

1 JAMES W. MCGARRY (admitted pro hac vice)
JMcGarry@goodwinlaw.com
2 **GOODWIN PROCTER LLP**
100 Northern Avenue
3 Boston, MA 02210
Tel.: +1 617 570 1000
4 Fax: +1 617 523 1231

5 YVONNE W. CHAN (admitted pro hac vice)
YChan@jonesday.com
6 **JONES DAY**
100 High Street
7 Boston, MA 02110
Tel.: +1 617 960 3939
8 Fax: +1 617 449 6999

9 Attorneys for Defendant
BANK OF AMERICA, N.A.

10
11 *[ADDITIONAL COUNSEL LISTED IN SIGNATURE BLOCK]*

12 **UNITED STATES DISTRICT COURT**
13 **SOUTHERN DISTRICT OF CALIFORNIA**
14 **SAN DIEGO DIVISION**

15 IN RE: BANK OF AMERICA
16 CALIFORNIA UNEMPLOYMENT
17 BENEFITS LITIGATION

Case No. 21-MD-02992-LAB-MSB

**DECLARATION OF DUSTIN
ANDERSON IN SUPPORT OF
DEFENDANT'S MOTION TO
PRECLUDE ADDITIONAL ESI
DISCOVERY**

Date:
Time:
Cttrm:
Judge:

Filed/Lodged Concurrently with:
1. Mem. of Points and Auth. ISO
Motion to Preclude Additional
ESI Discovery
2. Declaration of James W.
McGarry
3. [Proposed] Order

1 I, Dustin Anderson, state and declare as follows:

2 1. I am employed by Bank of America, N.A. as a Senior Vice President
3 and Group Operations Manager within eDiscovery Legal. In my role, my
4 responsibilities include overseeing Electronic Discovery data collection requests.

5 2. I have personal knowledge of the facts stated herein and, if called upon
6 to do so, I could and would competently testify thereto.

7 3. I make this declaration in support of BANA's Motion to Preclude
8 Additional ESI Discovery.

9 4. The parties previously agreed that BANA would collect ESI from
10 24 custodians, and review and produce ESI from 20 of those custodians.

11 5. In connection with the parties' previous agreement regarding ESI
12 discovery and the Court's direction, BANA reviewed more than 765,000 documents
13 and produced nearly 200,000 documents over the course of two months, from
14 October 2023 to December 2023, and has produced more than 200,000 documents to
15 date.

16 6. To complete the ESI review of the 20 custodians in short order, BANA's
17 ESI discovery vendor hired more than 400 contract reviewers and expended
18 \$4,584,904.04 to date in the processing, hosting, review, redaction, production and
19 privilege log costs. This did not include outside counsel expenses.

20 7. I understand from counsel that, among other things, Plaintiffs in this
21 litigation seek ESI from five of BANA's top executives: Brian Moynihan, Thomas
22 Montag, Catherine Bessant, Dean Athanasia, and Christine Channels.

23 8. BANA requested cost estimates from its ESI vendor, Consilio, for the
24 total vendor costs, including processing, hosting, review, redaction, production and
25 privilege log costs, associated with ESI discovery from these five executive
26 custodians.

27 9. Consilio reviewed the cost breakdown for the review of the 20 ESI
28

1 custodians, including anticipated additional costs associated with redactions, review
2 and productions in connection with privilege logs, in order to develop a cost estimate
3 of \$290,000 per additional custodian collected and reviewed.

4 10. Based on that cost estimate per custodian, Consilio estimates a cost of
5 \$1,450,000 to perform the processing, hosting, review, redactions, productions and
6 privilege logs associated with five executive custodians.

7 11. Based on that cost estimate per custodian, Consilio estimates a cost of
8 \$2,320,000 to perform the processing, hosting, review, redactions, productions and
9 privilege logs associated with eight additional custodians, including five executive
10 custodians and three non-executive custodians.

11
12 I declare under penalty of perjury under the laws of the United States that the
13 foregoing is true and correct. Executed on January 23, 2024, in Charlotte, North
14 Carolina.

15
16 By: 
17 DUSTIN ANDERSON
18
19
20
21
22
23
24
25
26
27
28

ATTORNEY ATTESTATION

I hereby attest, pursuant to Local Rule 5-1(i)(3), that I obtained the concurrence in the filing of this document from the signatory.

/s/ James W. McGarry

JAMES W. MCGARRY