

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

IN RE: BANK OF AMERICA
CALIFORNIA UNEMPLOYMENT
BENEFITS LITIGATION,

Case No.: 21MD2992-GPC(MSB)

**ORDER DIRECTING PARTIES TO
SUBMIT SUPPLEMENTAL
BRIEFING ON PENDING MOTION
FOR RECONSIDERATION**

This multi-district litigation was transferred to the undersigned judge on April 8, 2021. (Dkt. No. 261.)

On August 17, 2021, Plaintiffs filed a Master Consolidated Complaint (“MCC”) that included a claim under California’s Unfair Competition Law (“UCL”), Business and Professions Codes sections 17200 *et seq.*, seeking restitution, disgorgement and prospective injunctive relief against Defendant Bank of America, N.A. (“BANA” or “Bank”). (Dkt. No. 72, MCC ¶ 584.) On May 25, 2023, the Court granted in part and denied in part Defendant’s motion to dismiss the MCC. (Dkt. No. 126.) On the UCL claim, the Court granted dismissal with prejudice because Plaintiffs failed to allege inadequate legal remedies. (Dkt. No. 126 at 31-33.¹) On June 13, 2023, Plaintiffs filed a

¹ Page numbers are based on the CM/ECF pagination.

1 First Amended Master Consolidated Complaint (“FAMCC”) alleging a claim under the
2 UCL claiming that “Class Representative Plaintiffs’ legal remedies are inadequate to
3 prevent future harm from the Bank’s unlawful and unfair conduct that is the subject of
4 this Complaint, and that is or would be ongoing but for the preliminary injunction the
5 consolidated *Yick* plaintiffs obtained in June 2021.” (Dkt. No. 136, FAMCC ¶ 285.) It
6 seeks prospective injunctive relief “(a) prohibiting the Bank from continuing its unfair
7 and unlawful business practices, and (b) requiring the Bank to take reasonable measures
8 to prevent future unauthorized use of EDD Debit Cards and Accounts, and requiring the
9 Bank to ensure timely and adequate processing of Cardholders’ claims requiring
10 unauthorized and fraudulent use of their Cards or Accounts.” (*Id.* ¶ 584.)

11 Pending before the Court is Plaintiffs’ fully briefed motion for reconsideration,
12 filed on August 7, 2023, of the Court’s order granting dismissal of the UCL claim with
13 prejudice arguing, *inter alia*, that they plead legal remedies would be inadequate for
14 future irreparable harms seeking prospective injunctive relief. (Dkt. Nos. 151, 158, 161.)

15 Recently, on April 3, 2024, the Court granted BANA’s motion to dissolve the
16 preliminary injunction issued in the member case of *Yick v. Bank of America, N.A.*, Case
17 No. 21-cv-1092, Dkt. No. 225, because the California Employment Development
18 Department (“EDD”) terminated its longstanding contract with BANA and stopped
19 funding any benefits through BANA’s prepaid debit cards, directed BANA to close
20 cardholders’ existing EDD debit card accounts, and required BANA to provide notice to
21 each affected cardholder and inform those with an existing balance as of April 30, 2024
22 how to recover the funds before they escheat to the state. (See Dkt. Nos. 225-1, 248).

23 In light of the dissolution of the preliminary injunction and the termination of the
24 contract between EDD and BANA, the parties shall file a supplemental brief, no longer

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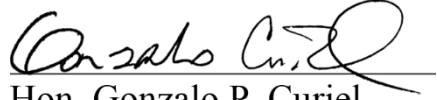
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1 than 3 pages, whether the UCL claim seeking prospective injunctive relief is still viable
2 on or before **April 26, 2024**.

3 IT IS SO ORDERED.

4 Dated: April 16, 2024


Hon. Gonzalo P. Curiel
United States District Judge