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14 **UNITED STATES DISTRICT COURT**
15 **SOUTHERN DISTRICT OF CALIFORNIA -**
16 **SAN DIEGO DIVISION**

17 IN RE: BANK OF AMERICA
18 CALIFORNIA UNEMPLOYMENT
19 BENEFITS LITIGATION

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

20 **JOINT MOTION TO CONTINUE**
21 **STAY OF THE INDIVIDUAL**
22 **PLAINTIFFS' PROCEEDINGS**

23 Ctrm: 14A - 14th Floor
24 Judge: Hon. Gonzalo P. Curiel

25 **No oral argument pursuant to Civil**
26 **Local Rule 7.2.**

27 Filed/Lodged Concurrently with:
28 1. Proposed Order

JOINT MOTION TO CONTINUE
STAY

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

Pursuant to Civil Local Rule 7.2, the Individual Plaintiffs in the multi-district litigation captioned *In re: Bank of America California Unemployment Benefits Litigation*, Case No. 3:21-MD-02992 (“Individual Plaintiffs”) and Defendant Bank of America, N.A. (“BANA”) (together with Individual Plaintiffs, the “Parties”), through their undersigned counsel, stipulate and jointly move this Court to continue the stay that was entered on September 17, 2024 (Dkt. 338), which stayed the Individual Plaintiffs’ proceedings until an order on class certification was entered (*id.* at 14). The Parties now seek to continue this stay at least until BANA’s forthcoming Rule 23(f) petition is resolved by the Ninth Circuit, and through the end of dispositive motion practice in the Class Action if the Classes remain certified following BANA’s Rule 23(f) petition.¹

BACKGROUND

This multidistrict litigation (“MDL”) arises from several class actions (brought by the “Class Plaintiffs”) and a large number of individual actions (brought by the Individual Plaintiffs) brought against BANA regarding allegations related to prepaid debit cards through which Class and Individual Plaintiffs received unemployment benefits from California’s Employment Development Department (“EDD”) during the COVID-19 pandemic. *See* Dkt. 406. On January 14, 2021, Class Plaintiff Jennifer Yick commenced a purported class action titled *Yick v. Bank of America, N.A.*, No. 3:21-cv-376, in the United States District Court for the Northern District of California (*id.* ¶ 106) and eight additional class actions were subsequently filed and consolidated with *Yick* on March 29, 2021 (*id.*). Since then, other class action plaintiffs and hundreds of individual plaintiffs have filed actions against BANA related to the same alleged conduct. On June 4, 2021, the Judicial Panel on Multidistrict Litigation transferred the *Yick* class action and individually filed actions to this Court for consolidation. Dkt. 1. Plaintiffs were directed to file a single master

¹ Consistent with Federal Rule 23(f), BANA intends to file a petition to the Ninth Circuit for permission to appeal the Court’s June 16, 2025 order granting Plaintiffs’ motion to certify their proposed Classes (Dkt. 494) on June 30, 2025.

1 consolidated complaint to include all claims on behalf of the putative class and
2 individual plaintiffs' claims. *Id.* at 2. "As such, any new cases filed or tag along cases
3 transferred after the filing of the [master consolidated complaint] have been stayed
4 until resolution of the MDL." Dkt. 338 at 4.

5 On August 13, 2024, the Individual Plaintiffs filed a motion to stay their
6 proceedings pending resolution of common issues of law and fact in the Class Action.
7 Dkt. 311-1. The Court granted the motion in part, staying the Individual Plaintiffs'
8 proceedings through entry of a class certification order. Dkt. 338. On August 29,
9 2024, Plaintiffs filed a motion for class certification (Dkt. 324), which was ultimately
10 granted on June 16, 2025 (Dkt. 494). The Parties now jointly move to have the stay
11 granted by this Court (Dkt. 338) continued through at least the resolution of BANA's
12 forthcoming Rule 23(f) petition to the Ninth Circuit, and through the end of
13 dispositive motion practice in the Class Action if the Classes remain certified
14 following BANA's Rule 23(f) petition and any related filings.

15 ARGUMENT

16 **I. Legal Standard**

17 This Court has broad discretion to stay proceedings under its inherent
18 authority. "[T]he power to stay proceedings is incidental to the power inherent in
19 every court to control the disposition of the causes [sic] on its docket with economy
20 of time and effort for itself, for counsel, and for litigants." *Landis v. N. Am. Co.*, 299
21 U.S. 248, 254 (1936) (describing the court's power to stay proceedings pending
22 resolution of a related case, commonly referred to as a "*Landis Stay*"). As part of the
23 Court's power to control its docket, the Court has discretion to stay proceedings
24 "pending resolution of independent proceedings which bear upon the case." *Leyva v.*
25 *Certified Grocers of Cal. Ltd.*, 593 F.2d 857, 863 (9th Cir. 1979). Exercising this
26 discretion is appropriate when the resolution of another matter will directly affect the
27 issues before the court. *See Mediterranean Enters. v. SsangYong Corp.*, 708 F.2d
28 1458, 1465 (9th Cir. 1983) (affirming stay of district court proceedings pending

1 resolution of arbitration on the same claims); *see also San Diego Padres Baseball*
2 *P'ship v. United States*, 2001 WL 710601, at *1 (S.D. Cal. May 10, 2001) (granting
3 stay of case pending resolution of related appeal).

4 The propriety of a “*Landis Stay*” requires the court to weigh “the competing
5 interests which will be affected by the granting or refusal to grant a stay.” *Lockyer v.*
6 *Mirant Corp.*, 398 F.3d 1098, 1110 (9th Cir. 2005) (quoting *CMAX, Inc. v. Hall*, 300
7 F.2d 265, 268 (9th Cir. 1962)). Such competing interests include “the possible
8 damage which may result from the granting of a stay, the hardship or inequity which
9 a party may suffer in being required to go forward, and the orderly course of justice
10 measured in terms of the simplifying or complicating of issues, proof, and questions
11 of law which could be expected to result from a stay.” *Lockyer*, 398 F.3d at 1110
12 (quoting *CMAX, Inc.*, 300 F.2d at 268). As explained in more detail below, each
13 factor weighs in favor of granting the Parties’ Joint Motion to Continue the Stay.

14 **II. Proceedings Related to the Individual Plaintiffs Should Remain Stayed.**

15 Now that the Court has certified the Class Plaintiffs’ classes, continuing the
16 stay it originally ordered will likely promote judicial economy and the orderly course
17 of justice, and will likely save the Parties and the Court unnecessary time and
18 expense. Dkt. 338 (staying the litigation for the Individual Plaintiffs through at least
19 certification of the class); *see also* Dkt. 48 (staying all individual plaintiff claims that
20 were not consolidated with the MDL); *Connor v. Bank of America, N.A.*, 2025 WL
21 1115031, at *3-4 (S.D. Cal. April 15, 2025) (Curiel, J.) (denying motion to lift stay
22 of individual related action to the MDL); *accord Delapaz v. Bank of America, N.A.*,
23 2025 WL 115029, *3 (S.D. Cal. April 15, 2025) (Curiel, J.).

24 *First*, a stay will promote judicial economy because it may allow the Court to
25 assess, resolve, and/or simplify the common questions of law and fact that the Court
26 found are at issue for the Class Plaintiffs, and then apply its decisions to the
27 Individual Plaintiffs’ individual facts and circumstances to assess the validity of their
28 particular allegations and any purported resulting harm. Courts have found that this

1 is particularly true with respect to a stay through resolution of summary judgment.
2 *See Connor*, 2025 WL 1115031 at *3 (finding that “[t]he ruling on summary
3 judgment will simplify the issues in the case”); *accord Delapaz*, 2025 WL 115029 at
4 *3. As this Court has already found, in instances such as these, “[a] stay or
5 maintaining a stay promotes the orderly cause of justice where the underlying
6 proceedings are likely to decide or contribute to the issues before the court.” *Connor*,
7 2025 WL 1115031 at *3; *accord Delapaz*, 2025 WL 115029 at *3.

8 *Second*, the Parties agree that maintaining the stay will not result in undue
9 hardship. The potential prejudice of being temporarily prevented from pursuing
10 individual discovery or dispositive motion practice has always existed—including at
11 the time the stay was entered. As the Court previously found, there is “no harm” in
12 delaying discovery for the Individual Plaintiffs where “discovery for the individual
13 plaintiffs in the 257 other cases that have been stayed have not even begun and may
14 need to be re-opened or addressed at a later date once the class action proceedings
15 have concluded.” Dkt. 338 at 9. Further, the Individual Plaintiffs seek only monetary
16 relief, not equitable relief from any ongoing harm allegedly being inflicted by
17 BANA.² “‘Mere delay in receiving damages is an insufficient basis to deny a stay.’”
18 *Connor*, 2025 WL 1115031 at *3 (quoting *Ludlow v. Flowers Foods, Inc.*, 2020 WL
19 773253, at *2 (S.D. Cal. Feb. 18, 2020)); *accord Delapaz*, 2025 WL 115029 at *3;
20 *see also Nguyen v. Marketsource, Inc.*, 2018 WL 2182633, at *6 (S.D. Cal. May 11,
21 2018) (noting plaintiff “will . . . not be unduly prejudiced or harmed by a delay in
22 receiving monetary relief”). Thus, the Individual Plaintiffs face no undue prejudice
23 sufficient to justify lifting the stay.

24 Conversely, BANA may face undue hardship if this stay were lifted given the
25 inefficiency it would present should Plaintiffs’ classes remain certified. Lifting the
26

27 ² As the MDL record reflects, BANA is no longer providing prepaid debit card
28 services for the EDD unemployment insurance program (Dkt. 255 at 1), and Plaintiffs
have not identified any ongoing harm being inflicted upon them by BANA.

1 stay would force BANA to expend needless costs, time, and effort engaging in
2 discovery and substantive briefing on issues that will likely be duplicative and may
3 be “legally barred” given the matters currently being considered in the Class Action.
4 *See CollegeSource, Inc. v. AcademyOne, Inc.*, 2014 WL 223082, at *4 (S.D. Cal. Jan
5 21, 2014) (finding stay justified because litigating case could “subject [defendant] to
6 unnecessary cost and expense of litigating a case that could be legally barred”
7 through claim or issue preclusion). Forcing BANA to litigate claims that may
8 be barred through collateral estoppel would be inefficient, and would place an
9 undue burden on BANA that outweighs Plaintiffs’ unidentified harm. *Connor*,
10 2025 WL 1115031 at *3 (“[D]istrict courts have found that engaging in
11 unnecessary motion practice and unnecessarily planning and preparing for trial
12 constitute hardship that supports a stay.”); *accord Delapaz*, 2025 WL 115029 at
13 *3. The balance of equities and interests of judicial efficiency and economy favor
14 continuing the stay through at least the resolution of BANA’s Rule 23(f) petition,
15 and through the resolution of dispositive motion practice in the Class Action
16 if the classes remain certified following BANA’s Rule 23(f) petition.

17 CONCLUSION

18 For the foregoing reasons, the Parties jointly ask this Court to continue the stay
19 of the Individual Plaintiffs’ proceedings at least until BANA’s forthcoming Rule
20 23(f) petition is resolved by the Ninth Circuit, and through the end of dispositive
21 motion practice in the Class Action if the classes remain certified following BANA’s
22 Rule 23(f) petition and any related filings.

1 Dated: June 26, 2025

Respectfully submitted,

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JOINT MOTION TO CONTINUE
STAY

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ATTESTATION OF E-FILED SIGNATURE

Pursuant to Section 2(f)(4) of the Electronic Case Filing Administrative Policies and Procedures Manual, I, Matthew L. Riffie, hereby certify that the content of this document is acceptable to all the signatories herein and that I have obtained counsel's authorization to affix their electronic signatures to this document.

s/ Matthew L. Riffie

CERTIFICATE OF SERVICE

I hereby certify that I electronically filed the foregoing with the clerk of the court for the United States District Court for the Southern District of California by using the CM/ECF system on June 26, 2025. I further certify that all participants in the case are registered CM/ECF users and that service will be accomplished by the CM/ECF system. I certify under penalty of perjury that the foregoing is true and correct.

Executed: June 26, 2025

s/ Matthew L. Riffe