

1 JAMES W. MCGARRY (*pro hac vice*)
2 *JMcGarry@goodwinlaw.com*
3 **GOODWIN PROCTER LLP**
4 100 Northern Avenue
5 Boston, Massachusetts 02210
6 Tel. +1 617 570 1000
7 Fax: +1 617 523 1231

5 SABRINA M. ROSE-SMITH (*pro hac vice*)
6 *SRoseSmith@goodwinlaw.com*
7 MATTHEW L. RIFFEE (*pro hac vice*)
8 *MRiffee@goodwinlaw.com*
9 **GOODWIN PROCTER LLP**
10 1900 N Street, NW
11 Washington, DC 20036
12 Tel.: +1 202 346 4000
13 Fax: +1 202 346 4444

10 Attorneys for Defendant
11 **BANK OF AMERICA, N.A.**

12 [*ADDITIONAL COUNSEL LISTED IN SIGNATURE BLOCK*]

13 **UNITED STATES DISTRICT COURT**
14 **FOR THE SOUTHERN DISTRICT OF CALIFORNIA**
15 **SAN DIEGO DIVISION**

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

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

**DEFENDANT BANK OF
AMERICA, N.A.'S NOTICE OF
MOTION AND MOTION FOR
PARTIAL SUMMARY
JUDGMENT**

Date: April 17, 2026
Time: 1:30 p.m.
Ct rm: 12A – 12th Floor
Judge: Hon. Gonzalo P. Curiel

ORAL ARGUMENT REQUESTED

NOTICE OF MOTION AND MOTION

TO THE COURT, ALL PARTIES AND THEIR COUNSEL OF RECORD:

PLEASE TAKE NOTICE that on April 17, 2026 at 1:30 p.m. or as soon thereafter as counsel may be heard in Courtroom 2D of the above-entitled Court, located at 333 West Broadway, San Diego, CA 92101, Defendant Bank of America, N.A. (BANA) will and hereby moves for partial summary judgment pursuant to FED. R. CIV. P. 56 on the claims and counts brought on behalf of the five classes certified in the Court's June 16, 2025 order (ECF 494) (the Claim Denial, Credit Rescission, Account Freeze, Customer Service, and EMV Chip Classes), and by Class Representatives Kuang Ting Chong, Candace Koole, Lindsay McClure, Azuri Moon, Stephanie Moore, Roland Oothuizen, Vanessa Rivera, J. Michael Willrich, and Alex Yuan, individually or in a representative capacity.

Specifically, as set forth in the accompanying Memorandum of Points and Authorities, BANA moves for the following:

- Partial summary judgment for BANA on all claims for actual damages and treble damages under 15 U.S.C. §§ 1693m(a)(1) and 1693f(e) of the Electronic Funds Transfers Act (EFTA) (Count 1);
- Summary judgment for BANA on each and all of the following claims and counts, including any and all claims for relief thereunder¹:
 - All claims for violations of the California Consumer Privacy Act (CCPA) (Count 2);
 - All claims for violations of the California Unfair Competition Law (UCL) (Count 4);
 - All claims for negligence and negligence per se (Count 5);
 - All claims for negligent hiring, supervision, and retention (Count 6);
 - All claims for breach of contract (Count 7);

¹ Counts 3, 8, 11, and 12 were previously dismissed or abandoned by Plaintiffs in their Third Amended Master Consolidated Complaint (ECF 406).

- All claims for breach of implied covenant of good faith and fair dealing (Count 9);
- All claims for breach of fiduciary duty (Count 10);
- All claims for violations of Federal Due Process Under the 14th Amendment (Count 13);
- All claims for violations of the California Due Process Clause (Count 14);
- Summary Judgment for BANA on all claims for punitive damages under Cal. Civ. Code § 3294; and
- Summary Judgment for BANA on all claims for punitive damages under 42 U.S.C. § 1983.

This Motion is based upon this Notice of Motion and Motion; the accompanying Memorandum of Points and Authorities; the accompanying Statement of Undisputed Material Facts and all supporting declarations, exhibits, and documents; the accompanying Request for Judicial Notice and all supporting documents; the concurrently filed Motions to Exclude Plaintiffs' Purported Expert Opinions and all supporting documents; all pleadings and records on file in this action; and such further oral or written argument as may be presented on this matter.

Dated: October 17, 2025 Respectfully submitted,

By: /s/ James W. McGarry

JAMES W. MCGARRY (*pro hac vice*)
JMcGarry@goodwinlaw.com
GOODWIN PROCTER LLP
100 Northern Avenue
Boston, MA 02210
Tel.: +1 617 570 1000
Fax: +1 617 523 1231

SABRINA M. ROSE-SMITH (*pro hac vice*)
SRoseSmith@goodwinlaw.com
MATTHEW L. RIFFEE (*pro hac vice*)
MRiffee@goodwinlaw.com

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KEITH LEVENBERG (*pro hac vice*)
KLevenberg@goodwinlaw.com
GOODWIN PROCTER LLP
1900 N St. NW
Washington, DC 20036
Tel: +1 202 346 4000
Fax: +1 202 346 4444

LAURA G. BRYs (SBN 242100)
LBrys@goodwinlaw.com
GOODWIN PROCTER LLP
601 S Figueroa St., Suite 4100
Los Angeles, CA 90017
Tel.: +1 213 426 2500
Fax: +1 617 346 4444

VALERIE A. HAGGANS (*pro hac vice*)
VHaggans@goodwinlaw.com
LINDSAY E. HOYLE (*pro hac vice*)
LHoyle@goodwinlaw.com
GOODWIN PROCTER LLP
620 Eighth Avenue
New York, NY 10018
Tel: +1 212 813-8800
Fax: +1 212 355-3333

YVONNE W. CHAN (*pro hac vice*)
YChan@jonesday.com
JONES DAY
100 High Street
Boston, MA 02110
Tel.: +1 617 960 3939
Fax: +1 617 449 6999

JANICE P. BROWN (SBN 114433)
jbrown@myersnave.com
MATTHEW B. NAZARETH (SBN 278405)
mnazareth@myersnave.com
MEYERS NAVE
600 B Street, Suite 1650
San Diego, CA 92101

Attorneys for Defendant
BANK OF AMERICA, N.A.

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 October 17, 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: October 17, 2025 /s/ James W. McGarry