so that everyone may plan accordingly, the
11 Court **ORDERS** Defendant to file a response no later than **September 21, 2021**. The
12 response should indicate whether Defendant or its counsel would like to appear in
13 person, and whether Defendant objects to Plaintiffs' counsel's personal appearance.

14 **IT IS SO ORDERED.**

15 Dated: September 17, 2021

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17 Honorable Michael S. Berg
18 United States Magistrate Judge
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