

EXHIBIT 21

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9 Attorneys for Defendant

10 BANK OF AMERICA, N.A.

11 **UNITED STATES DISTRICT COURT**

12 **SOUTHERN DISTRICT OF CALIFORNIA**

13 IN RE BANK OF AMERICA
14 CALIFORNIA UNEMPLOYMENT
15 BENEFITS LITIGATION,

Case No. 3-21-md-02992-LAB-MSB

**BANK OF AMERICA'S
RESPONSES AND OBJECTIONS
TO PLAINTIFF YICK'S
REQUEST FOR PRODUCTION
OF DOCUMENTS (SET THREE)**

16 _____
17 This Document Relates to All Actions
18 _____

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REQUEST FOR PRODUCTION NO. 76.

ALL DOCUMENTS, including but not limited to COMMUNICATIONS,
RELATING TO EDD, EDD BENEFITS, EDD DEBIT CARDS, EDD DEBIT

1 CARD ACCOUNTS, EDD DEBIT CARDHOLDERS, TRANSACTIONAL
2 FRAUD, or the CLAIM FRAUD FILTER that were exchanged between YOU and
3 any member of YOUR Board of Directors or among any Board of Director members
4 during the RELEVANT PERIOD.

5 **RESPONSE TO REQUEST FOR PRODUCTION NO. 76**

6 BANA incorporates its General Objections, Objections to Definitions, and
7 Objections to Instructions as if fully set forth herein. BANA objects to this Request
8 on the grounds that it is unduly burdensome, overly broad, and seeks information that
9 is irrelevant to the claims and defenses in this litigation. BANA further objects to
10 this Request as unduly burdensome and overly broad insofar that it seeks documents
11 from BANA's Board that are more appropriately obtained from other sources,
12 including, but not limited to, individuals within BANA responsible for overseeing
13 the EDD prepaid program and transactional claims fraud within the EDD prepaid
14 program, and insofar as it seeks "[a]ll DOCUMENTS," without any time limitation.
15 BANA also objects to this Request to the extent it is inconsistent with Plaintiffs'
16 counsel's representations during the parties' informal discovery conferences before
17 Judge Berg on August 17, 2023, August 25, 2023 and September 7, 2023, that
18 Plaintiffs are not seeking to collect the emails of BANA's Board. BANA further
19 objects to this Request to the extent that it seeks information, including but not
20 limited to internal communications, protected from discovery by the attorney-client
21 privilege, the work product doctrine, the joint defense privilege, the bank examiner
22 privilege, or any other privileges or reasons for non-production, and to the extent it
23 purports to require BANA to search and/or review electronically stored information
24 and data, including but not limited to databases and electronic mail, that is not
25 reasonably accessible because of undue burden, undue cost, and/or technological
26 complication, and/or that is not reasonably specified by the Request. BANA also
27 objects to this Request as duplicative of Request Nos. 73 and/or 75 to the extent it
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1 seeks documents presented to the Board or that were produced in Civil Action No.
2 2023-0787-JTL in response to a § 220 demand for documents.

3 Subject to and without waiving the foregoing objections, BANA refers
4 Plaintiffs to its Responses and Objections to Request No. 73 indicating that BANA
5 will conduct a reasonable search to identify and produce non-privileged documents
6 provided to BANA's Board of Directors concerning transactional fraud on EDD
7 Debit Cards and/or the Claims Fraud Filter, if any, and its Responses and Objections
8 to Request No. 75. BANA further states that it will not collect and search the emails
9 of BANA's Board of Directors, nor will it produce additional documents in response
10 to this Request.

11 **REQUEST FOR PRODUCTION NO. 77.**

12 ALL DOCUMENTS, including but not limited to COMMUNICATIONS,
13 RELATING TO EDD, EDD BENEFITS, EDD DEBIT CARDS, EDD DEBIT
14 CARD ACCOUNTS, EDD DEBIT CARDHOLDERS, TRANSACTIONAL
15 FRAUD, or the CLAIM FRAUD FILTER exchanged with or among any of YOUR
16 EXECUTIVE OFFICERS during the RELEVANT PERIOD including but not
17 limited to EXECUTIVE OFFICERS Brian T. Moynihan, Alastair Borthwick,
18 Geoffrey S. Greener, Lauren Mogensen, Dean C. Athanasia, Paul M. Donofrio,
19 Thomas K. Montag and Thomas M. Scrivener.

20 **RESPONSE TO REQUEST FOR PRODUCTION NO. 77**

21 BANA incorporates its General Objections, Objections to Definitions, and
22 Objections to Instructions as if fully set forth herein. BANA objects to this Request
23 on the grounds that it is unduly burdensome, overly broad, and seeks information that
24 is irrelevant to the claims and defenses in this litigation, and because the term
25 "EXECUTIVE OFFICER" is overly broad because it includes anyone holding a "title
26 of Senior Vice President or higher," which is inconsistent with the use of the term in
27 the ordinary course and at BANA. BANA further objects to this Request and its use
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1 of the term “EXECUTIVE OFFICER” as unduly burdensome, overly broad, and
2 disproportionate to the needs of the case because it seeks documents from BANA’s
3 highest level executives that are not likely relevant to the claims and/or more
4 appropriately obtained from other sources, including, but not limited to, individuals
5 within BANA responsible for overseeing the EDD prepaid program and transactional
6 claims fraud within the EDD prepaid program, and insofar as it seeks “[a]ll
7 DOCUMENTS,” without any time limitation. BANA also objects to this Request to
8 the extent it is inconsistent with Judge Berg’s informal finding, during the Parties’
9 informal discovery conference on September 7, 2023 (to which Plaintiffs decided not
10 to object via formal briefing), that the collection of emails from BANA’s five highest
11 level executives (Brian T. Moynihan, Alastair Borthwick, Geoffrey S. Greener, Dean
12 C. Athanasia, and Thomas K. Montag) is overly burdensome and not proportional to
13 the needs of the case at this time. BANA further objects to this Request to the extent
14 that it seeks information, including but not limited to internal communications,
15 protected from discovery by the attorney-client privilege, the work product doctrine,
16 the joint defense privilege, the bank examiner privilege, or any other privileges or
17 reasons for non-production, and to the extent it purports to require BANA to search
18 and/or review electronically stored information and data, including but not limited to
19 databases and electronic mail, that is not reasonably accessible because of undue
20 burden, undue cost, and/or technological complication, and/or that is not reasonably
21 specified by the Request.

22 Subject to and without waiving the foregoing objections, BANA will not
23 produce documents in response to this Request.

24 **REQUEST FOR PRODUCTION NO. 78.**

25 ALL DOCUMENTS, including but not limited to COMMUNICATIONS,
26 RELATING TO any CARDHOLDER CLAIMS, or the FREEZING or BLOCKING
27 or UNFREEZING or UNBLOCKING of EDD DEBIT CARDHOLDER
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1 ACCOUNTS that were exchanged between YOU and any member of YOUR Board
2 of Directors or among any Board of Director members during the RELEVANT
3 PERIOD.

4 **RESPONSE FOR REQUEST FOR PRODUCTION NO. 78**

5 BANA incorporates its General Objections, Objections to Definitions, and
6 Objections to Instructions as if fully set forth herein. BANA objects to this Request
7 on the grounds that it is unduly burdensome, overly broad, and seeks information that
8 is irrelevant to the claims and defenses in this litigation because the terms
9 “FREEZING” and “BLOCKING” and “UNFREEZING” and “UNBLOCKING” are
10 not limited to freezes and blocks placed on accounts as a result of the application of
11 the Claims Fraud Filter, and because the term “CLAIM” is not limited to
12 unauthorized EFT error claims in relation to an EDD Debit Card account (*see* 12
13 C.F.R. § 1005.11). BANA further objects to this Request as unduly burdensome and
14 overly broad insofar that it seeks documents from BANA’s Board that are more
15 appropriately obtained from other sources, including, but not limited to, individuals
16 within BANA responsible for overseeing the EDD prepaid program and transactional
17 claims fraud within the EDD prepaid program, and insofar as it seeks “[a]ll
18 DOCUMENTS,” without any time limitation. BANA also objects to this Request to
19 the extent it is inconsistent with Plaintiffs’ counsel’s representations during the
20 parties’ informal discovery conferences before Judge Berg on August 17, 2023,
21 August 25, 2023 and September 7, 2023, that Plaintiffs are not seeking to collect the
22 emails of BANA’s Board. BANA further objects to this Request to the extent that it
23 seeks information, including but not limited to internal communications, protected
24 from discovery by the attorney-client privilege, the work product doctrine, the joint
25 defense privilege, the bank examiner privilege, or any other privileges or reasons for
26 non-production, and to the extent it purports to require BANA to search and/or review
27 electronically stored information and data, including but not limited to databases and
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1 electronic mail, that is not reasonably accessible because of undue burden, undue
2 cost, and/or technological complication, and/or that is not reasonably specified by the
3 Request. BANA also objects to this Request as duplicative of Request Nos. 73 and/or
4 75 to the extent it seeks documents presented to the Board or that were produced in
5 Civil Action No. 2023-0787-JTL in response to a § 220 demand for documents.

6 Subject to and without waiving the foregoing objections, BANA refers
7 Plaintiffs to its Responses and Objections to Request No. 73 indicating that BANA
8 will conduct a reasonable search to identify and produce non-privileged documents
9 provided to BANA's Board of Directors concerning transactional fraud on EDD
10 Debit Cards and/or the Claims Fraud Filter, if any, and its Responses and Objections
11 to Request No. 75. BANA further states that it will not collect and search the emails
12 of BANA's Board of Directors, nor will it produce additional documents in response
13 to this Request.

14 **REQUEST FOR PRODUCTION NO. 79.**

15 ALL DOCUMENTS, including but not limited to COMMUNICATIONS,
16 RELATING TO any CARDHOLDER CLAIMS, or the FREEZING or BLOCKING
17 or UNFREEZING or UNBLOCKING of EDD DEBIT CARDHOLDER
18 ACCOUNTS exchanged with or among any of YOUR EXECUTIVE OFFICERS
19 during the RELEVANT PERIOD including but not limited to EXECUTIVE
20 OFFICERS Brian T. Moynihan, Alastair Borthwick, Geoffrey S. Greener, Lauren
21 Mogensen, Dean C. Athanasia, Paul M. Donofrio, Thomas K. Montag and Thomas
22 M. Scrivener.

23 **RESPONSE TO REQUEST FOR PRODUCTION NO. 79**

24 BANA incorporates its General Objections, Objections to Definitions, and
25 Objections to Instructions as if fully set forth herein. BANA objects to this Request
26 on the grounds that it is unduly burdensome, overly broad, and seeks information that
27 is irrelevant to the claims and defenses in this litigation, and because the term
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1 “EXECUTIVE OFFICER” is overly broad because it includes anyone holding a “title
2 of Senior Vice President or higher,” which is inconsistent with the use of the term in
3 the ordinary course and at BANA. BANA further objects to this Request and its use
4 of the term “EXECUTIVE OFFICER” as unduly burdensome, overly broad, and
5 disproportionate to the needs of the case because it seeks documents from BANA’s
6 highest level executives that are more appropriately obtained from other sources,
7 including, but not limited to, individuals within BANA responsible for overseeing
8 the EDD prepaid program and transactional claims fraud within the EDD prepaid
9 program, and insofar as it seeks “[a]ll DOCUMENTS,” without any time limitation.
10 BANA also objects to this Request to the extent it is inconsistent with Judge Berg’s
11 informal finding, during the Parties’ informal discovery conference on September 7,
12 2023 (to which Plaintiffs decided not to object via formal briefing), that the collection
13 of emails from BANA’s five highest level executives (Brian T. Moynihan, Alastair
14 Borthwick, Geoffrey S. Greener, Dean C. Athanasia, and Thomas K. Montag) is
15 overly burdensome and not proportional to the needs of the case at this time. BANA
16 further objects to this Request to the extent that it seeks information, including but
17 not limited to internal communications, protected from discovery by the attorney-
18 client privilege, the work product doctrine, the joint defense privilege, the bank
19 examiner privilege, or any other privileges or reasons for non-production, and to the
20 extent it purports to require BANA to search and/or review electronically stored
21 information and data, including but not limited to databases and electronic mail, that
22 is not reasonably accessible because of undue burden, undue cost, and/or
23 technological complication, and/or that is not reasonably specified by the Request.

24 Subject to and without waiving the foregoing objections, BANA will not
25 produce documents in response to this Request.
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