PX 1

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

EXPERT REPORT OF J. DANIEL KREIS

March 4, 2025

REDACTED PUBLIC VERSION

TABLE OF CONTENTS

Page

I. ASSIGNMENT 1

II. QUALIFICATIONS 1

III. FACTS AND DATA CONSIDERED 4

IV. HOURLY RATE 4

V. SUMMARY OF OPINIONS 4

VI. FACTUAL BACKGROUND 5

A. The EDD Debit Card Program 5

B. Overview of the Bank's Claims Operation 6

C. The Bank's Use of the Claim Fraud Filter 9

VII. STATEMENT AND EXPLANATION OF OPINIONS 10

A. In the banking and financial services industry, it is widely recognized that a debit card issuer cannot deny an unauthorized transaction claim unless it has conducted an adequate investigation of that claim that includes the review of all available relevant records. 10

B. The Bank's [redacted] and related training materials for claims analysts provide sensible procedures for EFTA/Reg E compliance that are consistent with well-established industry standards for investigating unauthorized transaction claims. 13

C. The Bank's use of Indicator 1 of the Claim Fraud Filter as the sole basis for denying EDD cardholders' unauthorized transaction claims was a significant departure from the Bank's [redacted] 28

D. The Bank's use of Indicator 1 of the Claim Fraud Filter as the sole basis for denying EDD cardholders' unauthorized transaction claims was contrary to industry standards. 31

E. The Bank could have adopted strategies other than CFF Indicator 1 to deal with any operational challenges related to EDD cardholder claims of unauthorized ATM withdrawals, including prioritizing investigation of higher-value claims and hiring or contracting additional claims analysts. 35

F. The Bank's use of Indicator 1 of the Claim Fraud Filter as the sole basis for rescinding permanent credits that the Bank had previously paid EDD cardholders was contrary to industry standards. 36

G. The Bank's use of Indicator 1 of the Claim Fraud Filter as the sole basis for freezing EDD cardholder accounts was contrary to industry standards.......... 38

H. The Banks' continued use of Indicator 1 of the Claim Fraud Filter to deny claims, rescind permanent credits, and freeze accounts, despite having data showing that Indicator 1 was highly inaccurate, was contrary to industry standards.......... 43

I. The claim denial letter that the Bank sent to EDD cardholders whose claims were denied, or whose prior permanent credit was rescinded, by CFF Indicator 1 was contrary to industry standards. 50

I. ASSIGNMENT

1. I have been retained by Plaintiffs' counsel in *In re Bank of America California Unemployment Benefits Litigation*, Case No. 3-21-md-02992-GPC-MSB, to provide expert opinions on the following topics related to cardholders who received unemployment and other benefits payments from the California Employment Development Department ("EDD") on prepaid debit cards ("EDD debit cards") issued by Bank of America (the "Bank") during the period March 2020 through June 8, 2021:

a. Whether the Bank's policies and practices for investigating and decisioning unauthorized transaction claims ("claims") made by EDD debit cardholders ("EDD cardholders") were consistent with financial industry standards for investigating and decisioning claims.

b. Whether the Bank's policy and practice of using its Claim Fraud Filter to rescind permanent credits was consistent with financial industry standards for investigating and decisioning claims.

c. Whether the Bank's policy and practice of using its Claim Fraud Filter to freeze EDD cardholder accounts was consistent with financial industry standards for freezing cards and accounts.

d. Whether there were other available strategies that the Bank reasonably could have used to deal with claims submitted by EDD cardholders.

II. QUALIFICATIONS

2. I am the principal of First Camden Consulting, a limited liability company based in Maryland that I founded in 2019. Through First Camden Consulting, I provide consulting, project management, training, and related services to consumer-facing financial institutions, particularly as relates to designing, implementing, and improving policies, practices, and systems for detecting and investigating suspicious transactions and fraud involving consumer electronic payments, especially payments involving credit cards and debit cards.

3. I have 42 years of experience in the field of consumer electronic payments. During my career, I have designed, implemented, developed, managed, and consulted on consumer payment systems and operations for major financial institutions, businesses, and U.S. government agencies, with a focus on consumer fraud analytics and operations. Since 1996, I have been retained to consult on these topics by over 100 financial institutions, businesses, and government agencies in 17 countries. I have significant experience and expertise in industry standard policies, practices, and procedures for detecting fraudulent transactions and for investigating and resolving consumer claims of unauthorized transactions, both under the Electronic Fund Transfers Act and Regulation E ("EFTA/Reg E") framework applicable to debit cards, and the similar Truth in Lending Act and Regulation Z ("TILA/Reg Z") framework applicable to credit cards.

4. A sampling of my experience includes the following engagements:

a. From June 1982 to August 1989, I held several positions at First Omni Bank (now M&T Bank), a regional bank that led in the development of automated teller machine ("ATM") networks and risk management technologies. I had several job titles and roles, including Group Vice President of Risk Operations, which required managing a staff of approximately 150 full-time equivalent employees and overseeing the bank's fraud investigations related to deposit accounts, including under EFTA/Reg E.

b. From August 1989 to October 1995, I was the Regional Director at FICO, a leading developer of fraud management tools for financial institutions globally. In that role, I managed FICO's Mid-Atlantic and Mexican markets, working with FICO's financial institution customers, including major banks, in the development and execution of their consumer fraud analytics and fraud management strategies. This included working with a top-three (by assets) U.S. bank[1] in the development and implementation of an early version of the Falcon fraud

[1] The name of the bank is not disclosed here because, as is common in the industry, the consulting engagement was subject to a non-disclosure agreement.

model, which is a widely used tool in the financial industry for fraud management, including for detecting suspicious and potentially fraudulent or illegal transactions.

c. From October 1996 to January 2021, I was the Director of Portfolio Management at First Annapolis Consulting (now part of Accenture). In that role, I managed a team that consulted with over 100 financial institutions with a focus on consumer payments risk and operations management. Approximately 70% of my team's engagements included an assessment of our financial institution clients' fraud management practices. While subject to non-disclosure agreements, a sampling of my engagements included (i) Large Regional Bank: designed fraud operations for new consumer credit card offering, including the policies and procedures for investigating cardholders' unauthorized transaction claims in compliance with Regulation Z; (ii) Top 3 U.S. Retailer: managed all fraud-related functions and operations for the retailer's private label credit card, including operations for investigating and decisioning cardholders' claims of unauthorized transactions; (iii) U.S. Financial Regulator: acted as the regulator's agent for 11 months in managing the back-office operations and winding-down and sale of a failed bank, including management of the call center that handled customer calls following the simultaneous closure of more than 500,000 card accounts; (iv) Leading U.S. Bank: designed and implemented all fraud operations for a major new consumer credit card offering; (v) Top 3 U.S. Card Issuer: developed plan for card issuer's collections call center, which had hundreds of agents, to implement artificial intelligence systems for improving and streamlining call center's regulatory compliance and other back-office operations.

d. From 2021 to 2024, I was as a co-founder and the Director of Credit and Operations of Percapita, a New York City-based financial technology company that provides banking services to historically underserved communities. In that role, I managed the design, implementation, and development of the policies and procedures for fraud identification, investigations, and recovery practices for Percapita's debit card offering. This included managing the company's policies and procedures for investigating and decisioning claims of unauthorized transactions in compliance with EFTA/Reg E.

5. My curriculum vitae is attached as **Appendix A.** I have not testified as an expert witness at trial or by deposition during the last four years.

III. FACTS AND DATA CONSIDERED

6. In preparing this report, I relied on my knowledge, training, experience, and expertise accumulated during my 42-year career in consumer payment systems and operations. I also relied on the Plaintiffs' complaint, documents and information produced in discovery in this case, and documents and information that are publicly available. The specific materials I relied upon are cited in this report and in the list attached as **Appendix B**.

7. My work on this matter is ongoing and I may review additional materials or conduct further analysis. I reserve the right to supplement, amend, and revise my opinions in this report, including based on additional materials made available to me.

IV. HOURLY RATE

8. I am being paid for my work on this case at the rate of $450 per hour, which is not contingent on the opinions I express or the outcome of this matter.

V. SUMMARY OF OPINIONS[2]

9. In the banking and financial services industry, it is widely recognized that a debit card issuer cannot deny an unauthorized transaction claim unless it has conducted an adequate investigation of that claim that includes the review of all available relevant records.

10. The Bank's [redacted] and related training materials for claims analysts provide sensible procedures for compliance with the Electronic Fund Transfer Act and Regulation E ("EFTA/Reg E") that are consistent with well-established industry standards for investigating unauthorized transaction claims.

---

[2] All opinions stated in this report, including all opinions about what is consistent with or contrary to industry standards or contrary to industry standards, apply to the Class Period, unless otherwise indicated.

11. The Bank's use of Indicator 1 of the Claim Fraud Filter as the sole basis for denying EDD cardholders' unauthorized transaction claims was a significant departure from the Bank's [redacted].

12. The Bank's use of Indicator 1 of the Claim Fraud Filter as the sole basis for denying EDD cardholders' unauthorized transaction claims was contrary to industry standards.

13. The Bank's use of Indicator 1 of the Claim Fraud Filter as the sole basis for rescinding permanent credits that the Bank had previously paid EDD cardholders was contrary to industry standards.

14. The Bank's use of Indicator 1 of the Claim Fraud Filter as the sole basis for freezing EDD cardholder accounts was contrary to industry standards.

15. The Banks' continued use of Indicator 1 of the Claim Fraud Filter to deny claims, rescind permanent credits, and freeze accounts, despite [redacted], was contrary to industry standards.

16. The claim denial notices that the Bank sent to EDD cardholders whose claims it denied, or whose permanent credits it rescinded, based solely on Indicator 1 of the Claim Fraud Filter failed to meet industry standards for providing notice of a denied claim.

VI. FACTUAL BACKGROUND[3]

A. The EDD Debit Card Program

17. I understand that the California Employment Development Department ("EDD") administers programs concerning unemployment insurance, disability insurance, and other public benefits ("EDD benefits") payable to California residents. Throughout 2020-2021, I understand that EDD had contracted with the Bank to handle the distribution of EDD benefits through Visa-branded prepaid debit cards, often referred to as "EDD debit cards." My general understanding is that installments of each EDD benefits recipient's EDD benefits were periodically deposited into

[3] This factual overview is based on my experience in the financial services industry, and my review of the deposition transcripts and all other documents cited herein and in Appendix B.

that recipient's Bank of America EDD debit card account, and that the Bank issued each recipient an EDD debit card to access the EDD benefits in their account. I understand that the number of active EDD debit cards was fewer than 1 million cards before the Covid pandemic began in March 2020, and that this number increased to approximately 3 million active cards by the end of March 2020 and approximately 8-9 million active cards by September 2020.[4]

B. Overview of the Bank's Claims Operation

18. EFTA/Reg E is a major regulatory compliance issue for banks and other consumer-facing financial institutions. When a debit cardholder contacts their card issuer[5] to report an unauthorized transaction involving their debit card or associated account, this is often referred to in the industry as "making an unauthorized transaction claim." When a cardholder makes an unauthorized transaction claim, it triggers a series of rights and obligations under EFTA/Reg E's "error resolution" procedures. In general terms, if a debit cardholder reports an unauthorized transaction to their card issuer, the EFTA/Reg E error resolution procedures typically require the card issuer to open an unauthorized transaction claim, conduct an investigation of the transaction, and reimburse the cardholder for the amount of the transaction unless the card issuer's investigation shows that the cardholder authorized or benefited from the transaction.

19. The following describes the typical process in the industry by which a card issuer opens an unauthorized transaction claim. The process typically begins when the cardholder calls the card issuer's customer service phone line and informs a customer service agent that there is a transaction or transactions on their debit card account that they (the cardholder) did not make. The customer service agent then gathers from the cardholder information sufficient to identify the cardholder's account (e.g., name and card number or social security number), information sufficient to identify the specific transaction(s) that the cardholder is disputing, and the reason(s) that the cardholder is disputing the transaction(s) (e.g., the cardholder states they didn't make the

[4] *See* Chestnut Tr. 31:13-23; 50:15-21.

[5] In the case of the EDD debit card, the card issuer was Bank of America.

transaction). This is the industry-standard information that is needed to open a claim.[6] Once this information is gathered, it is industry standard for the card issuer (typically through the customer service agent) to open a claim, and for the card issuer's system to assign that claim a unique claim number. My understanding is that the above process, which is typical in the industry, [redacted].[7]

20. Once a claim is opened, EFTA/Reg E's error resolution procedures then generally require that the card issuer adequately investigate the claim. To ensure EFTA/Reg E compliance, it is a standard practice in the banking and financial services industry for debit card issuers to have a department of trained personnel who are dedicated to investigating claims ("claims analysts"). In general terms, it is industry standard for a claims analyst to investigate claims by reviewing relevant records that might contain information corroborating or disproving the cardholder's claim that they (the cardholder) did not authorize the transaction at issue. After reviewing such records, the claims analyst will "decision" the claim, which means deciding whether to "pay" the claim (i.e., reimburse the cardholder for the unauthorized transaction by issuing a permanent credit in the amount of the unauthorized transaction to the cardholder's account) or to "deny" the claim. After the claim is decisioned and any necessary post-decision processes are completed, the claim is typically "closed" in the card issuers' system. It is widely recognized in the industry that, under EFTA/Reg E's error resolution procedures, a card issuer cannot deny a claim unless its claims investigation uncovers evidence the cardholder authorized or benefitted from the transaction. I understand that at Bank of America, the name of the

[6] There is additional information that can be useful to the claims investigation that card issuers typically have their call center agents gather during this same phone call. Examples include the cardholder's responses to questions posed by the call center agent about whether the cardholder has the physical card in their possession, whether the card has been lost or stolen, whether the cardholder shared their card personal identification number ("PIN") with anyone, and where the cardholder was at the time of the unauthorized transaction. [redacted] But this additional information is not part of the industry-standard information needed to open a claim, which is limited to information sufficient to identify the cardholder account, the transactions being disputed, and the reason why.

[7] *See* Daniels Tr. 78:6-89:25.

department that conducted claims investigations for EDD cardholders and other Bank customers during 2020-2021 was "Claims Resolution and Recovery" (or "CR&R"),[8] and that CR&R had in place policies—namely, the Bank's [redacted]—that if followed would have resulted in the Bank's claims analysts conducting investigations that are generally consistent with the industry standard process described above.

21. Because debit card issuers have a great variety of records and information that are potentially relevant to claims, it is also industry standard practice for card issuers to have detailed written policies about what records and information their claims analysts need to review when conducting a claims investigation. I understand that, during 2020-2021, the Bank's written policy for how to conduct investigations of unauthorized transaction claims submitted by its debit cardholders, including EDD cardholders, was the Bank's [redacted]. As is standard in the industry, the Bank's [redacted]. The overarching purpose of the [redacted] and similar documents used by other financial institutions is to ensure that claims analysts are consistently following the same investigation procedures to comply with the EFTA/Reg E error resolution procedures.[9] My understanding is that, before September 28, 2020, the Bank's general practice and policy with respect to investigating and decisioning EDD cardholder unauthorized transaction claims,

---

[8] *See* Daniels Tr. 133:5-8, 135:9-20; BANA_EDD_MDL-00012738.

[9] [redacted]); BANA_EDD_MDL-00003890 (Sept. 24, 2020 training) ([redacted]").

including EDD cardholder claims of unauthorized ATM withdrawals, was to follow the procedures set forth in the [redacted][10]

C. The Bank's Use of the Claim Fraud Filter

22. I understand that the Bank applied a "Claim Fraud Filter" ("CFF") during the period September 28, 2020 to June 8, 2021 (the "Class Period") to automatically deny all EDD cardholder claims that were submitted or pending during the CFF Period, and that met the criteria of any one of the CFF's three "Indicators."[11]

23. I also understand that the Bank used the CFF during the Class Period to automatically rescind permanent credits issued on claims that had been opened on or after April 1, 2020, that the Bank had previously paid before implementing the CFF on September 28, 2020, and that met the criteria of any one of the CFF's three Indicators.[12]

24. During the period of September 28, 2020 until March 17, 2021, if the Bank used its CFF to automatically deny a claim or rescind permanent credit issued on a claim as set forth above, I understand that the Bank also automatically "froze" the associated EDD debit card account. I understand such freezing of an EDD debit card account prevented the affected EDD cardholder from accessing any EDD benefits in their account and prevented EDD from depositing any new benefits payments into that account so long as it remained frozen.[13]

25. Because I understand that Plaintiffs' claims focus on EDD cardholders whose claims were denied, whose permanent credits were rescinded, and/or whose accounts were frozen based solely on Indicator 1 of the Claim Fraud Filter, this report focuses on Indicator 1. My understanding is that CFF Indicator 1 is a [redacted][14] that the Bank used to identify and

---

[10] *See* Daniels Tr. 146:16-21, 234:24-236:5 [redacted]).

[11] *See* Daniels Tr. 21:6-23, 39:16-40:8, 42:3-8, 52:21-53:9, 209:20-24, 234:13-21; Martin Tr. 124:20-125:17, 162:1-25, 173:7-23. 177:6-178:12.

[12] *See* Daniels Tr. 233:3-9, 234:24-235:11, 284:15-20; Martin Tr. 173:24-174:16, 175:6-14, 178:13-23, 179:13-180:1.

[13] *See* Martin Tr. 159:15-18, 179:13-180:6, 192:24-193:10, 223:18-224:16.

[14] *See* ¶¶58-59.

automatically deny, or automatically rescind permanent credit issued on, any EDD cardholder claim that consisted entirely of one or more disputed PIN-enabled ATM withdrawals (commonly referred to in the industry as an "ATM claim"), or that consisted of a combination of disputed [redacted] (often referred to in Bank documents as an "[redacted]" claim).[15] I understand that EDD debit cards had a four-digit PIN.

26. In the banking and financial services industry, a card transaction is commonly referred to as "PIN-enabled" or "pinned" if completing the transaction requires entry of the personal identification number ("PIN") associated with the card. The terms "PIN-enabled" and "pinned" are synonymous in this context.

VII. STATEMENT AND EXPLANATION OF OPINIONS

A. In the banking and financial services industry, it is widely recognized that a debit card issuer cannot deny an unauthorized transaction claim unless it has conducted an adequate investigation of that claim that includes the review of all available relevant records.

27. The Electronic Fund Transfer Act protects individual consumers who engage in, or whose cards or accounts are used to engage in, various kinds of electronic transactions, including debit card transactions at ATMs and POS terminals. EFTA is implemented by Regulation E, commonly referred to in the industry as "Reg E." EFTA/Reg E provide a number of requirements that debit card issuers must follow when a cardholder makes an unauthorized transaction claim.

28. It is widely recognized in the banking and financial services industry that, to deny an unauthorized transaction claim under EFTA/Reg E, the financial institution must conduct an

---

[15] *See* BANA_EDD_MDL-00592328 (describing Indicator 1 as "[redacted]"); BANA_EDD_MDL-00090640, 90643 (same); BANA_EDD_MDL-00100649 (describing Indicator 1 as "[redacted]"); Letson Tr. 92:19-23 (agreeing that Indicator 1 "[redacted]"); *id.* 93:6-94:5 (Indicator 1 applied to any "[redacted]"); Martin Tr. 125:25-126:8, 127:8-10 (similar); Daniels Tr. 285:22-286:12; 289:11-12 (similar).

adequate investigation that includes the review of all available relevant records and must conclude based on that adequate investigation that the cardholder authorized the transaction. This industry standard practice is reflected in Bank of America's AISOP and related training materials.[16]

29. In the banking and financial services industry, it is industry standard when investigating an unauthorized transaction claim to review relevant records of both the card issuer (in this case, Bank of America) and third-party service providers that the card issuer can easily access. An example of available relevant records of a third-party service provider that the Bank could easily access in this case would be records in the Visa Prepaid Administration System ("Visa PAS"), which is Visa's platform for financial institution management of prepaid debit cards. Visa PAS contains information that is highly relevant to investigations of EDD cardholder claims, including information about each EDD debit card's card activity, transaction history, account history, and notes entered by financial institution employees and contractors.[17]

30. The above industry standard practices are reflected in the Bank's [redacted] and related training documents that instruct claims analysts how to investigate unauthorized transaction claims. These Bank documents state that claims investigations and decisions must be based on "[redacted]"[18] and "[redacted]" and that the

---

[16] *See, e.g.*, BANA_EDD_MDL-00559693 ([redacted]; BANA_EDD_MDL-00001312 ([redacted]).

[17] *See* BANA_EDD_MDL-00100507, -100514, -100516-17, -100520, -100528 (Bank training materials detailing numerous "[redacted]"); Daniels Tr. 159:24-160:11, 163:1-3 (agreeing Visa PAS contains relevant and helpful information for investigating claims); Martin Tr. 184:10 (calling Visa PAS "[redacted]" for EDD debit cards).

[18] *See* BANA_EDD_MDL-00006484 (Apr. 2020 training) ("[redacted]"); BANA_EDD_MDL-00003890 (Sept. 2020 training) (same); BANA_EDD_MDL-00100637 (Oct. 2020 training)

cardholder is not required to "[redacted]" that fraud occurred for the claim to be paid but rather it is the card issuer that has "[redacted] in order to deny the claim.[19] In other words, "[redacted]."[20] All these statements are consistent with industry standards.

[redacted]

BANA_EDD_MDL-00006487 (Apr. 2020 training)[21]

(same); BANA_EDD_MDL-00004542 (Mar. 2021 training) (same); *see also* Daniels Tr. 120:16-21 (describing [redacted]).

[19] BANA_EDD_MDL-00006847 (Apr. 2020 training); BANA_EDD_MDL-00003888 (Sept. 2020 training); BANA_EDD_MDL-00100636 (Oct. 2020 training).

[20] BANA_EDD_MDL-00004536 (Jan. 2021 training).

[21] Slides with the same or similar language also appear in later training documents. *See* BANA_EDD_MDL-00003888 (Sept. 2020); BANA_EDD_MDL-00100636 (Oct. 2020).

B. The Bank's [redacted] and related training materials for claims analysts provide sensible procedures for EFTA/Reg E compliance that are consistent with well-established industry standards for investigating unauthorized transaction claims.

31. The Bank's training materials state that claims analysts must follow the [redacted] (sometimes referred to as the "[redacted]") when investigating and decisioning claims, in order to ensure that claims investigations and decisions are "[redacted]," "[redacted]," and "[redacted]."[22] This is all industry standard.

32. The Bank's [redacted].[23]

33. The claim type of a particular disputed transaction is determined by the kind of transaction that is being disputed and the reason why. A few basic facts are usually sufficient to establish the claim type. Such facts include whether the transaction at issue involves a debit card or credit card; whether the transaction was "card present" (i.e., whether it required using the physical card, as would be the case with an ATM withdrawal or purchase through a POS terminal) or "card not present" (e.g., an online purchase); and whether the customer is alleging the transaction was unauthorized (commonly referred to as a "fraud claim") or that the merchant simply charged them the wrong amount (commonly referred to as a "billing dispute" or "non-fraud claim").

34. This report focuses on the Bank's [redacted], because this is the only complete copy of the [redacted] that I understand the Bank has produced in this litigation. BANA_EDD_MDL-00559693 ([redacted]).[24] That [redacted]

---

[22] BANA_EDD_MDL-00006484 (Apr. 2020 training); BANA_EDD_MDL-00003890 (Sept. 2020 training); BANA_EDD_MDL-00100637 (Oct. 2020 training); BANA_EDD_MDL-00004542 (Mar. 2021 training).

[23] *See* BANA_EDD_MDL-00559693 ([redacted]) ("[redacted]").

[24] I assume that any other versions of the [redacted] in effect in during or near the Class Period are generally consistent with the [redacted] version, as relates to the two relevant claim types

[redacted]. Of these, there are only two claim types that I understand to be relevant to investigations of EDD cardholder claims of unauthorized ATM withdrawals: (1) "[redacted]" (*id.* at -559893-98), which I understand to be applicable to EDD cardholder claims of unauthorized [redacted];[25] and (2) "[redacted]" (*id.* at -559898-901), which I understand to apply to EDD cardholder claims of unauthorized [redacted] submitted by EDD cardholders.[26] These two claim types are claims for *transaction* fraud (i.e. fraudsters withdrawing funds from legitimate cardholder accounts at ATMs) as opposed to *enrollment* fraud (i.e. EDD providing benefits to fraudsters). These two distinct types of fraud are important to distinguish as the losses from transaction fraud at ATMs are generally borne by the Bank under EFTA. This was apparently well understood at the Bank.[27]

---

identified in this paragraph. This assumption is informed by a [redacted], BANA_EDD_MDL-00559979, as well as by excerpts of other versions of the [redacted] produced by the Bank, which appear to be generally consistent with the [redacted] version. *See* BANA_EDD_MDL-00001312 (19-page excerpt with effective date of [redacted]); BANA_EDD_MDL-00718756 (15-page excerpt of undated version).

[25] Daniels Tr. 152:1-25, 287:19-288:12.

[26] [redacted] (BANA_EDD_MDL-00559911-14), which I understand would apply to reconsideration of EDD cardholder claims of unauthorized ATM withdrawals that were denied by the Bank's CFF, and the claim type "[redacted]" (*id.* at -559914-18), which I understand would apply to [redacted] denied by Indicator 1 of the CFF. My analysis does not focus on either of these claim types, however, because "reconsideration" investigations—i.e., when a financial institution re-investigates a denied claim at the cardholder's request—are widely deemed in the industry not to be required by EFTA/Reg E, but to be a voluntary customer service measure. [redacted]

[27] *See, e.g.*, Schwartz Tr. 128:24-132:2 (explaining that in cases of "double dipping" the bank [redacted]); Holt Tr. 112:16-113:6.

35. The [redacted] for those two claim types are generally consistent with what I would expect to see, and in my opinion are generally consistent with industry standards. For example, the claim type [redacted]." *Id.* at -559893-94. [redacted]" *Id.* at -559898-99. Bank training materials and deposition testimony [redacted].[28]

36. Below, I provide my understanding of each of the [redacted].[29] For each [redacted], I provide some illustrations of the kinds of information the [redacted] could reveal that would be helpful to determining whether the cardholder authorized or benefited from the transaction, and therefore helpful to correctly decisioning a claim.

---

[28] *See* Daniels Tr. 137:9-138:10; BANA_EDD_MDL-00004549 ([redacted]).

[29] [redacted]. *See* BANA_EDD_MDL-00559898-99. Of these, [redacted].

(1) "[redacted]" – I understand this to refer to the [redacted]

(2) "[redacted]" – [redacted][30]

For disputed ATM withdrawals, other important information that is industry standard to review would have been located in [redacted].[31] Such information could be critical to correctly decision a claim, as it could reveal activity consistent with criminal activity, such as [redacted]

[30] *See also* Daniels Tr. 90:1-91:5 ([redacted]).

[31] BANA_EDD_MDL-00100656.

[redacted].[32]

(3) "[redacted]" – The Bank describes this [redacted]."[33] It is industry standard to review these kinds of [redacted] information.

(4) "[redacted]" – It is industry standard to review [redacted]. Such information that is highlighted in Bank training materials, and this is industry standard to review, includes the following:

- [redacted] – [redacted] For example, if the account history shows that a nondisputed ATM withdrawal was made in California only 20 minutes before a disputed ATM withdrawal was made in New York, that would indicate that it

---

[32] *See, e.g.*, BANA_EDD_MDL-00100546 (Bank training materials) ("[redacted]); *id.* at -100555 ("[redacted]).

[33] BANA_EDD_MDL-00006502 ([redacted]); BANA_EDD_MDL-00100657 ([redacted]).

was impossible for the cardholder to personally complete both card-present transactions, and that there are therefore multiple copies of the card (at least one of which is very likely counterfeit). This would be key information indicating that the disputed ATM withdrawal was very likely unauthorized.

- [redacted] – It is industry standard to review [redacted]. It is widely recognized in the industry that transactions that [redacted] indicate an increased risk that those transactions may be fraudulent. Conversely, transactions that [redacted] indicate an increased likelihood that the transactions were authorized. For example, if a cardholder disputes a $100 ATM withdrawal but the analysis of [redacted], this would increase the likelihood that the cardholder may have made the disputed ATM withdrawal but forgot that they did so.[34]
- [redacted] – Visa and other major card networks use [redacted]. Review of this information helps to establish [redacted] and is industry standard to review. For example, if a card has previously only been used to make transactions [redacted], that would indicate a significant [redacted] that would increase the likelihood that the disputed transaction was not authorized.

---

[34] *See* BANA EDD MDL-00003924 (Sept. 2020 training) ("[redacted]"); BANA_EDD_MDL-00100669 (Oct. 2020 training) (same).

- [redacted] – [redacted], and it is an important component of comparing disputed transactions with [redacted]. For example, if [redacted] shows that a card has only been previously used to make transactions [redacted], that is a significant increase in [redacted] and consistent with unauthorized use, increasing the likelihood that the disputed ATM withdrawals were not authorized.

(5) "[redacted]" – This is a standard piece of information to analyze when investigating a fraud ATM claim. For example, if a cardholder reports [redacted], this would increase the likelihood that the disputed ATM withdrawal was not authorized.[35]

(6) "[redacted] – It is industry standard when investigating ATM fraud claims to review [redacted] for multiple reasons. The first is [redacted]. If there are significant differences in [redacted], thus increasing the likelihood that the transaction was unauthorized. [redacted] can also reveal additional helpful information, such as [redacted]

[35] *See also* Daniels Tr. 155:23-156:21.

[redacted], which would be indicative of fraud and increase the likelihood that the cardholder did not authorize the disputed ATM withdrawal.[36]

(7) "[redacted]" – As discussed above, [redacted]. Bank training documents indicate that [redacted], all of which would be important, industry standard information to review when investigating a fraud ATM claim.[37]

(8) "[redacted]" – [redacted] would be important information. For example, [redacted], this would increase the likelihood that the cardholder [redacted].

(9) "[redacted]"[38] – If a cardholder [redacted], it is industry standard to review [redacted]. If this revealed, for example, that the cardholder [redacted]

---

[36] *See, e.g.*, BANA_EDD_MDL-00100663 ([redacted] BANA_EDD_MDL-00163308 ([redacted].

[37] *See* BANA_EDD_MDL-00100507, -100514, -100516-17, -100520 ([redacted]); BANA_EDD_MDL-00003924; Daniels Tr. 153:24-154:7, 154:15-16, 156:1-10, 158:8-11, 159:24-160:11, 163:1-3.

[38] The corresponding [redacted]" BANA_EDD_MDL-00559899, which I understand to mean that [redacted].

[redacted], this would corroborate a representation from the cardholder that they were not in Northern California but in Arizona when the disputed transaction was made, and would increase the likelihood that the cardholder did not make or authorize the disputed ATM withdrawal.

(10) "[redacted]"[39] – The Bank describes this [redacted] as involving review of "[redacted]," in order to [redacted]."[40] Bank training materials list [redacted].[41] Such information could tend to support or disprove a theory that disputed transactions are the result of an "account takeover," which is an industry term that refers to a third party having unlawfully gained control of the cardholder's account, including by [redacted] in order to (for example) change the card PIN and address and have a new card mailed to that address.[42]

---

[39] The corresponding [redacted]," BANA_EDD_MDL-00559898, which I understand to mean that [redacted]

[40] BANA_EDD_MDL-00006504.

[41] BANA_EDD_MDL-00100621, -100623.

[42] *See, e.g.*, BANA_EDD_MDL-00003929-35 ([redacted]"); BANA_EDD_MDL-00090640 ([redacted]) [redacted]").

(11) "[redacted] – A common practice in the industry is to review [redacted]. As stated in Bank training materials, the information in [redacted]."[43]

(12) "[redacted]" – It is a common practice to review the [redacted] during a fraud claim investigation, especially if other evidence indicates suspicion of account takeover activity. As stated in Bank training materials, review of "[redacted]" can help to "[redacted]."[44]

(13) "[redacted]" – It is a common practice to review an [redacted], including a [redacted]. For example, if the cardholder [redacted], this would increase the likelihood that the customer is telling the truth about having been out of the country when the disputed ATM withdrawals were made, and therefore increase the likelihood the cardholder did not make or authorize the disputed ATM withdrawals.

37. As the Bank's training materials correctly emphasize, each of these [redacted] could reveal information that is not just relevant but potentially outcome-dispositive: "[redacted]

[43] BANA_EDD_MDL-00006500.
[44] BANA_EDD_MDL-00006492.

[redacted]."[45] For example, take the sixth [redacted] listed above ("[redacted]"). If [redacted] used a blank white card (i.e., a counterfeit card) to make the disputed ATM withdrawal, and the Bank had no evidence the Cardholder had authorized or benefited from the withdrawal, the industry standard claim decision would be to pay the cardholder's claim.[46] On the other hand, if [redacted]), this would be important information that would increase the likelihood that the cardholder had made or authorized the disputed ATM withdrawal.

38. In addition to the [redacted][47] According to a designated

[45] BANA_EDD_MDL-00004542 (emphasis in original); Daniels Tr. 141:14-142:15.
[46] *See also* Martin Tr. 73:17-23.
[47] BANA_EDD_MDL-00559895-97, -559901. The same is true of [redacted]" *See id.* at -559906, -559910, -559914, -559918, -559922, -559925.

representative of the Bank, this means that "[redacted].[48]

[redacted]

BANA_EDD_MDL-00559897, -559901 ([redacted])

39. [redacted][49] [redacted]

[48] Daniels Tr. 138:14-140:4; *cf.* BANA_EDD_MDL-00559896-97, -559900-01 [redacted].

[49] *Accord* Martin Tr. 147:5-16 ([redacted]).

[redacted][50] [redacted][51] [redacted]," as set forth in the following excerpt from a Bank training document:

[redacted]

BANA_EDD_MDL-00004556 (Mar. 2021 training)[52]

40. The Bank's training materials provide a useful example of how the Bank's stated [redacted] might play out in a real-life investigation. The Bank's example, reproduced below, illustrates the importance of following the industry-standard

---

[50] *See, e.g.*, Martin Tr. 147:5-16 ([redacted]); BANA_EDD_MDL-00090640 [redacted]); BANA_EDD_MDL-00003929-35 [redacted].

[51] [redacted] is well-known and long-standing problem in the debit and credit card industry, [redacted] *Accord* Martin Tr. 49:21-53:14, 65:21-66:6 [redacted]; Letson Tr. 156:14-157:5, 165:1-12 (similar); BANA_EDD_MDL-00057505 ([redacted]); *id.* at -57504 ([redacted]").

[52] The same information appears in other training materials. *See* BANA_EDD_MDL-00100669 (Oct. 2020 training).

practice of giving each claim an individualized investigation in which all pertinent records and details are review by a trained claims analyst in order to make a fully informed and evidence-based decision about whether the Bank has sufficient information to conclude that a cardholder authorized the transaction, and thus sufficient information to deny the claim.

[redacted]

BANA_EDD_MDL-0000**3927-28** (Sept. 24, 2020 training)[53]

41. In the above example, [redacted]. What this illustrates is the importance of each piece of relevant information in reaching a correct claim decision, including [redacted].

C. **The Bank's use of Indicator 1 of the Claim Fraud Filter as the sole basis for denying EDD cardholders' unauthorized transaction claims was a significant departure from the Bank's [redacted].**

42. As stated above, my understanding from reviewing Bank documents and deposition testimony listed in Appendix B is that the Bank used its Claim Fraud Filter to automatically deny EDD cardholder claims that met the criteria of any one of the CFF's three "indicators," without any further review or investigation.

43. My understanding from reviewing Bank documents and deposition testimony listed in Appendix B is that CFF Indicator 1 was a screening tool designed to identify whether an EDD cardholder's unauthorized transaction claim [redacted] and, if so, to automatically deny the claim. To my knowledge, [redacted]

[53] *See also* BANA_EDD_MDL-00004577-78 ([redacted]).

[redacted] My understanding is informed by, and appears to be consistent with, the Bank's designated representatives' deposition testimony.[54]

44. If my understanding is correct that CFF Indicator 1 [redacted], and that the Bank used CFF Indicator 1 as the sole basis for denying EDD cardholder unauthorized transaction claims, this was in my opinion a significant departure from the Bank's [redacted] It was a significant departure because it means the Bank denied EDD cardholders' ATM claims and ATM combo claims without [redacted], as summarized and discussed above at paragraph 36 and note 28. To be clear, my understanding, which is supported by the Bank's deposition testimony,[55] is that the Bank did not use the CFF simply as an additional factor in its multi-factor AISOP, the Bank used the CFF for the unprecedented purpose of automatically *decisioning* unauthorized transaction claims. This is a significant departure from the Bank's AISOP.

45. This opinion is informed and supported by [redacted]

---

[54] *See, e.g.*, Letson Tr. 92:19-23, 93:6-12 [redacted]"); Daniels Tr. 289:11-12, 290:12-15 [redacted]"); Martin Tr. 125:22-126:8, 127:8-10, 173:20-23, 177:25-178:7 [redacted]).

[55] *See, e.g.*, Fox Tr. 93:22-94:13.

[redacted]"[56] All of these considerations are part of the applicable [redacted] summarized and discussed above at paragraph 36, and all of these considerations would be industry-standard information to review when investigating a claim of an unauthorized ATM withdrawal. As stated above at paragraph 35, losses from transaction fraud are borne by the Bank under EFTA. In my opinion, the Bank implemented the CFF to protect itself from these losses.[57] This is supported by the Bank's deposition testimony.[58]

46. As stated above, [redacted],"[59] all of which is industry standard. [redacted] This too was a significant departure from the Bank's [redacted] and contrary to industry standards.

---

[56] Martin Tr. 128:20-21, 129:16-132:15.
[57] With the CFF, the Bank chose the "most aggressive" approach for automatically denying unauthorized-transaction claims. Letson Tr. 239:3-243:5
[58] See Holt Tr. 183:21-184:4
[59] Daniels Tr. 90:1-16, 91:6-2.

D. The Bank's use of Indicator 1 of the Claim Fraud Filter as the sole basis for denying EDD cardholders' unauthorized transaction claims was contrary to industry standards.

47. For largely the same reasons explained above, the Bank's use of CFF Indicator 1 to deny all EDD cardholder claims that included an ATM withdrawal was contrary to industry standards for multiple independent reasons.

48. One reason that the Bank's use of CFF Indicator 1 to deny all EDD cardholder claims that included an ATM withdrawal was contrary to industry standards is that it resulted in the denial of claims without the Bank conducting an industry-standard investigation of relevant records available to the Bank, [redacted].

49. In departing from the Bank's AISOP, I understand that the Bank did not seek prior or any approval from any regulator for its use or implementation of the CFF .[60] In my experience, even a small financial institution has the ability to reach out to regulators to approve the future implementation of automated systems. I have worked with the startup FinTech company "Upstart," that sought and received a No-Action Letter from the CFBP regarding the implementation of an automated process. Based on my experience, in my opinion, the Bank's failure to do so for the CFF indicates that the Bank itself believed that its regulators would not have approved the Bank's implementation of the CFF. I also understand that in 2022, the Bank entered into a consent order with its regulators regarding its implementation of the CFF, which saw the Bank being fined $225 million, supporting my opinion that the Bank's failure to reach

[60] Letson Tr. 26:5-22.

out to regulators is because it believed that its regulators would not have approved use of the CFF.[61]

50. Another reason that the Bank's use of CFF Indicator 1 to deny all EDD cardholder claims that included an ATM withdrawal was contrary to industry standards is that it resulted in the denial of claims without any claim-specific reason to believe the cardholder authorized or benefited from the transaction, which is the only industry-standard reason for denying a claim. The fact that a claim involves an ATM withdrawal is not an industry-standard reason to conclude that the cardholder authorized or benefited from the ATM withdrawal; if it were, debit card issuers would not have claim types applicable to investigating fraud ATM claims, and would instead simply deny all ATM claims as a matter of course without conducting any investigation. But that is not what occurs in the industry. Instead, it is industry standard among debit card issuers to conduct an adequate investigation of fraud ATM claims.

51. The Bank's use of CFF Indicator 1 to deny all EDD cardholder claims that included an ATM withdrawal was also contrary to industry standards for at least three reasons specific to the EDD debit card and the EDD debit card program.

(1) It is my understanding that all EDD debit cards issued before July 2021 were magnetic-stripe-only debit cards without EMV chips.[62] It is well known in the industry that magnetic-stripe-only debit cards without EMV chips are vulnerable to card skimming and card counterfeiting.[63] This makes magnetic-stripe-only debit cards more susceptible to card-present transaction fraud, including the use of counterfeit cards to make ATM withdrawals.[64] Given this

---

[61] https://www.consumerfinance.gov/about-us/newsroom/federal-regulators-fine-bank-of-america-225-million-over-botched-disbursement-of-state-unemployment-benefits-at-height-of-pandemic/
[62] *See* Chestnut Tr. 190:14-17.
[63] *See* note 50.
[64] *See, e.g.*, BANA_EDD_MDL-00228914 ([redacted]); BANA_EDD_MDL-00297295 ([redacted]

known vulnerability of EDD debit cards, which I understand were issued as magnetic-stripe-only cards without EMV chips throughout the Class Period, it would have been industry standard for the Bank to look both for evidence that the card had been skimmed and for signs of counterfeit card fraud when investigating EDD cardholder claims of unauthorized ATM withdrawals. [redacted].

(2) It is also my understanding that the Bank [redacted], which could provide critical information to correctly decision claims.[65] When a card issuer has intelligence about significant criminal activity impacting a particular product, it is industry standard for the card issuer to inform claims analysts about that known threat to enable the claims analysts to leverage that intelligence to detect similar fraud and correctly decision claims. [redacted]

(3) Given the size of the EDD debit card program (approximately 8-9 million active EDD debit cards in September 2020, *see* ¶17) and the amount of benefits on those cards, one would expect that incoming claims would contain some mix of fraudulent claims and legitimate claims. For example, I understand that the Bank had concerns before and during the Class Period about fraudulent claims being submitted by criminals who had used stolen identities

[redacted] BANA EDD MDL-00455617 ([redacted]

[65] *See, e.g.*, BANA EDD MDL-00100663 ([redacted]").

to be approved for EDD benefits and EDD debit cards, had used those cards to make transactions, and who had submitted fraudulent unauthorized transaction claims in an attempt to receive provisional or permanent credit on those claims, thereby doubling their ill-gotten gains. (I'll refer to these as "fraudulent claims"). On the other hand, during the same period, I also understand that legitimate EDD cardholders' card information and PINs were wrongfully obtained in a variety of ways by criminals, who used that information to make unauthorized ATM withdrawals and other unauthorized transactions, which led the legitimate EDD cardholders who were the victims of this transaction fraud to make unauthorized transaction claims (I'll refer to these as "legitimate claims"). I understand that the Bank was aware of both kinds of fraud affecting EDD debit cards and accounts, and thus should have expected, [redacted], its incoming claims to include both fraudulent claims and legitimate claims.[66] The industry-standard way of ferreting out fraudulent claims from legitimate claims is to conduct an adequate investigation of each claim (which can be supplemented by claims and non-claims personnel conducting separate and ongoing investigations of suspected organized criminal activity, fraud rings, and the like). The Bank's use of CFF Indicator 1 to deny all claims that include an ATM withdrawal was contrary to industry standards because it made no attempt to differentiate the fraudulent claims from the legitimate claims, but instead summarily denied *all* claims that included an ATM withdrawal.

---

[66] *See, e.g.*, BANA_EDD_MDL-00455617 ([redacted] BANA_EDD_MDL-00218256 ([redacted]"); BANA_EDD_MDL-00450517 [redacted] BANA_EDD_MDL-00125177 [redacted]).

E. The Bank could have adopted strategies other than CFF Indicator 1 to deal with any operational challenges related to EDD cardholder claims of unauthorized ATM withdrawals, including prioritizing investigation of higher-value claims and hiring or contracting additional claims analysts.

52. While I understand that the Bank's prepaid claims operation faced elevated claims volume and other operational challenges during the Class Period, it is contrary to industry standards to deal with such operational challenges by summarily denying claims without conducting an adequate investigation. Banks and other financial institutions subject to EFTA/Reg E sometimes face unusual circumstances that may cause a spike in claims volume or concerns about fraudulent claims, and industry standard methods have developed for dealing with those challenges.

53. Industry standard strategies for dealing with a spike in claims volume include:

a. Prioritizing investigation of higher-dollar-value claims. Increasing the dollar value threshold would have alleviated some of the burden the Bank faced in investigating claims and would have provided an opportunity to triage the Bank's exposure to fraud by ensuring it was focused on the most significant claims. Additionally, in my experience, low-dollar-value claims are the least likely to be fraudulent, as fraudsters typically are trying to extract maximum value in each fraudulent transaction. This view is apparently shared with the Bank's then global financial crime specialist.[67]

b. Notably, this strategy would also ensure that legitimate EDD cardholders were timely receiving their funds in their time of extreme need during the height of the pandemic.

c. Increasing the monetary threshold at which low-dollar-value claims are auto-paid without conducting an investigation thereby decreasing the number of claims that need to be investigated.

d. Increasing the number of full-time-equivalent claims analysts, including through the use of large staffing companies such as Accenture, as necessary to timely process

---

[67] *See* Schwartz Tr. 48:21-49:12.

claims and ensure that no claims are denied without first receiving an adequate investigation. I have direct experience working with Accenture and using its large scale professional staffing services. It is my opinion that Bank of America could have hired sufficient numbers of highly trained claims analysts in the relevant time from this or another highly specialized global professional services company. I have personally managed an engagement with Accenture, where it provided human resources to support the development of enhanced customer service operations for a leading US lender. Accenture alone operates with approximately 774,000 people serving clients in over 120 countries.[68]

54. While there are costs to implementing these industry standard strategies, that is a standard cost of doing business. Additionally, the Bank has long been a highly profitable financial institution, it being the second largest bank in the United States, and had ample resources to bear the costs of implementing these strategies. For example, I understand that in April 2021, the Bank announced a $25 billion common stock repurchase plan "to return to shareholders excess capital that is not needed to … deliver for customers and communities."69 A small fraction of that "excess capital" would have been sufficient to hire or contract for the additional claims analysts required to investigate all EDD cardholder claims, including those that were summarily denied by the Bank's use of CFF Indicator 1.

F. The Bank's use of Indicator 1 of the Claim Fraud Filter as the sole basis for rescinding permanent credits that the Bank had previously paid EDD cardholders was contrary to industry standards.

55. As stated above, my understanding is that the Bank also used CFF Indicator 1 as the sole basis for automatically rescinding permanent credits that it had paid to EDD cardholders between April 1, 2020 and September 28, 2020.[70] In other words, my understanding is that once

---

[68] https://newsroom.accenture.com/fact-sheet

[69] Bank of America Announces $25 Billion Common Stock Repurchase Plan, Bank of America Newsroom (April 15, 2021), https://newsroom.bankofamerica.com/content/newsroom/press-releases/2021/04/bank-of-america-announces--25-billion-common-stock-repurchase-pl.html.

[70] Martin Tr. 179:13-180:1, 320:24-321:12.

the Bank developed and began implementing CFF Indicator 1, it used that "filter" to automatically take back permanent credits that the Bank had issued to EDD cardholders on any claim that included an ATM withdrawal, despite having previously resolved that claim in the cardholder's favor.

56. I also understand that when the Bank issued permanent credits to EDD cardholders between April 1, 2020 and September 28, 2020, it sent a notice to the affected EDD cardholders informing them that the credit the Bank was issuing them was "permanent."[71] This is an industry standard practice. Consistent with its ordinary meaning, the word "permanent" is commonly used in the industry in this context to convey that the claim process has been conclusively resolved in the cardholder's favor.[72]

57. Rescinding permanent credit is a rare event. I am aware of it occurring only in circumstances that, *at minimum*, involve the discovery of new information, ideally new information not previously available to the financial institution, that clearly establishes the cardholder authorized or benefited from the transaction. For example, it would be consistent with industry standards, in my opinion, for a debit card issuer to rescind permanent credit if, after issuing the permanent credit, the card issuer received a communication from the cardholder stating that they now remember having made the disputed transaction. This would be consistent with industry standards because this would be new information not previously available to the card issuer and that conclusively establishes that the cardholder made the transaction. On the other hand, it generally would be contrary to industry standards, in my opinion, for a card issuer to rescind permanent credit based on information that was known to the card issuer at the time it investigated and decided to pay the claim.

---

[71] *See, e.g.*, Moore_S_0000367 (Aug. 31, 2020) (Bank letter to Plaintiff who was issued permanent credit: "We've completed our investigation of this disputed transaction. The previously issued [provisional] credit for [claim amount] is now permanent."); PLFF00000011 (Sept. 2, 2020) (same).

[72] [redacted]

58. In my opinion, the Bank's use of CFF Indicator 1 as the sole basis for rescinding permanent credit issued to EDD cardholders was contrary to industry standards for at least three independent reasons. Specifically, it was contrary to industry standards because the fact that the affected claims included a disputed ATM withdrawal ([redacted]): (1) was known to the Bank when it decided to pay the claim by issuing permanent credit; (2) did not involve any new information, much less new information not previously available to the Bank; and (3) did nothing to call into question the correctness of the Bank's previous decision to pay the claim, much less clearly establish that the cardholder authorized or benefitted from the transaction, for all the reasons discussed above in Part VII, Sections D-E.

G. The Bank's use of Indicator 1 of the Claim Fraud Filter as the sole basis for freezing EDD cardholder accounts was contrary to industry standards.

59. It is standard in the industry for financial institutions to monitor their customers' cards and accounts for signs of fraudulent activity. At a very general level, financial institutions carry out this monitoring through a variety of industry-standard rules and technologies, which include fraud "rules" and fraud "models." Fraud rules are instructions structured as if-then statements—i.e., if certain conditions are present (e.g., an attempted ATM withdrawal greater than or equal to $500 originating outside North America), then take a specific action (e.g., decline the transaction). The terms "fraud rule" and "fraud filter" are generally synonymous; both are structured as if-then statements.[73] Fraud models are a more complex technology that are often developed by third parties, have long leveraged artificial intelligence and machine learning based on large data sets of known fraud and non-fraud payment data, and can be tailored to specific geographic regions and lines of business; an example is FICO's Falcon Fraud Manager.[74] Fraud

[73] *Accord* Letson Tr. 61:5-7 (a fraud filter is "[redacted]"); *id.* 225:3-7 (similar); Schwartz Tr. 18:3-18:7 (fraud filter "was a series of rules that we used to process fraud claims"); Fox Tr. 85:12-24 ([redacted]).

[74] *See, e.g.*, FICO Blog, "The Fraud Consortium: 9,000 Heads Are Better than 1" (Dec. 6, 2017), fico.com/blogs/fraud-consortium-9-000-heads-are-better-1; FICO Blog, "FICO Fights Prepaid

models and rules are often used together. For example, fraud models typically assign individual transactions a "score," which is intended to capture in numerical form the risk that the transaction is fraudulent, and card issuers commonly write rules where one of the conditions in the "if" part of the rule statement is based on that scoring (e.g., if a transaction with defined characteristics is scored within a particular range, then decline the transaction).[75]

60. In my opinion, based on my understanding of CFF Indicator 1 as stated in this report, CFF Indicator 1 was not a fraud model, but was a fraud rule with a simple if-then structure that could be paraphrased as follows: [redacted].[76] My understanding is that the Bank used CFF Indicator 1 to deny claims and *freeze* the associated EDD debit card accounts during the period September 28, 2020 to March 17, 2021,[77] and that the Bank thereafter stopped using CFF Indicator 1 to freeze EDD debit accounts and instead used Indicator 1 to deny claims and *block* the associated EDD debit card accounts during the period March 18, 2021 to [redacted].[78]

Card Fraud with AI and Machine Learning" (Mar. 9, 2020), fico.com/blogs/fico-fights-prepaid-card-fraud-ai-and-machine-learning; FICO, "Falcon Intelligence Network: A Fraud Consortium for Fraud-Fighting Machine Learning Innovation" (Mar. 26, 2021), fico.com/blogs/falcon-intelligence-network-fraud-consortium-fraud-fighting-machine-learning-innovation; *see generally* FICO, "FICO® Falcon® Fraud Manager," https://www.fico.com/en/products/fico-falcon-fraud-manager.

[75] *Accord* Martin Tr. 208:3-21 ([redacted]).

[76] *Accord* Martin Tr. 127:1-10, 209:12-210:5 ([redacted]; *see also id.* 171:8-15, 207:21-208:8 ("[redacted]); Letson Tr. 61:1-7, 225:3-7 (similar); Fox Tr. 85:6-85:9 ([redacted]")

[77] *See* Martin Tr. 221:11-224:16. [redacted]. *See id.*

[78] *See* Martin Tr. 302:2-25; 321:19-23; BANA EDD MDL-00125920-21 ([redacted]).

61. As a designated representative of the Bank testified (correctly in my view), fraud rules by their nature are [redacted].[79]

62. The "then" component of fraud rules is the consequence that occurs when the "if" part of the rule is triggered. Consequences used by card issuers include, in order from least to most severe: declining transactions, suspending cards/accounts, blocking cards/accounts, and freezing cards/accounts.[80] Freezing a card/account is the most severe consequence with an enormous impact on the cardholder.

63. I have never heard of a debit card issuer doing what I understand the Bank to have done here with respect to CFF Indicator 1—i.e., using a fraud rule as the sole basis either for summarily denying *claims*, or for summarily *freezing* cards/accounts. In my experience, freezing an account typically occurs only in limited circumstances due to reasons such as receipt of a court order to freeze specified cards/accounts, a request from a prepaid card sponsor (in this case, EDD) to freeze specified cards/accounts, or an individualized investigation conducted by a trained analyst that leads the card issuer to conclude with a high degree of confidence that a specific card/account is being used for criminal purposes.

64. My understanding is that the Bank used the CFF to freeze EDD cardholder accounts and [redacted].[81] I also understand that the Bank continued following this practice of [redacted]

---

[79] Martin Tr. 286:25-288:8.
[80] In the prepaid context, taking a particular action with respect to the *card* (e.g., suspending, blocking, freezing) is generally synonymous with taking that same action with respect to the *account*. [redacted].
[81] *See* Chestnut Tr. at 146:1-25, 157:9-14.

[redacted].[82]

I understand that the Bank was also aware that many EDD cardholders who managed to reach an EDD call center agent were told by the agent that [redacted], thereby subjecting EDD cardholders whose accounts were frozen by the CFF Indicator 1 to a [redacted].”[83]

65. In my opinion, the Bank's use of CFF Indicator 1 as the sole basis for summarily freezing EDD debit card accounts was contrary to industry standards for at least three independent reasons:

a. For all the same reasons underlying my opinion that CFF Indicator 1 did not provide a reasonable basis for the Bank to conclude that the cardholder had made or authorized the disputed transaction and that the *claim* at issue was therefore fraudulent (*see* Part VII, Sections D-F), there was no reasonable basis for the Bank's derivative conclusion that the *account* was therefore engaged in fraud and could be frozen.

b. As a fraud rule or filter, CFF Indicator 1 was only *predictive* and therefore provided only a *suspicion* that the submission of a fraud ATM claim meant that the associated EDD debit card account was being used for criminal purposes. It was contrary to industry

---

[82] *See* Chestnut Tr. at 71:9-12, 155:17-157:14; Martin Tr. 226:17-227:18, 235:15-236:1, 272:16-274:13; Golden Tr. 146:7-147:19, 149:10-21, 150:20-151:6, 165:18-167:17; Chestnut Tr. Ex. 36 at 16, 18.

[83] BANA_EDD_MDL-0090722 ([redacted]); *see also* Martin Tr. 272:16-274:13 [redacted]).

standards for the Bank to use a fraud rule or filter as the sole basis for *freezing* EDD debit cards and accounts.

c. To the extent that the Bank considered CFF Indicator 1 as providing not just a predictive *suspicion* but a definitive *determination* that the associated EDD debit card account was being used for criminal purposes, that too was contrary to industry standards because the Bank reached such a determination based on a single criterion (Indicator 1),[84] and without [redacted] (*see* Part VII, Sections D-F) [redacted]

d. [redacted] (*see* Part VII, Section H).

66. In my opinion, there were reasonably available strategies other than freezing accounts based solely on CFF Indicator 1 that the Bank could have adopted to help identify EDD debit card accounts being used for criminal purposes, and which would have significantly reduced the harmful impact on legitimate EDD cardholders. In addition to the alternatives to CFF Indicator 1 discussed above (*see* ¶¶51-53), the Bank could have *blocked* instead of *freezing* accounts, which would have permitted legitimate EDD cardholders an opportunity to authenticate identity directly with the Bank under the Bank's [redacted]

---

[84] *See* Martin Tr. 326:6-9 ("[redacted]"); *id.* 283:1-15 [redacted].

[redacted][85] [redacted][86]

67. This opinion is supported by my understanding that the Bank did precisely this (i.e., stopped using CFF Indicator 1 to freeze accounts, and instead used it to block accounts) during the period March 18, 2021 to [redacted], and by my understanding that there were no particular reasons why the Bank could not have implemented this same strategy during the period September 28, 2020 to March 17, 2021.

H. The Banks' continued use of Indicator 1 of the Claim Fraud Filter to deny claims, rescind permanent credits, and freeze accounts, [redacted], was contrary to industry standards.

68. Card issuers use industry standard metrics for assessing the accuracy of their decisioning of claims. For example, it is industry standard for card issuers to periodically review each of their claims analysts for key performance indicators ("KPIs"), which measure compliance with organization-defined performance goals. For individual claims analysts, industry standard KPIs include whether the analyst is complying with the issuer's claims investigation procedures and policies, and the extent to which the analyst is correctly or incorrectly decisioning claims. To determine this, the person(s) performing the review takes a

---

[85] *See* Martin Tr. 30:8-33:13; 188:4-190:16, 208:14-21, 218:2-220:7, 220:17-20, 268:2-4 (testifying that Bank's high-risk verification [redacted]); *see also id.* 36:5-7, 108:3-18, 250:2-9, 255:23-256:17 ("high-risk verification" and "tier 2 authentication" [redacted]).

[86] *See* Martin Tr. 277:25-278:12 ([redacted]; *id.* 314:25-315:11 (similar); BANA_EDD_MDL-00107327([redacted]) (similar).

random sample of claims (i.e., the industry standard is to use a software-based randomizer) that the analyst has decisioned within a defined recent time frame, and reviews the analyst's documentation and the available evidence for each sampled claim to determine whether the analyst complied with the card issuer's procedures and policies, and whether the analyst correctly decisioned the claim (i.e., whether the reviewer disagrees with the analyst's ultimate decision to pay or deny the claim). In my experience, card issuers typically review approximately ten investigations/decisions per month per claims analyst (more when an analyst is new). In my experience, which includes working with the claims organizations of many card issuers, an average claims analyst has an average claims audit overturn rate of approximately 1% or less. An analyst who incorrectly decisions more than 10% of reviewed claims would typically be required to undergo remedial training (e.g., take a re-training class), and if the analyst's error rate continues to be above 10%, the industry standard card issuer response would be to terminate the analyst or move the analyst to another role in which they do not have responsibilities for investigating and decisioning claims.

69. Throughout the Class Period, my understanding is that the Bank [redacted][87] I also understand that [redacted]

---

[87] *See, e.g.*, BANA_EDD_MDL-00517113 [redacted]; BANA_EDD_MDL-00159470 ([redacted]; BANA_EDD_MDL-00592192 ([redacted]

[redacted].[88]

70. With respect to reconsideration of claims denied by the CFF, I understand that cardholders generally [redacted].[89] [redacted] (*see* note 26), [redacted] (*see* ¶¶35-36 & note 28). [redacted].[90]

[redacted]); BANA EDD MDL-00090135, -90143 [redacted]).

[88] *See, e.g.*, BANA EDD MDL-00159471 ([redacted]); BANA EDD MDL-00406129 [redacted]

[89] [redacted] (*see* ¶63), [redacted]

[90] *See, e.g.*, BANA EDD MDL-00100641-44 ([redacted]).

71. With respect to Bank's use of the CFF to rescind permanent credits, my understanding is that the Bank [redacted].[91]

72. My understanding is that the Bank also [redacted]. For example, in a Bank slide deck presenting what I understand to be [redacted],[92] [redacted]. The slide also states that [redacted].[93] In my opinion, such rates are incredibly high and virtually unheard of in the industry. Such rates are, in my opinion, contrary to industry standards because they are many times higher than the 1% and 10% industry standard rates discussed above.

---

[91] BANA_EDD_MDL-00571310 ([redacted]); BANA_EDD_MDL-00077224; BANA_EDD_MDL-00417490.

[92] EDD cardholders represent approximately [redacted].

[93] BANA_EDD_MDL-00572768.

73. I understand that, during this litigation, the Bank produced data from the Class Period as set forth in the table below, which I understand shows [redacted].[94] To this data provided by the Bank, I have added my own two columns that calculate, using basic excel formulas set forth in column title, [redacted].

[94] Bank's Response to Plaintiffs' Interrogatory No. 39 at 9:11-21.

A B C D E F G

[redacted]

Chart derived from the Bank's Data in the
Bank's Response to Plaintiffs' Interrogatory 42, Exhibit 13

74. Assuming these data provided by the Bank are accurate, they show that the [redacted]. Again, my opinion is that such rates are virtually unheard of in the industry and are contrary to industry standards because they are many times higher than the 1% and 10% industry standard rates discussed above.

75. While I understand that [redacted].[95]

76. Additionally, I understand from a Bank interrogatory response in this litigation that, [redacted]. Specifically, I understand that the Bank [redacted].[96] My assumption, based on my industry experience [redacted]

[95] BANA EDD MDL-00572767-68.

[96] [redacted] at 9:11-21.

[redacted]. This is based on my understanding, first, [redacted]. Second, my understanding is based on [redacted].[97]

I. **The claim denial letter that the Bank sent to EDD cardholders whose claims were denied, or whose prior permanent credit was rescinded, by CFF Indicator 1 was contrary to industry standards.**

77. It is widely recognized in the banking and financial services industry that, when a debit card issuer denies a customer's unauthorized transaction, EFTA/Reg E requires the issuer to send the customer a written notice informing the customer that the claim was denied, and stating the reason(s) why the claim was denied. The card issuer's reason(s) for denying a given claim are typically selected by the claims analyst that denied the claim, at the time that the claim is denied, typically from a preset menu of claim of denial reasons established by the card issuer. The claim denial reason selected by the claims analyst then goes into the claim denial letter that is sent to the cardholder. It is standard in the industry for debit card issuers to have procedures for automatically generating such claim denial letters once claims are denied, and that automatically populate the claim denial reason selected by the claims analyst into the text of the letter. My understanding is that this is generally consistent with [redacted]

[97] *See, e.g.*, BANA EDD MDL-00510145 ([redacted]).

[redacted].[98]

78. My understanding is that, with respect to each EDD cardholder whose claim was denied by operation of the CFF, or whose permanent credit was rescinded by operation of the CFF, the Bank [redacted] informing them that their claim had been denied. I understand that these letters were based on [redacted] letters that I understand the Bank sent to plaintiffs being proposed as representatives of the Claim Denial and Credit Rescission classes after their claim was denied or permanent credit rescinded due to the Bank's use of CFF Indicator 1.[99]

---

[98] *See* Daniels Tr. 187:14-189:5; BANA EDD MDL-00559895-97, -559899-901 [redacted].

[99] *See* [redacted]; Denial/rescission letters sent to Claim Denial Plaintiffs Koole, McClure, Moon, Oosthuizen, Rivera, and Yuan, and Credit Rescission Plaintiffs Chong and Moore; Daniels Tr. 53:2-54:12, 220:12-221:11, 225:13-231:1; Martin Tr. 132:20-133:3.

79. The identical content of those letters reads as set forth below. The only reason that this form letter provides for why the claim was closed is: "Your claim has been closed because we believe the account or the claim have been the subject of fraud or suspicious activity."

The above listed claim has been closed.

What you need to know
Your claim has been closed because we believe the account or the claim have been the subject of fraud or suspicious activity. Any temporary credit that was applied to your account related to this claim, including any related reimbursement of fees, has been or will be debited from your account and reflected in your available balance, if any.

We're here to help
If you have any questions, please call us at 855-355-5058, Monday through Friday, 8 a.m. to 8 p.m. Eastern. If you contact us by phone or in writing, you may request that we reopen your claim for further consideration. You will be asked to give us information, including any documents you may have, to support your claim.
You have the right to request documents, if any, that we relied on in making our determination.

Template Letter Received by Plaintiffs[100]

80. In my opinion, the Bank's reason provided by its letters (Exs. D15-D16) is contrary to industry standards for at least three reasons. (1) The reason given is not one clear reason why the claim was denied, but two vague and unrelated alternative reasons for why the claim *might have been* denied (i.e., the account was the subject of fraud or suspicious activity, the claim was the subject of fraud or suspicious activity). It is contrary to industry standards, in my opinion, not to provide the cardholder a single and reasonably clear reason why the claim was actually denied (e.g., "we believe you authorized the disputed transaction"). (2) Although it could be consistent with industry standards to provide two reasons reason for denying the claim connected by an "or," the two reasons need to be closely related conceptually (e.g., "we believe you made or authorized the disputed transaction") in order to be consistent with industry standards. The Bank's multiple reasons (i.e., the *account* was the subject of fraud or suspicious

[100] BANA_EDD_MDL-00012790, BANA_EDD_MDL-00411205 (Template denial/rescission letter and Denial/rescission letters sent to Claim Denial Plaintiffs Koole, McClure, Moon, Oosthuizen, Rivera, and Yuan, and Credit Rescission Plaintiffs Chong and Moore)

activity or the *claim* was the subject of fraud or suspicious activity) are contrary to industry standards because they are not conceptually related. It is a very different concept for an *account* to be the subject of fraud or suspicious activity (which could just as easily be a reason for paying the claim) than for a *claim* to be the subject of fraud or suspicious activity (which, although vague, could be interpreted as indicating the Bank believes the submission of the claim itself was fraudulent or suspicious). (3) The Bank's reason for denying the claim is so vague that it could also be a reason for *paying* the claim. Specifically, any cardholder who makes a legitimate unauthorized transaction claim made the claim because they believe, in the Bank's words, that their "account … ha[s] been the subject of fraud or suspicious activity" in the form of one or more unauthorized transactions.[101] That is why they made the claim and, unless disproved, would be a reason that the Bank would be required to pay the claim. In my opinion, it is contrary to industry standards to provide a claim denial reason that is so vague that it could also be a reason to pay the claim.

Executed on March 4, 2025

J. Daniel Kreis

[101] *See* Daniels Tr. 84:15-21 ([redacted]).

APPENDIX A

J. Daniel Kreis

2743 Gingerview Lane
Annapolis, Maryland 21401
jdkreis@gmail.com 443-510-8060

SUMMARY

Extensive experience driving innovation and impeccable execution in Consumer payments, Risk and Portfolio Management with industry leaders. Expertise includes:

- Development and implementation of Fraud Risk Tools and Treatment Strategies
- Managing back-office operations (Credit, Customer Service, Collections and Fraud)
- Design and execution of Portfolio Governance and Financial Models
- Directly managed portfolios and consulted with 100 plus lenders in 20 countries.

WORK EXPEREINCE

A history of developing new approaches to managing portfolios, using the latest tools, technologies and concepts working with some of the best minds in financial services.

January 2021 – October 2023

Founding Partner, Director of Lending and Shared Services – Percapita

Founding Partner responsible for the development of Credit Products and Debit Card fraud management practices.

April 2019 – January 2021 and October 2023 to present

Founder – First Camden Consulting

Launched a consultancy focused on credit portfolio management. Completed the following engagements:

- Regional Credit Card Issuers – developed the Secured Credit Card graduation strategy to unsecured for a major regional US bank.
- Fintech Issuer – assisted an emerging issuer analyze and develop mitigating strategies for application fraud management.
- Fintech Credit Card Issuer – developed the credit underwriting and compliance policies for a new Credit Card program for a high wealth focused Fintech.
- U.S. Retail Lender – directed the redesign of credit, collections, and compliance practices for a North American specialty lender.

October 1996 – April 2019

Director of Portfolio Management – First Annapolis Consulting (acquired by Accenture in 2017)

Managed a consulting practice that focused on consumer and small business lending (primarily credit cards and retail finance). Key engagements include:

- Regional Credit Card Issuers – developed several growth strategies for regional credit card issuers focused on Product Design, Marketing, Credit Underwriting and Account Management.
- Major Canadian Financial Institution – managed the implementation of risk systems (FD/Zoot) and practices for a new credit card start up.

- Retail Lending – assisted numerous leading retail lenders in the U.S., Canada, RSA, and Spain.
- U.S. Fleet Card Issuer – designed the underwriting and account management practices for 3 of the top 4 fleet card issuers.
- Interim Operations Manager – directly managed credit card operations for 5 issuers on an interim basis for over 50 months combined.

October 1995 – October 1996
Director of Credit – Program Management Corporation ("PMC")
Responsible for the consumer credit program launch, including:

- Systems Design and Implementation – worked with FDR in systems parameter design and testing.
- Backoffice Function – established all policies for back-office processing including new accounts, fraud investigations and collections.

August 1989 – October 1995
Regional Director (MidAtlantic) – Fair, Isaac Company ("FICO")
Responsible for the launch and growth of the Wilmington, DE service and sales office. Lead the development of a team of five that serviced many of FICO's leading clients including – Amex, AT&T, Capital One, Chase, CITI, GE Capital, PNC, Macy's, MBNA, and M&T. Key contributions included:

- FICO SCORE Marketing Campaign – developed and executed a marketing campaign to replace MDS Scores with FICO Scores (migrated 34 of 35 targeted organizations in the first year).
- Major Account Relationships – coordinated the creation of onsite customer service support for the largest regional lenders – improving brand image.
- Account Acquisition – worked with numerous lenders in the development of test-and-control marketing campaigns, prospect targeting and credit underwriting and credit line assignment strategies.
- Account Management – developed collections, authorizations and fraud risk and operations workflows for numerous lenders.

June 1982 – August 1999
Group Vice President Risk Operations – First Omni Bank (now part of M&T Bank)
Promoted five times from Systems Analyst to Group VP Risk Operations. Key accomplishments included:

- Affinity Card Launch – managed the launch of the ACE Hardware affinity card.
- Davox Auto-dialer – implemented the third Davox auto-dialer in existence.
- Inclusive Operations – developed and hired the bank's first blind collector and "job sharing" positions.
- Test-and-Control Marketing – implemented numerous Prescreen marketing campaigns testing more than 20 concepts in 1985.

EDUCATION
University of Maryland at Baltimore County (UMBC) – MA Economics with Finance Minor
Degree conferred – June 1982

EXAMPLES OF FORMER CLIENTS

Credit Cards (consulted with 14 of top 25 US and 3 of 5 Canadian issuers)

AMERICAN EXPRESS
BANK OF THE WEST
barclaycard
Capital One
JPMorganChase
NATIONAL BANK OF CANADA
NAVY FEDERAL Credit Union
State Farm Bank
SunTrust
TD Bank

Retail Lending (installment and revolving)

bluestem
Canadian Tire
HELZBERG DIAMONDS
JCPenney
macy's
sears
Sterling JEWELERS
TARGET

International (20 countries)

Banco BHD León
Banco de Bogotá
Banco do Brasil
Banorte
grupo carrefour ESPAÑA
Edcon
Interbank
Nationwide Building Society
YapıKredi

APPENDIX B

APPENDIX B: MATERIALS RELIED UPON

Production Materials
BANA_EDD_MDL-00001312
BANA_EDD_MDL-00004535-4580
BANA_EDD_MDL-00004535-4580
BANA_EDD_MDL-00005509-5545
BANA_EDD_MDL-00006482 - 6535
BANA_EDD_MDL-00012738-12739
BANA_EDD_MDL-00028946-28949
BANA_EDD_MDL-00057504-57506
BANA_EDD_MDL-00057837-57878
BANA_EDD_MDL-00077223-77225
BANA_EDD_MDL-00090135-90137
BANA_EDD_MDL-00090640-90647
BANA_EDD_MDL-00090695-90698
BANA_EDD_MDL-00090721-90724
BANA_EDD_MDL-00100390; BANA_EDD_MDL-00100634 -100679
BANA_EDD_MDL-00100506-529
BANA_EDD_MDL-00100530
BANA_EDD_MDL-00100616-00100633
BANA_EDD_MDL-00100634-100679
BANA_EDD_MDL-00100741
BANA_EDD_MDL-00104526 - 104527
BANA_EDD_MDL-00107327-107335
BANA_EDD_MDL-00125177-125179
BANA_EDD_MDL-00125919-125923
BANA_EDD_MDL-00129437-129440
BANA_EDD_MDL-00159469-159474
BANA_EDD_MDL-00163307-163308
BANA_EDD_MDL-00181896
BANA_EDD_MDL-00218256
BANA_EDD_MDL-00225047-225048
BANA_EDD_MDL-00225867
BANA_EDD_MDL-00228914
BANA_EDD_MDL-00273305-273307
BANA_EDD_MDL-00297295
BANA_EDD_MDL-00406128-406130
"BANA_EDD_MDL-00411205,
-005560, -00556122, -00556152,
-00556324, -00558991, -00558996,
-00559094, -00559101; PLFF00000008;
Yuan—A-0000003, -0000004"
BANA_EDD_MDL-00417487-417490
BANA_EDD_MDL-00450516-450518

BANA_EDD_MDL-00455617
BANA_EDD_MDL-00510141-510148
BANA_EDD_MDL-00517105-517126
BANA_EDD_MDL-00556536-556537
BANA_EDD_MDL-00559693-559980
BANA_EDD_MDL-00571310
BANA_EDD_MDL-00572766-572770
BANA_EDD_MDL-00592192-592194
BANA_EDD_MDL-00592324-592330
BANA_EDD_MDL-00718756-718770
BANA_EDD_MDL-00863943-863948
BANA_EDDMDL-00003887 - 3911
BANA_EDDMDL-00003912 - 3937
BANA_EDDMDL-00570333 - 570334
BANA_MDD_MDL-00012790
Moore_S_0000367
PLFF00000011

Publicly available materials
"Employment Development Department Strike Team Detailed Assessment & Recommendations"
Order re Preliminary Injunction [Yick, N.D. Cal., Dkt. 89]
Order re Preliminary Injunction [Yick, N.D. Cal., Dkt. 103]
CFPB Consent Order
Order re Motion to Dismiss [Dkt. 126]
First Amended Master Consolidated Complaint [Dkt. 136]
Defendant's Memorandum of Points and Authorities in Opposition to Plaintiffs' Motion for Class Certification
Bank of America Q3-2020 Press Release
Alan S. Kaplinsky, "CFPB issues new no-action letter to Upstart"
"Federal Regulators Fine Bank of America $225 Million Over Botched Disbursement of State Unemployment Benefits at Height of Pandemic"
Accenture Fact Sheet Fiscal 2025 - First Quarter

Discovery
BofA's Responses and Objections to Plaintiffs' Fifth Set of Interrogatories
BofA's Responses and Objections to Plaintiffs' Fifth Set of Interrogatories (Exhibit 11)
Plaintiffs' Revised Rule 30(b)(6) Deposition Notice
BofA's Responses and Objections to Plaintiffs' Seventh Set of Interrogatories
Transcript of Rule 30(b)(6) Deposition of Shane Daniels
Transcript of Rule 30(b)(6) Deposition of Robert Chestnut
Transcript of Rule 30(b)(6) Deposition of Matthew Martin
Transcript of Rule 30(b)(6) Deposition of Michael Letson
Transcript of Rule 30(b)(6) Deposition of William Golden
Expert Declaration of Teresa A. Pesce

Expert Declaration of Russell Cronan
Expert Class Certification Report of J. Daniel Kreis
Transcript of Ryan Schwartz
Transcript of Anne Holt
Transcript of William Fox