

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

IN RE: BANK OF AMERICA
CALIFORNIA UNEMPLOYMENT
BENEFITS LITIGATION

Case No.: 21md2992-GPC (MSB)

**ORDER ISSUING AMENDED
SCHEDULING ORDER**

A Zoom Case Management Conference was held on **July 17, 2025**. (ECF No. 519.) After consulting with the attorneys of record and the chambers of the Honorable Gonzalo P. Curiel, the Court **ISSUES** the following Amended Scheduling Order:

1. The depositions of CEO Moynihan and COO Montag must be completed by **September 30, 2025**, following the guidelines outlined in ECF No. 487.

2. All pretrial motions, including those addressing *Daubert* issues related to dispositive motions must be filed by **October 17, 2025**. Pursuant to Honorable Gonzalo P. Curiel's Civil Pretrial & Trial Procedures, all motions for summary judgment shall be accompanied by a separate statement of undisputed material facts. Any opposition to a summary judgment motion shall include a response to the separate statement of undisputed material facts. Counsel for the moving party must obtain a motion hearing date from the law clerk of the judge who will hear the motion. Motion papers **MUST** be

1 filed and served the same day of obtaining a motion hearing date from chambers. A
2 briefing schedule will be issued once a motion has been filed. The period of time
3 between the date you request a motion date and the hearing date may vary. Please plan
4 accordingly. Failure to make a timely request for a motion date may result in the motion
5 not being heard.

6 3. A Mandatory Settlement Conference shall be conducted on **March 30, 2026**,
7 at **9:30 a.m.**, in the chambers of **Magistrate Judge Michael S. Berg** located at **221 West**
8 **Broadway, second floor, San Diego, CA 92101**. Upon arrival, parties should check in
9 with Judge Berg's chambers using the callbox located by the second-floor elevators. All
10 discussions at the Mandatory Settlement Conference will be informal, off-the-record,
11 privileged, and confidential. Counsel for any non-English speaking party is responsible
12 for arranging for the appearance of an interpreter at the conference.

13 a. **Personal Appearance of Parties Required:** All named parties, party
14 representatives, claims adjusters for insured defendants, and the principal attorney(s)
15 responsible for the litigation, must be present **in person** and prepared to discuss and
16 resolve the case. Counsel appearing without their clients (whether or not counsel has
17 been given settlement authority) will be cause for immediate imposition of sanctions and
18 may also result in the immediate termination of the conference.

19 b. **Full Settlement Authority Required:** A party or party
20 representative with full settlement authority must be present at the conference. Retained
21 outside corporate counsel must not appear on behalf of a corporation as the party
22 representative who has the authority to negotiate and enter into a settlement. A
23 government entity may be excused from this requirement so long as the government
24 attorney who attends the Mandatory Settlement Conference has (1) primary responsibility
25 for handling the case, and (2) authority to negotiate and recommend settlement offers to
26 the government official(s) having ultimate settlement authority.

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c. **Confidential Settlement Statements Required:** By

March 23, 2026, the parties shall submit directly to Magistrate Judge Berg's chambers (via hand delivery or by e-mail to the Court at efile_berg@casd.uscourts.gov), confidential settlement statements. The statements are limited to ten (10) pages, plus an additional ten (10) pages of exhibits. Each party's settlement statement must outline (1) significant facts established during discovery and the effect these facts have on the issues in the case; (2) counsel's insights regarding how best to reach settlement; (3) a **specific demand/offer for settlement**; and (4) any previous settlement negotiations or mediation efforts. The Mandatory Settlement Conference statement **must not merely repeat** what was contained in the Early Neutral Evaluation conference brief or any earlier settlement brief. To the extent specific discovery responses, portions of deposition testimony, or expert reports are pertinent to the Court's evaluation of the matter, these documents must be attached as exhibits. Evidence supporting or refuting either party's claim for damages must also be identified and included as an exhibit. A general statement, such as a party will "negotiate in good faith," is **not** a specific demand or offer. The settlement statement should be submitted confidentially and need not be shared with other parties.

d. **Requests to Continue a Mandatory Settlement Conference:**

Any request to continue the Mandatory Settlement Conference, or request for relief from any of the provisions or requirements of this Order, must be sought by a **written application. Absent good cause, requests for continuances will not be considered unless submitted in writing no fewer than seven (7) calendar days prior to the scheduled conference.**

If the case is settled in its entirety before the scheduled date of the conference, counsel and any unrepresented parties must still appear in person, unless a written joint notice confirming the complete settlement of the case is filed no fewer than twenty-four (24) hours before the scheduled conference.

4. Pursuant to Honorable Gonzalo P. Curiel's Civil Pretrial & Trial Procedures, the parties are excused from the requirement of Local Rule 16.1(f)(2)(a); no Memoranda

1 of Law or Contentions of Fact are to be filed.

2 5. Counsel shall comply with the pre-trial disclosure requirements of Fed. R.
3 Civ. P. 26(a)(3) by **May 8, 2026**. Failure to comply with these disclosure requirements
4 could result in evidence preclusion or other sanctions under Fed. R. Civ. P. 37.

5 6. Counsel shall meet and take the action required by Local Rule 16.1(f)(4) by
6 **May 15, 2026**. At this meeting, counsel shall discuss and attempt to enter into
7 stipulations and agreements resulting in simplification of the triable issues. Counsel shall
8 exchange copies and/or display all exhibits other than those to be used for impeachment.
9 The exhibits shall be prepared in accordance with Local Rule 16.1(f)(4)(c). Counsel shall
10 note any objections they have to any other parties' Pretrial Disclosures under Fed. R. Civ.
11 P. 26(a)(3). Counsel shall cooperate in the preparation of the proposed pretrial
12 conference order.

13 7. Plaintiffs' counsel will be responsible for preparing the pretrial order and
14 arranging the meetings of counsel pursuant to Civil Local Rule 16.1(f). By **May 22,**
15 **2026**, Plaintiffs' counsel must provide opposing counsel with the proposed pretrial order
16 for review and approval. Opposing counsel must communicate promptly with Plaintiffs'
17 counsel concerning any objections to form or content of the pretrial order, and both
18 parties shall attempt promptly to resolve their differences, if any, concerning the order.

19 8. The Proposed Final Pretrial Conference Order, including objections to any
20 other parties' Fed. R. Civ. P. 26(a)(3) Pretrial Disclosures shall be prepared, served and
21 lodged with the assigned district judge by **May 29, 2026**, and shall be in the form
22 prescribed in and comply with Local Rule 16.1(f)(6).

23 9. The final Pretrial Conference is scheduled on the calendar of the **Honorable**
24 **Gonzalo P. Curiel** on **June 5, 2026** at **1:30 p.m.** The Court will set a trial date during
25 the pretrial conference. The Court will also schedule a motion in limine hearing date
26 during the pretrial conference.

27 10. The parties must review the chambers' rules for the assigned district judge
28 and magistrate judge.

1 11. A post trial settlement conference before a magistrate judge may be held
2 within 30 days of verdict in the case.

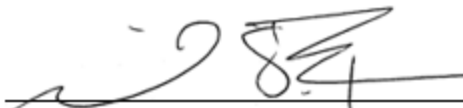
3 12. The dates and times set forth herein will not be modified except for good
4 cause shown.

5 13. Briefs or memoranda in support of or in opposition to all motions noticed for
6 the same motion day shall not exceed twenty-five (25) pages in length, per party, without
7 leave of the judge who will hear the motion. No reply memorandum shall exceed ten
8 (10) pages without leave of a district court judge. Briefs and memoranda exceeding ten
9 (10) pages in length shall have a table of contents and a table of authorities cited.

10 14. Plaintiffs' counsel shall serve a copy of this order on all parties that enter
11 this case hereafter.

12 **IT IS SO ORDERED.**

13 Dated: July 17, 2025

14 
15 Honorable Michael S. Berg
16 United States Magistrate Judge
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