

EXHIBIT 3

**FILED
PROVISIONALLY
UNDER SEAL WITH
REDACTIONS
PURSUANT TO
STIPULATED
PROTECTIVE ORDER**



March 7, 2025

VIA EMAIL (efile berg@casd.uscourts.gov)

Re: In re Bank of America Calif. Unemployment Benefits Litig., 3:21-md-02992-GPC-MSB

Dear Judge Berg:

BANA renews its request for a protective order precluding Plaintiffs from deposing BANA's two top executives—current CEO Brian Moynihan and former COO Thomas Montag. On December 23, 2024, the Court issued a tentative ruling granting BANA's request because it agreed that Plaintiffs had not satisfied the apex doctrine's requirement to exhaust efforts to take discovery through less burdensome means. The Court further ruled that Plaintiffs must take depositions of certain BANA witnesses before it would reconsider depositions of BANA's two top executives. The parties accepted the tentative ruling, and Plaintiffs deposed six additional witnesses—each of whom was involved in the development, approval, and/or implementation of the Fraud Filter and/or other relevant aspects of the EDD prepaid program. Their testimony confirmed what BANA has said all along: Messrs. Moynihan and Montag have no *unique and non-repetitive* knowledge concerning the issues in this case. Plaintiffs, therefore, have nothing new to offer except more baseless speculation based on a handful of the hundreds of thousands of documents produced in this matter. Thus, the depositions of BANA's two top executives should be precluded because Plaintiffs cannot satisfy the apex standard.

“Virtually every court that has addressed deposition notices directed at an official at the highest level or ‘apex’ of corporate management has observed that such discovery creates a tremendous potential for abuse or harassment.” *Celerity, Inc. v. Ultra Clean Holding, Inc.*, 2007 WL 205067, at *3 (N.D. Cal. Jan. 25, 2007). The deposition notices of Messrs. Moynihan and Montag are no exception, particularly given Plaintiffs’ confessed desire to push settlement via executive discovery. To curb such abuse, courts have placed the burden on the party seeking an apex deposition to show (1) the deponent has “unique first-hand, non-repetitive knowledge of the facts at issue in the case,” and (2) the party has “exhausted other less intrusive discovery methods.” *In re Google Litig.*, 2011 WL 4985279, at *2 (N.D. Cal. Oct. 19, 2011).

There is no dispute that Messrs. Moynihan and Montag are “clearly high-level executives whose depositions must satisfy the ‘apex’ requirements.” *Id.*¹ “[W]here a high-level decision maker ‘removed from the daily subjects of the litigation’ has no unique personal knowledge of the facts at issue, a deposition of the official is improper.” *Affinity Labs of Texas v. Apple, Inc.*, 2011 WL 1753982, at *15 (N.D. Cal. May 9, 2011) (citations omitted). The apex standard for depositions is *different* and *higher* than the one that applies to disputes about ESI discovery—a distinction that Plaintiffs concede. See Pls. Dist. Ct. ESI Br., Filed Under Seal at Dkt. 268-1, at 15-17 (referring to “heightened apex doctrine standard”). Plaintiffs were able to obtain ESI from Messrs. Moynihan and Montag by arguing that their ESI documents *might* have unique information relevant to their claim for punitive damages. But the apex doctrine requires Plaintiffs to demonstrate far more to take top executive depositions. Plaintiffs cannot do so.

In ruling on Plaintiffs’ request for ESI from Messrs. Moynihan and Montag, Judge Curiel granted Plaintiffs’ request for limited ESI so that Plaintiffs could explore their unsubstantiated claim that BANA’s two top executives “knew about the [Fraud Filter], its impact on legitimate EDD cardholders, when they knew it, what action they directed, authorized, or ratified, and why.” Dist. Ct. ESI Order at 6, quoting Pls. Dist. Ct.

¹ Mr. Montag was BANA's second-in-line executive until December 2021, and is now the CEO of Rubicon Carbon. See *K.C.R. v. Cty. of Los Angeles*, 2014 WL 3434257, at *3 (C.D. Cal. July 11, 2014) (apex doctrine protects executives “even after leaving office”).



ESI Br. at 15–16. Ultimately, their ESI generated very few responsive documents.² None of those documents, nor the extensive Board materials and other documents that Plaintiffs have received—or the testimony that Plaintiffs attempted or failed to seek regarding those documents—indicate that BANA’s two top executives have unique, non-repetitive knowledge concerning the Fraud Filter or the Bank’s claims call center. And they certainly do not indicate that either Mr. Moynihan or Mr. Montag *knowingly* and *personally* directed, authorized, or ratified the Fraud Filter’s use with the understanding that it would harm large numbers of legitimate cardholders as Plaintiffs suggested, or that they *knowingly* and *personally* directed or oversaw the Bank’s alleged understaffing of a call center.

Mr. Moynihan has no unique knowledge of the issues in this case. As expected, given his lack of unique knowledge and involvement in the Bank’s prepaid programs, the responsiveness rate for Mr. Moynihan’s custodial documents was extraordinarily low. The few documents that were responsive did not: (a) include any new, non-repetitive information; (b) suggest that Mr. Moynihan possessed unique knowledge about the Fraud Filter or any other key issue in this case; or (c) reflect any decision making by Mr. Moynihan about issues relevant to Plaintiffs’ remaining claims. Moreover, Plaintiffs still cannot identify *even a single document* showing that Messrs. Moynihan and Montag communicated “among themselves” about the issues in this case, as Plaintiffs long suggested. Nor can Plaintiffs identify even a single email authored by Mr. Moynihan discussing the Fraud Filter or the staffing of the Bank’s claims call center, much less one in which Mr. Moynihan provided any direction or approval with malice (as Plaintiffs have speculated occurred, and must show to prove they are entitled to punitive damages).³

The documents submitted with Plaintiffs’ December 16, 2024 letter brief underscore Mr. Moynihan’s lack of involvement. Plaintiffs submitted 48 exhibits to their letter. Only *one* was Mr. Moynihan’s custodial document (Pls.’ Exhibit 15). Exhibit 15 was an [REDACTED]

[REDACTED] This does not meet the heightened apex standard. The remaining 47 exhibits Plaintiffs’ attached to their December 16 letter fare no better.

For example, Plaintiffs’ Exhibits 1-3 [REDACTED]

[REDACTED] —i.e., his knowledge was not unique or non-repetitive. Additionally, Plaintiffs’ Exhibits 4-21 [REDACTED]

[REDACTED] E.g., Ex. 1, Ehresman Tr. 94:9-95:9 [REDACTED]

Other exhibits Plaintiffs have relied upon simply do not show that Mr. Moynihan had any relevant knowledge or involvement at all. For example, Exhibit 14 document [REDACTED]

² Of the more than 278,000 documents BANA has produced to Plaintiffs in this action, only 556 documents were produced from Messrs.’ Moynihan’s or Montag’s custodial files.

³ All Plaintiffs can point to [REDACTED]

[REDACTED] See Exs. 22-41 to Pls.’ Dec. 16, 2024 Ltr. Brief. Such emails cannot support a deposition of a company’s top executive. Executives often receive [REDACTED]



As your Honor previously held, this “does not indicate who approved the alleged action, let alone if Mr. Moynihan did so.” MJ ESI Order at 8. Moreover, Plaintiffs had the opportunity to depose both individuals and ask questions about [REDACTED]. Mr. Garfield testified that [REDACTED]

[REDACTED] Ex. 2, Garfield Tr. 36:4-19, 228:6-231:16. Ms. Johnson [REDACTED]

Plaintiffs’ failure to show that Mr. Moynihan or Mr. Montag possess uniquely relevant information comes as no surprise. As the Court is aware, in response to written discovery requests, BANA identified 13 executives and managers who were primarily responsible for making decisions regarding the issues in this case—Messrs. Moynihan and Montag were not among them. Ex. 3, BANA’s Interrog. Resp. No. 11.

Plaintiffs have now deposed eight of those executives and managers, and had an opportunity to ask them about the documents they previously cited in their December 16, 2024 letter brief. Not a single witness’ testimony suggests that Mr. Moynihan *actually* possesses unique, non-repetitive knowledge, much less “evidence of motive, intent, or knowledge and ratification” that Plaintiffs would need “to support an award of punitive damages.” Dist. Ct. ESI Order, at 6. Rather, BANA witnesses repeatedly [REDACTED]

[REDACTED] See, e.g., Ex. 4, Ahmad Tr. 244:18-22 ([REDACTED]), 93:25-94:9 ([REDACTED]); 94:10-20 [REDACTED]; Ex. 5, Simpson Tr. 88:8-19 ([REDACTED]), 106:16-12 [REDACTED]; Ex. 2, Garfield Tr. 228:6-231:16 ([REDACTED]); Ex. 6, Ramirez Tr. 58:20-25 [REDACTED]; Ex. 7, Holt Tr. 217:20-218:9 [REDACTED]

Mr. Montag has no unique knowledge of the issues in this case, either. Discovery has likewise confirmed that Mr. Montag has no unique, non-repetitive knowledge. Indeed, *none* of the 15 BANA deponents’

⁴ See Ex. 8, Johnson Tr. 185:12-186:19 ([REDACTED])

⁵ Those with knowledge of the development and approval of the Fraud Filter affirmatively testified that [REDACTED]

E.g., Ex. 9, Letson Tr. 280:12-16 [REDACTED]

[REDACTED]; see also Ex. 10, Martin Tr. 156:7-21 ([REDACTED]). Others testified that [REDACTED]

[REDACTED] See e.g., Ex. 1, Ehresman Tr. 52:10-12 ([REDACTED]); Ex. 5, Simpson Tr. 46:1-17 ([REDACTED]); Ex. 2, Garfield Tr. 36:4-19 ([REDACTED]); Ex. 6, Ramirez Tr. 24:17-19 ([REDACTED])



GOODWIN

testimony to date has suggested that Mr. Montag has uniquely relevant information of scienter that would support Plaintiffs' claim for punitive damages. For example, Plaintiffs' claim that Mr. Montag "approved" the Fraud Filter [REDACTED] but deposition testimony indicates otherwise. One BANA witness testified [REDACTED]

[REDACTED] Ex. 4, Ahmad Tr. 109:10-111:10. Other BANA witnesses [REDACTED] See, e.g., Ex. 2, Garfield Tr. 228:6-231:16 [REDACTED]

Likewise, none of the documents Plaintiffs have identified indicate that Mr. Montag approved, ratified, or was otherwise aware of any fraudulent, malicious, or oppressive conduct concerning the Fraud Filter or the claims call center. To the extent Plaintiffs identified Plaintiffs' Exhibit 48, [REDACTED]

[REDACTED] nor do they demonstrate, as Plaintiffs have argued, that Mr. Montag "was at the center of the Bank's CFF Policies" (Pls.' IDC Ltr. (Dec. 16, 2024) at 3). To the contrary, [REDACTED]

[REDACTED] Pls.' IDC Ltr. (Dec. 16, 2024) at Ex. 48. Surely, Mr. Montag does not possess unique, non-repetitive knowledge [REDACTED], and Plaintiffs have already had the opportunity to depose the attendees who spoke and were directly involved in the development of the Fraud Filter. See Ex. 5, Simpson Tr. 67:10-70:5 ([REDACTED]); Ex. 11, Fox Tr. 70:19-78:4 ([REDACTED]); Ex. 4, Ahmad Tr. 216:16-234:13 ([REDACTED]).

In sum, *none* of the evidence shows that either Mr. Moynihan or Mr. Montag have the uniquely relevant information Plaintiffs hoped to find. Rather, Plaintiffs' belief that BANA's two top executives have unique, non-repetitive information about their case is based on nothing more than speculation—which is exactly what the apex doctrine is designed to protect against. See, e.g., *Pilot, Inc. v. Cub Elecparts, Inc.*, 2015 WL 13918235, at *3 (C.D. Cal. Dec. 7, 2015) (granting protective order where plaintiff provided only "unsupported, conclusory, and largely speculative statements" that failed to demonstrate that apex deponent had "unique first-hand, non-repetitive knowledge"). Thus, the Court should grant BANA's motion and deny Plaintiffs' request to depose BANA's two top executives.

The Court should also deny Plaintiffs' request to depose Messrs. Moynihan and Montag because if the apex depositions were to go forward, they would cause hardship to both executives personally, and disruptions to the operations of BANA and of Montag's current company. See *Davis v. Pinterest, Inc.*, 2021 WL 11117688, at *1 (N.D. Cal. May 27, 2021) (apex depositions are an "undue burden for the company, the witnesses, and counsel" absent showing of unique knowledge). If apex executives were to be deposed every time a company was sued simply because of their positions, they would be subjected to dozens of depositions every year. These distractions and impositions on their time are not insubstantial, given the size of BANA's operations and their lack of unique knowledge. This is precisely why the apex doctrine was developed, as executives require "freedom to perform their tasks without the constant interference of the discovery process." See *K.C.R.*, 2014 WL 3434257, at *3 (citation omitted). If Plaintiffs were permitted to proceed here, on this record, it would turn the apex doctrine on its head.



Respectfully submitted,

/s/ James W. McGarry

James W. McGarry

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Exhibit 1

1 UNITED STATES DISTRICT COURT
2 SOUTHERN DISTRICT OF CALIFORNIA

3 IN RE BANK OF AMERICA)
4 CALIFORNIA UNEMPLOYMENT)
5 BENEFITS LITIGATION)

6) Case Number:
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THIS DOCUMENT RELATES TO
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CONFIDENTIAL TRANSCRIPT

VIDEOCONFERENCE VIDEOTAPED DEPOSITION OF:

JENNIFER EHRESMAN

WEDNESDAY, FEBRUARY 19, 2025

REPORTED BY: MARCI TIEL, CSR No. 12791

Job No. 10157866

Confidential

Jennifer Ehresman

In Re Bank of America CA Unemployment Benefits Litigation

1 UNITED STATES DISTRICT COURT

2 SOUTHERN DISTRICT OF CALIFORNIA

3 IN RE BANK OF AMERICA)
4 CALIFORNIA UNEMPLOYMENT)
5 BENEFITS LITIGATION)6) Case Number:
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ACTIONS

BE IT REMEMBERED that, pursuant to Notice of Taking Deposition, and on Wednesday, February 19, 2025, commencing at the hour of 9:37 a.m. and ending at the hour of 12:16 p.m., before me, MARCI TIEL, a Certified Shorthand Reporter of the State of California, appeared via videoconference

JENNIFER EHRESMAN,

produced as a witness in said action, who, being first duly sworn by the Certified Shorthand Reporter, via videoconference, was thereupon examined as a witness in said cause.

Confidential

Jennifer Ehresman

In Re Bank of America CA Unemployment Benefits Litigation

R E M O T E A P P E A R A N C E S

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In Re Bank of America CA Unemployment Benefits Litigation

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15 Also Present:

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COLE HOLLAND - Videographer

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1 CERTIFICATE OF REPORTER

2 I, MARCI TIEL, a Certified Shorthand
3 Reporter, hereby certify that the witness in the
4 foregoing deposition was by me duly sworn, via
5 videoconference, to tell the truth, the whole truth,
6 and nothing but the truth in the within-titled
7 cause; that said deposition is a true record and was
8 taken in shorthand by me, a disinterested person, at
9 the time and place therein stated, and that the
10 testimony of said witness was thereafter reduced to
11 typewriting, by computer, under my direction and
12 supervision;

13 I further certify that I am not of counsel
14 or attorney for any of the parties to said
15 deposition, nor in any way interested in the events
16 of this cause, and that I am not related to any of
17 the parties thereto.

18 Dated: March 1, 2025

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20 _____

21 MARCI TIEL, CSR No. 12791
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Exhibit 2



1 UNITED STATES DISTRICT COURT
2 SOUTHERN DISTRICT OF CALIFORNIA
3 - - -

4
5 IN RE BANK OF AMERICA Case No.
6 CALIFORNIA UNEMPLOYMENT
7 BENEFITS LITIGATION 3:21-md-02992-GPC-MSB
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10 - - -
11 December 10, 2024
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15 Videotape Deposition of BRADLEY GARFIELD,
16 taken pursuant to notice, held at Goodwin
17 Procter, 3025 JFK Blvd. - 7th Floor,
18 Philadelphia, Pennsylvania 19104, commencing at
19 9:05 a.m., on the above date, before Lori Guyer,
20 Professional Court Reporter and Notary Public in
21 and for the Commonwealth of Pennsylvania.
22

23 Job No. 10154399
24

Bradley Garfield

In Re Bank of America CA Unemployment Benefits Litigation

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Proposed Class

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16 For -

17

18 AMANDA LAUS, ESQUIRE

19

20 ALSO PRESENT:

21

Nate Armstrong, Videographer

22

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21 Q. So you addressed this a little
22 bit already, but just for clarity, what was your
23 role with respect to the bank's prepaid
24 unemployment insurance card program in 2020?

A horizontal bar chart consisting of 20 black bars of varying lengths. The bars are arranged in a single column, with the longest bar in the center and the shortest bars at the top and bottom. The bars represent a distribution of data, with the longest bar in the center and the shortest bars at the top and bottom.

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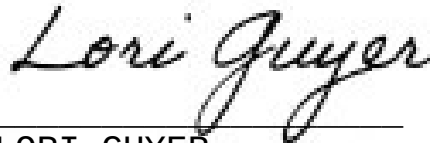
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C E R T I F I C A T E

I, LORI GUYER, BEING A REGISTERED PROFESSIONAL REPORTER, DO HEREBY CERTIFY THAT THE FOREGOING TESTIMONY WAS TAKEN STENOGRAPHICALLY BY ME AFTER THE SAID WITNESS WAS DULY SWORN OR AFFIRMED PRIOR TO THE COMMENCEMENT OF THEIR TESTIMONY; AND THAT THIS DEPOSITION TRANSCRIPT IS A TRUE AND CORRECT TRANSCRIPT OF THE SAME, FULLY TRANSCRIBED UNDER MY DIRECTION, TO THE BEST OF MY ABILITY AND SKILL.

I FURTHER CERTIFY THAT I AM NOT A RELATIVE, EMPLOYEE OR ATTORNEY OR ANY OF THE PARTIES IN THIS ACTION; THAT I AM NOT A RELATIVE OR EMPLOYEE OF ANY ATTORNEY INTERESTED IN THE EVENT OF THIS ACTION.

DATED: 12/16/2024

A handwritten signature in cursive script that reads "Lori Guyer". The signature is written in black ink and is positioned above a horizontal line.

LORI GUYER

Exhibit 3

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18 **UNITED STATES DISTRICT COURT**
19 **SOUTHERN DISTRICT OF CALIFORNIA**

20 IN RE BANK OF AMERICA
21 CALIFORNIA UNEMPLOYMENT
22 BENEFITS LITIGATION,
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Case No. 3-21-md-02992-LAB-MSB

**BANK OF AMERICA'S
RESPONSES AND OBJECTIONS
TO PLAINTIFF YICK'S FIRST
SET OF INTERROGATORIES
(SET ONE)**

This Document Relates to All Actions

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The image consists of a single, uniform black rectangle that fills the entire frame. There are no discernible features, text, or patterns other than the solid black color.

1 Dated: September 5, 2023 Respectfully Submitted,

2
3 By: /s/ James W. McGarry

4 JAMES W. MCGARRY
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25 *Attorneys for Defendant BANK OF*
26 *AMERICA, N.A.*
27
28

Exhibit 4



1

2

*** CONFIDENTIAL - PROTECTIVE ORDER ***

3

UNITED STATES DISTRICT COURT

4

SOUTHERN DISTRICT OF CALIFORNIA

5

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6

IN RE BANK OF AMERICA

Case No.

7

CALIFORNIA UNEMPLOYMENT

3:21-md-02992

8

BENEFITS LITIGATION

GPC-MSB

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VIDEOTAPED STENOGRAPHIC DEPOSITION OF:

13

FAIZ A. AHMAD

14

Wednesday, January 29, 2025

New York, New York

15

10:07 a.m. - 5:38 p.m.

HYBRID DEPOSITION

16

17

18

19

20

21

Reported stenographically by:

22

Richard Germosen, FAPR, CA CSR No. 14391

23

RDR, CRR, CCR, CRCR, CSR-CA, NYACR, NYRCR

24

NCRA/NJ/NY/CA Certified Realtime Reporter

25

NCRA Realtime Systems Administrator

Job No. 10155736

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VIDEOTAPED TELECONFERENCED STENOGRAPHIC
DEPOSITION of FAIZ A. AHMAD, taken in the above-entitled
matter before RICHARD GERMOSEN, Fellow of the Academy of
Professional Reporters, Certified Court Reporter,
(License No. 30XI00184700), Certified Realtime Court
Reporter-NJ, (License No. 30XR00016800), California
Certified Shorthand Reporter, (License No. 14391),
NCRA/NY/CA Certified Realtime Reporter, NCRA Registered
Diplomate Reporter, New York Association Certified
Reporter, NCRA Realtime Systems Administrator, taken at
the offices of GOODWIN PROCTER LLP, The New York Times
Building, 620 Eighth Avenue, 26th Floor, New York, New
York 10018, on Wednesday, January 29, 2025, commencing
at 10:07 a.m.

1

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17 RICHARD MORALES, Legal Video Specialist

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A horizontal bar chart consisting of 20 black bars. The bars are arranged vertically, with the longest bar at the top and the shortest bar at the bottom. The lengths of the bars vary significantly, representing a distribution of data. The bars are all of the same color (black) and are set against a white background.

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Bar Index	Relative Length (approximate)
1	85%
2	98%
3	95%
4	25%
5	35%
6	45%
7	95%
8	98%
9	98%
10	60%
11	35%
12	100%
13	95%
14	98%
15	25%
16	65%
17	90%
18	100%
19	35%
20	92%
21	35%
22	95%
23	92%
24	50%
25	95%

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A horizontal bar chart consisting of 20 rows. Each row contains a single black bar of varying length. The bars are arranged in a single column, with each bar's length corresponding to a value on an implicit scale. The lengths of the bars vary significantly, with some being very long and others being very short, creating a distribution of data points.

A horizontal bar chart consisting of 20 solid black bars of varying lengths. The bars are arranged vertically, one above the other. A thin vertical line is positioned to the left of the bars, serving as a baseline. The lengths of the bars vary significantly, with some being very long (nearly spanning the width of the image) and others being very short. The distribution of lengths appears somewhat irregular, with a few bars being notably longer than the others.

A horizontal bar chart consisting of 20 black bars. The bars are arranged vertically, with the longest bar at the bottom and the shortest at the top. The lengths of the bars vary significantly, representing a distribution of data. The bars are all black and have a uniform height. The longest bar is at the bottom, and the shortest is at the top. The bars are arranged in a single column, with the longest bar at the bottom and the shortest at the top. The lengths vary significantly, with some bars being nearly full-width and others being very short.

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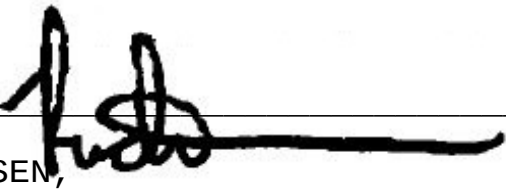
C E R T I F I C A T E

I, RICHARD GERMOSEN, Fellow of the Academy of Professional Reporters, stenographic New Jersey Certified Court Reporter, New Jersey Certified Realtime Court Reporter, California Certified Shorthand Reporter, California Certified Realtime Reporter, NCRA Registered Diplomate Reporter, and NCRA Certified Realtime Reporter, do hereby certify:

That FAIZ A. AHMAD, the witness whose deposition is hereinbefore set forth, having been duly sworn, and that such deposition is a true record of the testimony of said witness.

I further certify that I am not related to any of the parties to this action by blood or marriage, and that I am in no way interested in the outcome of this matter.

IN WITNESS WHEREOF, I have hereunto set my hand this 3rd day of February 2025.



RICHARD GERMOSEN,
FAPR, RDR, CRR, CCR-NJ, CRCR, CSR-CA, CCRR-CA,
NYACR, NYRCR
LICENSE NO. 30XI00184700
LICENSE NO. 30XR00016800
California CSR No. 14391
California CRR No. 198

Exhibit 5



www.aptusCR.com | 866.999.8310

1 UNITED STATES DISTRICT COURT
2 SOUTHERN DISTRICT OF CALIFORNIA
3

4 IN RE BANK OF AMERICA CALIFORNIA)
5 UNEMPLOYMENT BENEFITS LITIGATION,)
6)
7)

Case No.
3:21-md-02992-GPC-MSB

8 This Document Relates to All)
9 Actions)
10)
11)
12)

13 HIGHLY CONFIDENTIAL - ATTORNEYS' EYES ONLY
14 REMOTE VIDEOTAPED DEPOSITION OF PAUL SIMPSON

15 Taken On
16 Friday, February 21, 2025
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24 STENOGRAPHICALLY REPORTED BY:
25 SHAYNA LUTSKY, CSR 14554
JOB NO.: 10157867

Highly Confidential - Attorneys' Eyes Only

Paul Simpson

In Re Bank of America CA Unemployment Benefits Litigation

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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

IN RE BANK OF AMERICA CALIFORNIA)
UNEMPLOYMENT BENEFITS LITIGATION,)
)
)
) Case No.
) 3:21-md-02992-GPC-MSB
)
This Document Relates to All)
Actions)
)

REMOTE VIDEOTAPED DEPOSITION of PAUL SIMPSON, taken
remotely via Zoom on behalf of the Plaintiffs,
commencing at 8:35 a.m., and ending at 11:09 a.m. on
Friday, February 21, 2025, before Shayna Lutsky,
Certified Shorthand Reporter No. 14554.

Highly Confidential - Attorneys' Eyes Only

Paul Simpson

In Re Bank of America CA Unemployment Benefits Litigation

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In Re Bank of America CA Unemployment Benefits Litigation

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12

13 ALSO PRESENT:

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14 Spencer Benveniste, the Videographer

15

16

17

18

19

20

21

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24

25

A horizontal bar chart consisting of 20 black bars of varying lengths. The bars are arranged vertically, with the longest bar at the top and the shortest bar at the bottom. The lengths of the bars vary significantly, with some being nearly full-width and others being much shorter. The bars are arranged in a single column, with the longest bar at the top and the shortest bar at the bottom. The lengths of the bars vary significantly, with some being nearly full-width and others being much shorter.

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A horizontal bar chart consisting of 20 solid black bars of varying lengths. The bars are arranged vertically, one above the other. A thin vertical line is positioned to the left of the bars, serving as a baseline. The lengths of the bars vary significantly, with some being nearly full-width and others being much shorter. The distribution of lengths appears somewhat irregular, with a few very long bars and several very short ones. The bars are evenly spaced vertically, creating a clear visual comparison of their relative lengths.

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[REDACTED]

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[REDACTED]

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1 REPORTER'S CERTIFICATE

2
3
4 I, Shayna Lutsky, CSR 14554, a
5 Certified Shorthand Reporter in and for the State of
6 California, do hereby certify:

7 That prior to being examined, the
8 witness named in the foregoing proceedings declared
9 under penalty of perjury to testify to the truth,
10 the whole truth, and nothing but the truth;

11 That said proceedings were taken by
12 me in shorthand at the time and place herein named
13 and was thereafter transcribed into typewriting
14 under my direction, said transcript being a true and
15 correct transcription of my shorthand notes.

16 I further certify that I have no
17 interest in the outcome of this action.

18
19 Dated: February 24, 2025

20 
21 SHAYNA LUTSKY
22 CSR 14554
23
24
25

Exhibit 6



1 UNITED STATES DISTRICT COURT
2 SOUTHERN DISTRICT OF CALIFORNIA
3

4 IN RE BANK OF AMERICA)
5 CALIFORNIA UNEMPLOYMENT)
6 BENEFITS LITIGATION)
7)

8) CASE NO.
9) 3:21-MD-02992-GPC-
10) MSB
11)
12)
13)
14)
15)

16 THIS DOCUMENT RELATES TO ALL)
17 ACTIONS)
18)
19)
20)

21 REMOTE VIDEOTAPED DEPOSITION OF MELISSA RAMIREZ
22 TUESDAY, FEBRUARY 11, 2025
23
24
25

JOB NO.: 10157864

REPORTED BY HEIDI FUEHRER, CSR 14145

Melissa Ramirez

In Re Bank of America CA Unemployment Benefits Litigation

1 VIDEOTAPED DEPOSITION OF MELISSA RAMIREZ, TAKEN ON
2 BEHALF OF THE PLAINTIFFS, AT 9:35 A.M., TUESDAY,
3 FEBRUARY 11, 2025, AT CHARLOTTE, NORTH CAROLINA, BEFORE
4 HEIDI FUEHRER, CSR NUMBER 14145.

5

6 APPEARANCES OF COUNSEL:

7

8 FOR THE PLAINTIFFS AND THE PROPOSED CLASS:

9

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BY: CONNIE K. CHAN, ATTORNEY AT LAW

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---AND---

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BY: BRIAN DANITZ, ATTORNEY AT LAW

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Melissa Ramirez

In Re Bank of America CA Unemployment Benefits Litigation

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25 BY: LINDSAY E. HOYLE, ATTORNEY AT LAW
---AND---
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620 EIGHTH AVENUE
NEW YORK, NEW YORK 10018
212-813-8800
LHOYLE@GOODWINLAW.COM

26 ALSO PRESENT:
27 MARISA RAMOS, VIDEOGRAPHER
28
29
30

1 A I have been with the bank for 20 years.

2 There are so many org changes. I'm so sorry. It was

3 Cathy. I apologize.

4 Q No need to apologize. So Paul Simpson reported
5 to Cathy Bessant?

6 A Yes.

7 Q And what was, what was Cathy Bessant's role at
8 the bank?

9 A She was the head of tech and ops.

10 Q And who did Cathy Bessant report to?

11 A Brian Moynihan.

12 Q And Brian Moynihan is the CEO?

13 A That's correct.

[REDACTED]

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A horizontal bar chart consisting of 20 black bars. The bars are arranged in a single column, with the longest bars at the top and bottom, and the shortest in the middle. The bars represent a distribution of data, with the longest bars at the top and bottom, and the shortest in the middle.

1 STATE OF CALIFORNIA)
2 COUNTY OF LOS ANGELES) ss.

3

4 I, HEIDI FUEHRER, CSR No. 14145, in and for the
5 State of California, do hereby certify:

6 That prior to being examined, the witness named
7 in the foregoing deposition was by me duly sworn to
8 testify to the truth, the whole truth, and nothing but
9 the truth;

10 That said deposition was taken down by me in
11 shorthand at the time and place therein named and
12 thereafter reduced to typewriting under my direction,
13 and the same is a true, correct, and complete transcript
14 of said proceedings;

15 That if the foregoing pertains to the original
16 transcript of a deposition in a Federal Case, before
17 completion of the proceedings, review of the transcript
18 { } Was { X } was not required.

19 I further certify that I am not interested in
20 the event of the action.

21 Witness my hand this 12th day of February,
22 2025.

23

Heidi Fuehrer

24

Certified Shorthand Reporter
for the State of California

25

Exhibit 7



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1 UNITED STATES DISTRICT COURT
2 SOUTHERN DISTRICT OF CALIFORNIA
3

4 IN RE BANK OF AMERICA Case No.
5 CALIFORNIA UNEMPLOYMENT 3:21-md-02292
6 BENEFITS LITIGATION -GPC-MSB

7 _____/

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12 VIDEOTAPED DEPOSITION OF ANNE HOLT
13 Charlotte, North Carolina
14 January 8, 2025
15 10:07 a.m.
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20 Reported by: Karen K. Kidwell, RMR, CRR
21 Job Number: 10155338
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Anne Holt

In Re Bank of America CA Unemployment Benefits Litigation

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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

IN RE BANK OF AMERICA	Case No.
CALIFORNIA UNEMPLOYMENT	3:21-md-02292
BENEFITS LITIGATION	-GPC-MSB

_____ /

VIDEOTAPED DEPOSITION OF ANNE HOLT, a
witness called on behalf of Plaintiffs, before Karen
K. Kidwell, Notary Public, in and for the State of
North Carolina, at McGuire Woods, 201 North Tryon
Street, Suite 3000,, Charlotte, North Carolina, on
Wednesday, January 8, 2025, commencing at 10:07 a.m.

Anne Holt

In Re Bank of America CA Unemployment Benefits Litigation

A P P E A R A N C E S

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Anne Holt

In Re Bank of America CA Unemployment Benefits Litigation

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daniel@consumerlit.com

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16 Also Present:

17 Rachael Corcione, Videographer

18

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[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

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[REDACTED]

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[illegible]

1 STATE OF NORTH CAROLINA

2 COUNTY OF MECKLENBURG

3
4 I, Karen K. Kidwell, RMR, CRR, in and for
5 the State of North Carolina, do hereby certify that
6 there came before me on Wednesday, January 8, 2025, the
7 person hereinbefore named, who was by me duly sworn to
8 testify to the truth and nothing but the truth of her
9 knowledge concerning the matters in controversy in this
10 cause; that the witness was thereupon examined under
11 oath, the examination reduced to typewriting under my
12 direction, and the deposition is a true record of the
13 testimony given by the witness.

14 I further certify that I am neither attorney
15 or counsel for, nor related to or employed by, any
16 attorney or counsel employed by the parties hereto or
17 financially interested in the action.

18 This the 19th day of January, 2025.

19
20 

21
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Karen K. Kidwell, RMR, CRR
Notary Public #19971050142

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Exhibit 8

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A P P E A R A N C E S

On behalf of Plaintiff:

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VASTI MONTIEL, ESQUIRE (ZOOM)

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On behalf of Defendant Bank of America NA:

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ANGELICA RANKINS, ESQUIRE

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mriffee@goodwinlaw.com

Videographer: Christine Montplasir

ACTED - Confidential

UNCLASSIFIED - Confidential

Veritext Legal Solutions
Calendar-CA@veritext.com 866-299-5127

1 CERTIFICATE OF OATH

2 STATE OF FLORIDA

3 COUNTY OF DUVAL

4
5
6 I, the undersigned authority, certify that the
7 aforementioned witness, RENEE JOHNSON, personally
8 appeared before me on the 7th day of May, 2024, and was
9 duly sworn after viewing the aforementioned witness'
10 license.

11
12 WITNESS my hand and official seal this 13th
13 day of May, 2024.

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20
21 SHERRI MARTIN, Stenographic Reporter

Notary Public, State of Florida

22 My Commission Expires 8/17/2024

23 My Commission No. HH32558

CERTIFICATE OF REPORTER

STATE OF FLORIDA

COUNTY OF DUVAL

I, Sherri Martin, Certified Shorthand Reporter, do hereby certify that I was authorized to and did stenographically report the foregoing deposition in stenotype; and that the foregoing pages, numbered from 1 to 245, inclusive, are a true and correct transcription of my shorthand notes of said deposition.

I further certify that said deposition was taken at the time and place hereinabove set forth and that the taking of said deposition was commenced and completed as hereinabove set out.

I further certify that I am not an attorney or counsel of any of the parties, nor am I a relative or employee of attorney or counsel of party connected with the action, nor am I financially interested in the action.

The foregoing certification of this transcript does not apply to any reproduction of the same by any means unless under the direct control and/or direction of the certifying reporter.

IN WITNESS WHEREOF, I have hereunto set my hand this 13th day of May, 2024.



Sherri Martin, CSR

1 BRIAN DANITZ, ESQ.

2 bdanitz@cpmlegal.com

3 May 13, 2024

4 In Re Bank Of America California Unemployment Benefits

5 May 7, 2024-RENEE JOHNSON-JOB NO.6666026

6 The above-referenced transcript has been

7 completed by Veritext Legal Solutions and

8 review of the transcript is being handled as follows:

9 ___ Per CA State Code (CCP 2025.520 (a)-(e)) - Contact Veritext
10 to schedule a time to review the original transcript at
11 a Veritext office.

12 ___ Per CA State Code (CCP 2025.520 (a)-(e)) - Locked .PDF
13 Transcript - The witness should review the transcript and
14 make any necessary corrections on the errata pages included
15 below, notating the page and line number of the corrections.
16 The witness should then sign and date the errata and penalty
17 of perjury pages and return the completed pages to all
18 appearing counsel within the period of time determined at
19 the deposition or provided by the Code of Civil Procedure.
20 Contact Veritext when the sealed original is required.

21 ___ Waiving the CA Code of Civil Procedure per Stipulation of
22 Counsel - Original transcript to be released for signature
23 as determined at the deposition.

24 ___ Signature Waived - Reading & Signature was waived at the
25 time of the deposition.

Page 246

1 ___ Federal R&S Requested (FRCP 30(e)(1)(B)) - Locked .PDF
2 Transcript - The witness should review the transcript and
3 make any necessary corrections on the errata pages included
4 below, notating the page and line number of the corrections.
5 The witness should then sign and date the errata and penalty
6 of perjury pages and return the completed pages to all
7 appearing counsel within the period of time determined at
8 the deposition or provided by the Federal Rules.
9 _X_ Federal R&S Not Requested - Reading & Signature was not
10 requested before the completion of the deposition.

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Exhibit 9

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

IN RE: BANK OF AMERICA) Case No.:
CALIFORNIA UNEMPLOYMENT) 3:21-md-02992-LAB-MSB
BENEFITS LITIGATION)

This Document Relates to)
All Actions)

)
_____)

VIDEOTAPED 30(b)(6) DEPOSITION OF
BANK OF AMERICA, N.A.

by its designee: MICHAEL LETSON

9:20 a.m.

Friday, February 16, 2024

(Taken by Plaintiffs)

REPORTED BY: Christine A. Taylor, RPR

Page 1

APPEARANCES

For the Plaintiffs and the Proposed Class:

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1 For the Defendant Bank of America, N.A.:
2 GOODWIN PROCTER, LLP
3 BY: SABRINA M. ROSE-SMITH, ESQ.
4 JACKIE ODUM, ESQ.
5 1900 N Street NW
6 Washington, D.C. 20036
7 202.346.4000
8 srosesmith@goodwinlaw.com
9 jodum@goodwinlaw.com

10 Also Present:

11 Amanda Laus (via Zoom)
12 Colin Jones (via Zoom)
13 Michael Rubin (via Zoom)
14 David Cooper, Videographer
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ACTED - Confidential

CERTIFICATE OF REPORTER

I, Christine A. Taylor, Registered Professional Reporter and Notary Public for the State of North Carolina at Large, do hereby certify:

That the foregoing deposition was taken before me on the date and at the time and location stated in this transcript; that the deponent was duly sworn to testify to the truth, the whole truth and nothing but the truth; that the testimony of the deponent and all objections made at the time of the examination were recorded stenographically by me and were thereafter transcribed; that the foregoing deposition as typed is a true, accurate and complete record of the testimony of the deponent and of all objections made at the time of the examination to the best of my ability.

I further certify that I am neither related to nor counsel for any party to the cause pending or interested in the events thereof. Witness my hand, this 28th of February, 2024.



Christine A. Taylor
Registered Professional Reporter
Notary Public 19960530077
State of North Carolina

1 SABRINA M. ROSE-SMITH, ESQ.

2 srosesmith@goodwinlaw.com

3 February 29, 2024

4 IN RE: BANK OF AMERICA CALIFORNIA UNEMPLOYMENT BENEFITS
LITIGATION

5 February 16, 2024, MICHAEL LETSON, 30(b)(6), JOB NO. 6459947

6 The above-referenced transcript has been

7 completed by Veritext Legal Solutions and

8 review of the transcript is being handled as follows:

9 ___ Per CA State Code (CCP 2025.520 (a)-(e)) - Contact Veritext
10 to schedule a time to review the original transcript at
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19 the deposition or provided by the Code of Civil Procedure.
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21 ___ Waiving the CA Code of Civil Procedure per Stipulation of
22 Counsel - Original transcript to be released for signature
23 as determined at the deposition.

24 ___ Signature Waived - Reading & Signature was waived at the
25 time of the deposition.

Page 354

1 _x_ Federal R&S Requested (FRCP 30(e)(1)(B)) - Locked .PDF

2 Transcript - The witness should review the transcript and
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5 The witness should then sign and date the errata and penalty
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7 appearing counsel within the period of time determined at
8 the deposition or provided by the Federal Rules.

9 ___ Federal R&S Not Requested - Reading & Signature was not
10 requested before the completion of the deposition.

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Exhibit 10

1 UNITED STATES DISTRICT COURT
2 SOUTHERN DISTRICT OF CALIFORNIA
3 Case No. 3:21-md-02992-LAB-MSB

4 -----
5 IN RE: BANK OF AMERICA'S CALIFORNIA
6 UNEMPLOYMENT BENEFITS LITIGATION

7
8 This Document Relates to All Actions
9 -----

10
11 *** CONFIDENTIAL - ATTORNEYS' EYES ONLY ***

12
13 VIDEOTAPED & VIDEOCONFERENCED DEPOSITION OF
14 WILLIAM MATTHEW MARTIN

15
16 Atlanta, Georgia
17 Wednesday, February 14, 2024

18
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20
21 Court Reporter:
22 Michelle M. Boudreaux-Phillips, CCR
23 JOB No. 6459932

24
25 PAGES 1 - 336

Page 1

February 14, 2024

9:17 a.m.

Videotaped and videoconferenced
deposition of WILLIAM MATTHEW MARTIN, held at
Jones Day, 1221 Peachtree Street, N.E.,
Suite 400, Atlanta, Georgia, pursuant to
Agreement, before Michelle M. Boudreaux-
Phillips, a Certified Court Reporter in the
State of Georgia.

Page 2

APPEARANCES

On behalf of the Plaintiffs:

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APPEARANCES (Cont'd)

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212.813.8800

lhoyle@goodwinlaw.com

Videographer: Mike Brown

[illegible]

C E R T I F I C A T E

I, MICHELLE M. BOUDREAUX-PHILLIPS, do hereby
certify that WILLIAM MATTHEW MARTIN, the witness whose
deposition is hereinbefore set forth, was duly sworn by
me and that such deposition is a true record of the
testimony given by such witness.

I further certify that I am not related to
any of the parties to this action by blood or marriage
and that I am in no way interested in the outcome of
this matter.

IN WITNESS WHEREOF, I have hereunto set my
hand this 28th day of February 2024.



MICHELLE M. BOUDREAUX-PHILLIPS, CCR

MATTHEW L. RIFFEE, Esq.

mriffee@goodwinlaw.com

February 28, 2024

RE: BANK OF AMERICA'S CALIFORNIA UNEMPLOYMENT BENEFITS LITIGATION

FEBRUARY 14, 2024, WILLIAM MATTHEW MARTIN, JOB NO. 6459932

The above-referenced transcript has been completed by Veritext Legal Solutions and review of the transcript is being handled as follows:

___ Per CA State Code (CCP 2025.520 (a)-(e)) - Contact Veritext to schedule a time to review the original transcript at a Veritext office.

___ Per CA State Code (CCP 2025.520 (a)-(e)) - Locked .PDF Transcript - The witness should review the transcript and make any necessary corrections on the errata pages included below, notating the page and line number of the corrections. The witness should then sign and date the errata and penalty of perjury pages and return the completed pages to all appearing counsel within the period of time determined at the deposition or provided by the Code of Civil Procedure. Contact Veritext when the sealed original is required.

___ Waiving the CA Code of Civil Procedure per Stipulation of Counsel - Original transcript to be released for signature as determined at the deposition.

___ Signature Waived - Reading & Signature was waived at the time of the deposition.

Page 333

1 xx Federal R&S Requested (FRCP 30(e)(1)(B)) - Locked .PDF
2 Transcript - The witness should review the transcript and
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8 the deposition or provided by the Federal Rules.

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10 — Federal R&S Not Requested - Reading & Signature was not
11 requested before the completion of the deposition.
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Exhibit 11



UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

IN RE BANK OF AMERICA
CALIFORNIA UNEMPLOYMENT
BENEFITS LITIGATION,

CASE NO.
3:21-MD-02992-GPC-
MSB

THIS DOCUMENT RELATES TO ALL
ACTION

REMOTE VIDEOTAPED DEPOSITION OF WILLIAM J. FOX
THURSDAY, FEBRUARY 13, 2025

JOB NO.: 10157865

REPORTED BY HEIDI FUEHRER, CSR 14145

William J. Fox

In Re Bank of America CA Unemployment Benefits Litigation

1 VIDEOTAPED DEPOSITION OF WILLIAM J. FOX, TAKEN ON BEHALF
2 OF THE PLAINTIFFS, AT 9:01 A.M., THURSDAY,
3 FEBRUARY 13, 2025, AT CHARLOTTE, NORTH CAROLINA, BEFORE
4 HEIDI FUEHRER, CSR NUMBER 14145.

5

6 APPEARANCES OF COUNSEL:

7

8 FOR THE PLAINTIFFS AND THE PROPOSED CLASS:

9

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COTCHETT, PITRE & MCCARTHY, LLP

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William J. Fox

In Re Bank of America CA Unemployment Benefits Litigation

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8 SAN DIEGO, CALIFORNIA 92108
9 866-219-3343
10 JOSH@SWIGARTLAWGROUP.COM

11 ---AND---

12 SHAY LEGAL, APC
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17 619-222-7429
18 DAN@SHAYLEGAL.COM

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20 FOR THE DEFENDANT:

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23 ---AND---
24 JACQUELINE ODUM, ATTORNEY AT LAW
25 ---AND---
ANNE BAYLY BUCK, ATTORNEY AT LAW
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202-346-4000
SROSESMITH@GOODWINLAW.COM

26

27 ALSO PRESENT:

28 SPENCER BENVENISTE, VIDEOGRAPHER

29

30

31

[illegible]

A horizontal bar chart consisting of 20 solid black bars. The bars are arranged vertically, with their lengths varying significantly. The longest bars are located in the middle of the chart, while the shortest bars are at the top and bottom. The bars appear to represent a distribution of data, possibly a frequency or count for each of the 20 categories. The chart is set against a white background with a thin vertical line on the left side.

A horizontal bar chart with 20 bars of varying lengths, all black, representing a distribution of data. The bars are arranged in a single column, with the longest bars at the top and bottom, and shorter bars in the middle. The chart is set against a white background with a vertical gray line on the left. The bars represent the following approximate values: 95, 100, 100, 100, 100, 55, 95, 95, 95, 95, 45, 85, 90, 85, 90, 40, 75, 100, 100, 95, 100.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

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A horizontal bar chart consisting of 20 black bars of varying lengths. The bars are arranged vertically, with the longest bar at the top and the shortest at the bottom. The lengths vary significantly, with some bars being nearly full-width and others being very short.

A horizontal bar chart consisting of 20 solid black bars. The bars are arranged vertically, with their lengths varying significantly. The longest bars are located in the middle of the chart, while the shortest bars are at the top and bottom. The bars are all of the same color (black) and are separated by small gaps. There are no labels, titles, or axes visible on the chart.

1 STATE OF CALIFORNIA)
2 COUNTY OF LOS ANGELES) ss.

3

4 I, HEIDI FUEHRER, CSR No. 14145, in and for the
5 State of California, do hereby certify:

6 That prior to being examined, the witness named
7 in the foregoing deposition was by me duly sworn to
8 testify to the truth, the whole truth, and nothing but
9 the truth;

10 That said deposition was taken down by me in
11 shorthand at the time and place therein named and
12 thereafter reduced to typewriting under my direction,
13 and the same is a true, correct, and complete transcript
14 of said proceedings;

15 That if the foregoing pertains to the original
16 transcript of a deposition in a Federal Case, before
17 completion of the proceedings, review of the transcript
18 { } Was { X } was not required.

19 I further certify that I am not interested in
20 the event of the action.

21 Witness my hand this 26th day of February,
22 2025.

23 

24

25

Certified Shorthand Reporter
for the State of California