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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

**PLAINTIFFS' UNOPPOSED MOTION
TO REQUEST THE COURT TO
CONSIDER PLAINTIFFS' *DAUBERT*
MOTION TO EXCLUDE CERTAIN
OPINIONS OF VICTOR STANGO IN
CONNECTION WITH DEFENDANT'S
SUMMARY JUDGMENT MOTION**

Judge: Hon. Gonzalo P. Curiel
Ctrm: 2D (2nd Floor)

This Document Relates to All Actions

1 On October 17, 2025, pursuant to this Court’s previous general scheduling orders,
2 Plaintiffs filed *Daubert* motions to exclude certain testimony of Victor Stango (ECF 571)
3 and Carl Pry (ECF 574). On December 9, 2025, this Court denied those *Daubert* motions
4 “without prejudice,” on the ground that they did “not appear to be related to the pending
5 motion for partial summary judgment.” ECF 597.

6 Plaintiffs maintain that their *Daubert* motion to exclude certain testimony of Stango
7 (ECF 571) directly relates to Defendant’s pending motion for partial summary judgment
8 (which was filed the same day as Plaintiffs’ *Daubert* motions and was therefore not
9 referenced in Plaintiffs’ motion). The Bank’s summary judgment brief and its Separate
10 Statement of Undisputed Material Facts both rely on Stango’s opinion that, “as a matter of
11 economic fact,” the payments the Bank made to class members eliminated any actual and
12 EFTA treble damages that might otherwise be available to those class members. Bank SJ
13 Mot. at 17; *see also* SUF ¶173. That is the same opinion that Plaintiffs sought to exclude
14 in their *Daubert* motion on the ground that it impermissibly offers a legal conclusion
15 beyond the scope of Stango’s purported economic expertise, ECF 571 at 1-8, and because
16 it is not supported by the sources upon which Stango relies, ECF 571 at 1, 8-9. The Bank
17 disagrees with those assertions.

18 Given the Bank’s reliance on Stango’s opinion in its pending motion for partial
19 summary judgment within the meaning of the Court’s Local Rule, Plaintiffs request that
20 the Court reconsider its order denying Plaintiffs’ *Daubert* motion to exclude certain
21 testimony of Stango (ECF 571) without prejudice, and allow the motion to be noticed for
22 and considered at the currently scheduled April 17, 2026 motions hearing.

23 Plaintiffs and Defendant have conferred and Defendant does not oppose Plaintiffs’
24 request. If Plaintiffs’ unopposed motion is granted, the parties have conferred and propose
25 that Defendant be given until February 5, 2026 to submit any opposition to Plaintiffs’
26 *Daubert* motion to exclude certain testimony of Stango (ECF 571), and that Plaintiffs be
27 given until February 20, 2026 to submit any reply.

Respectfully submitted,

Dated: January 7, 2025

COTCHETT, PITRE & McCARTHY, LLP

By: /s/ Brian Danitz
JOSEPH W. COTCHETT
BRIAN DANITZ
KARIN B. SWOPE
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Co-Lead Counsel for Plaintiffs and the Class

Dated: January 7, 2025

ALTSHULER BERZON LLP

By: /s/ Michael Rubin
MICHAEL RUBIN
STACEY M. LEYTON
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JAMES BALTZER

Co-Lead Counsel for Plaintiffs and the Class

SIGNATURE ATTESTATION

Pursuant to section 2(f)(4) of the Electronic Case Filing Administrative Policies and Procedures Manual, I, Michael Rubin, attest that the other signatories listed, and on whose behalf this filing is submitted, concur in the filing content and have authorized this filing.

Dated: January 7, 2026

/s/ Michael Rubin

Michael Rubin