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14 Attorneys for Defendant
15 BANK OF AMERICA, N.A.

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

19 IN RE: BANK OF AMERICA
20 CALIFORNIA UNEMPLOYMENT
21 BENEFITS LITIGATION

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

22 **DECLARATION OF MICHELLE**
23 **L. BRIGGS IN SUPPORT OF**
24 **DEFENDANT'S OPPOSITION TO**
25 **PLAINTIFFS' OBJECTIONS TO**
26 **AND MOTION TO REVERSE IN**
27 **PART MAGISTRATE JUDGE'S**
28 **APRIL 24, 2024 DISCOVERY**
ORDER

Date: July 19, 2024
Time: 1:30 p.m.
Ctrm: 2D
Judge: Hon. Gonzalo P. Curiel

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Filed/Lodged Concurrently with:
1. Mem. of Points and Auth. ISO
Opp. to Obj. and Mot. to Rev.
Discovery Order
2. Declaration of Dustin Anderson

1 I, Michelle L. Briggs, state and declare as follows:

2 1. I am a partner with the law firm of Goodwin Procter LLP, and counsel
3 of record for Defendant Bank of America, N.A. (“BANA”) in the above-captioned
4 lawsuit.

5 2. I have personal knowledge of the facts set forth in this declaration, and
6 if called upon to do so, I could and would competently testify thereto.

7 3. I make this declaration in support of BANA’s Opposition to Plaintiffs’
8 Objections to and Motion to Reverse in Part Magistrate Judge’s April 24, 2024
9 Discovery Order.

10 4. On May 25, 2023, Judge Burns issued an Order Granting in Part and
11 Denying in Part Motion to Dismiss Master Consolidated Complaint (Dkt. 126) (the
12 “MTD Order”). On June 16, 2023, Judge Burns issued a Scheduling Order
13 Regulating Discovery and Other Pre-Trial Proceedings (Dkt. 139) that required the
14 parties to complete discovery pursuant to an expedited schedule.

15 5. In order to facilitate the compressed discovery schedule, Magistrate
16 Judge Berg has been working closely with the parties over the past year to negotiate
17 various discovery disputes, including disputes regarding written discovery, ESI
18 custodians and search terms, and deposition scheduling, among other issues. The
19 parties have had 26 Informal Discovery Conferences (“IDCs”) and/or status
20 conferences with Magistrate Judge Berg, occurring approximately every two weeks
21 since Judge Burns issued the MTD Order. Many of the conferences have lasted
22 several hours.

23 6. To date, BANA has produced more than 275,000 documents.

24 7. Pursuant to Magistrate Judge Berg’s April 24, 2024 Discovery Order
25 (Dkt. 268), BANA is in the process of reviewing and producing ESI from three
26 additional senior executive custodians, including BANA’s former Chief Operations
27 and Technology Officer, Catherine Bessant, BANA’s President of Regional Banking,
28

1 Dean Athanasia, and BANA's Head of Client Services and Credit Assistance,
2 Christine Channels.

3 8. The vendor costs to review and produce ESI from these three additional
4 senior executive custodians will vary greatly depending on how reasonably targeted
5 the search parameters are, how responsive the documents are, how many documents
6 require redactions, and how many documents will need to be logged for privilege.

7 9. Based on BANA's preliminary review of Bessant, Athanasia, and
8 Channels' ESI identified by BANA's own reasonable search terms, BANA
9 anticipates a smaller review population than for prior custodians—both due to de-
10 duplication and fewer documents identified by search terms—and fewer documents
11 to redact and log for privilege than for prior custodians.

12 10. BANA anticipates that the vast majority of ESI identified for review
13 from these three executives is not relevant to the issues in this case.

14
15 I declare under penalty of perjury under the laws of the United States that the
16 foregoing is true and correct. Executed on May 31, 2024, in Newport, Rhode Island.

17
18
19 By: 
20 MICHELLE L. BRIGGS