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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

**DECLARATION OF LINDSAY
MCCLURE IN SUPPORT OF
PLAINTIFFS' MOTION FOR CLASS
CERTIFICATION**

This Document Relates to All Actions

Judge: Hon. Gonzalo P. Curiel

1 I, LINDSAY MCCLURE, declare as follows:

2 1. I am one of the named Plaintiffs in this case. I submit this declaration in
3 support of Plaintiffs' Motion for Class Certification. I have personal knowledge of the
4 facts in this declaration, to which I could and would testify if called upon to do so.

5 2. In April 2020, I began receiving EDD unemployment insurance benefits
6 that were paid through a Bank of America EDD debit card ("EDD debit card") that was
7 directly linked to a Bank of America EDD debit card account ("EDD debit card
8 account") in my name.

9 3. My Bank of America EDD debit card had a magnetic stripe. There was no
10 EMV chip in the card.

11 4. On November 30, 2020, I received a text notification of a balance inquiry
12 and cash withdrawal of \$1,003 from my EDD debit card account at an ATM in Los
13 Angeles, CA. At the time of the unauthorized ATM withdrawal, I was approximately
14 127 miles away from Los Angeles in El Cajon, CA, and had recently used my EDD
15 debit card to purchase food.

16 5. Immediately after receiving the text notification, I called Bank of America
17 (the "Bank") to report the unauthorized transaction and to attempt to get reimbursed for
18 the money that had been taken out of my account. When I finally reached the claims
19 department, I spoke with a Bank representative and reported that the cash withdrawal of
20 \$1,003 was not made by me and that I wanted to submit a fraud claim. The Bank
21 representative responded that I needed to call back the following morning to the claims
22 department at 5:00 am.

23 6. The following morning on December 1, 2020, I called the Bank back
24 around 5:00 am to initiate a claim. We informed the Bank representative that the \$1,003
25 withdrawal was not made or authorized by me, that it was made more than 100 miles
26 from where I lived and where I typically used my Bank of America EDD debit card,
27 and that we didn't even know it was possible to withdraw more than a few hundred
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1 dollars at a time. The Bank representative confirmed I had successfully filed a claim
2 and said that it would take 30 to 45 business days to complete a thorough investigation.

3 7. I subsequently received a letter from the Bank dated December 2, 2020,
4 just one business day after I submitted my unauthorized transaction claim, stating that
5 the Bank had closed my claim and would not be reimbursing me for the \$1,003 taken
6 from my account. The letter did not provide an explanation for the denial, stating only:
7 “Your claim has been closed because we believe the account or the claim have been the
8 subject of fraud or suspicious activity.”

9 8. On December 20, 2020, I discovered that I could no longer access the
10 unemployment insurance benefits in my EDD debit card account after my EDD debit
11 card declined at a drive-through. At the time my unemployment insurance benefits
12 were in the amount of about \$660 biweekly. The Bank did not provide me with any
13 notice before freezing my account that my account would be frozen.

14 9. Immediately after I discovered I could no longer access my benefits in my
15 EDD debit card account, I again called the Bank’s customer service department, and a
16 customer service representative said that my account had been frozen. The Bank’s
17 representative also told me that, because of the freeze, the Bank could not do anything
18 further and I would have to contact EDD to unfreeze my account. Weeks later, I
19 received a letter from the Bank dated February 1, 2021, stating that a “freeze (or hold)
20 has been placed in your account.” The letter further stated that I would be unable to use
21 my EDD debit card or access the money in my EDD debit card account while the freeze
22 was in place.

23 10. After I filed a class action lawsuit against the Bank on January 26, 2021, I
24 received a letter from the Bank dated January 27, 2021, 57 days after I submitted my
25 unauthorized transaction claim, stating that the Bank finally credited my EDD debit
26 card account the \$1,003 that had been stolen from me the previous November. My
27 account was still frozen at this time, so I remained unable to access those reimbursed
28 funds.

1 11. My EDD debit card account remained frozen for 55 days, from December
2 17, 2020, to February 10, 2021. At the time of the freeze, my account balance was
3 \$229.31. During that period, I could not access any of the EDD benefits that were in my
4 account as of the time of the freeze, and I could not receive or access any new periodic
5 EDD benefits payments that I would have received and would have been able to use if
6 the Bank had not frozen my account including my \$1,003 claim credit received on
7 January 27, 2021.

8 12. In this case, I seek to be appointed as a class representative.

9 13. Since becoming involved in this case, I have had many communications with
10 my attorneys regarding discovery, case updates, case filings, and other matters. I have also
11 searched for and produced documents and have responded to written discovery requests
12 and verified my responses. I was deposed by the Bank's attorneys in March 2024. I intend
13 to continue working with my attorneys. If appointed by the Court as a class representative,
14 I intend to continue to pursue this case by, among other things, reviewing important case
15 filings, participating in the discovery and trial process, staying informed, and participating
16 in discussions with my attorneys regarding significant developments in the case. I am
17 committed to working with my attorneys to obtain the best possible result for the class
18 consistent with good faith and sound judgment.

19 14. I understand that if I am appointed as a class representative, I will be
20 responsible for overseeing the prosecution of this case by my attorneys. My interests in
21 this matter are consistent with, and not antagonistic to, the interests of the members of
22 each of the classes that I seek to represent. I understand and will fulfill the duties of a class
23 representative, including the duties to prosecute this case on behalf of each class as a
24 whole, and to consider the interests of each class as a whole just as I consider my own
25 interests.

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1 I declare under penalty of perjury that the foregoing is true and correct. Executed on
2 August 17, 2024, at San Diego, California.

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5 LINDSAY MCCLURE
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