

JOSEPH W. COTCHETT (SBN 36324)
jcotchett@cpmlegal.com
BRIAN DANITZ (SBN 247403)
bdanitz@cpmlegal.com
KARIN B. SWOPE (Pro Hac Vice)
kswope@cpmlegal.com
COTCHETT, PITRE & McCARTHY, LLP
840 Malcolm Road, Suite 200
Burlingame, CA 94010
Telephone: (650) 697-6000
Fax: (650) 697-0577

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

MICHAEL RUBIN (SBN 80618)
mrubin@altber.com
STACEY M. LEYTON (SBN 203827)
sleyton@altber.com
CONNIE K. CHAN (SBN 284230)
cchan@altber.com
ALTSHULER BERZON LLP
177 Post Street, Suite 300
San Francisco, CA 94108
Telephone: (415) 421-7151
Fax: (415) 362-8064

SABRINA M. ROSE-SMITH
(pro hac vice)
SRoseSmith@goodwinlaw.com
MATTHEW L. RIFFEE (pro hac vice)
MRiffee@goodwinlaw.com
GOODWIN PROCTER LLP
1900 N Street NW
Washington, DC 20036
Tel.: +1 202 346 4000
Fax: +1 202 346 4444

*Co-Lead Counsel for Plaintiffs and the
Proposed Class*

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

**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
**JOINT STATUS CONFERENCE
STATEMENT**

This Document Relates to All Actions

Date: March 28, 2025
Time: 1:30 p.m.
Location: Via Zoom
Judge: Hon. Gonzalo P. Curiel

1 The parties in the above-referenced matter, by and through their respective
2 counsel, having met and conferred, submit this Joint Status Conference Statement in
3 advance of the March 28, 2025 Status Conference (ECF 423).

4 **I. Class Notice – Joint Statement**

5 The Parties continue to meet and confer regarding the best form of Class Notice
6 should it be required. Plaintiffs believe Class Notice should be sent by e-mail (when
7 available) as well as by U.S. Mail for all class members, and the Bank is considering
8 the availability of class members' email addresses.

9 BANA believes that discussions regarding potential Class Notice are premature
10 at this time. However, in accordance with the Court's Order (ECF 408), the Parties
11 have engaged in discussions regarding the solicitation of potential administrators who
12 may assist in providing class notice should notice be required. The Parties have an
13 agreement as to how to proceed in soliciting bids for a potential class notice, and have
14 begun that process.

15 **II. Apex Deposition Briefing Schedule**

16 On December 23, 2024, Magistrate Judge Berg held an informal discovery
17 conference ("IDC") regarding the Bank's objections to producing for deposition
18 Chief Executive Officer Brian T. Moynihan and former Chief Operating Officer
19 Thomas Montag. Judge Berg deferred ruling on the Bank's request for a protective
20 order but tentatively ordered Plaintiffs to take the Zoom depositions of six additional
21 senior and mid-level executives, each limited to two hours, and for the parties then
22 to return to Judge Berg to discuss the impact of those depositions, if any, on
23 Plaintiffs' request to depose Messrs. Moynihan and Montag. The parties met and
24 conferred and agreed to proceed with depositions of four witnesses, limited to two
25 hours each over Zoom.

26 At the February 14, 2025 Status Conference, this Court instructed the parties
27 to attempt a second IDC after the depositions of the four witnesses were completed
28

1 and, if the issue was still unresolved, to address formal briefing on the Bank's Motion
2 for Protective Order to this Court.

3 On March 12, 2025, Magistrate Judge Berg held the second IDC. After
4 informal briefing and argument, Judge Berg tentatively ruled that Messrs. Moynihan
5 and Montag possessed unique information that was relevant to the issue of punitive
6 damages. Judge Berg proposed to resolve the parties' dispute by allowing the
7 requested depositions but limiting the scope to punitive damages issues and the time
8 to two hours (Moynihan) and one hour (Montag).

9 Plaintiffs requested formal briefing. Accordingly, the Parties propose the
10 following briefing schedule on the Bank's Motion for Protective Order: Defendant's
11 Motion due by **April 11**; Plaintiffs' Opposition due by **April 25**; Defendants' Reply
12 due by **May 2, 2025**.

13 **III. Expert Discovery and Pretrial Motions Schedule**

14 On February 11, 2025, the Court entered its Order Granting Joint Motion To
15 Extend Time Re: Expert Disclosures And Pretrial Motions (ECF 417; "Order"), setting
16 the following schedule:

Event	Date
Expert Designation	February 10, 2025
Rebuttal Expert Designation	February 17, 2025
Expert Disclosures	March 4, 2025
Rebuttal Expert Disclosures	March 28, 2025
Expert Discovery Cutoff	April 25, 2025
Pretrial Motions Cutoff	May 28, 2025

24 Pursuant to the scheduling order, the parties timely served their respective
25 expert designations, rebuttal expert designations and expert reports.

26 Subject to the Court's decision on BANA's pending Motion to Stay (ECF
27 415), the parties now jointly request that the Court extend the deadline for expert
28

1 rebuttal reports by one week, to April 4, 2025.

2 The parties are continuing to meet and confer over deposition scheduling,
3 and both parties are committed to working together in good faith to schedule the
4 depositions of their 15 experts on mutually agreeable dates and in a fair and
5 equitable sequence. To do so, also subject to the Court's decision on BANA's
6 pending motion, the parties jointly request that the Court extend the deadline for
7 expert discovery by three weeks, to May 16, 2025.

8 The parties jointly request a commensurate extension of three weeks of all
9 other existing deadlines.
10

11 Dated: March 21, 2025

COTCHETT, PITRE & McCARTHY, LLP

12
13 By: /s/ Brian Danitz

14 JOSEPH W. COTCHETT
15 BRIAN DANITZ
16 KARIN B. SWOPE
17 BLAIR V. KITTLE
18 VASTI S. MONTIEL

19
20 Dated: March 21, 2025

ALTSHULER BERZON LLP

21 By: /s/ Michael Rubin

22 MICHAEL RUBIN
23 STACEY M. LEYTON
24 CONNIE K. CHAN
25 KATHERINE G. BASS
26 COLIN C. JONES

*Co-Lead Counsel for Plaintiffs and the
Proposed Class*

27 Dated: March 21, 2025

By: /s/ Matthew L. Riffie

MATTHEW L. RIFFEE (pro hac vice)

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

8 JAMES McGARRY (pro hac vice)
9 JMcGarry@goodwinlaw.com
10 MICHELLE T. BRIGGS (pro hac vice)
11 MBriggs@goodwinlaw.com
12 **GOODWIN PROCTER LLP**
13 100 Northern Avenue
14 Boston, MA 02210
15 Tel.: +1 617 570 1000
16 Fax: +1 617 523 1231

14 YVONNE W. CHAN (pro hac vice)
15 YChan@jonesday.com
16 **JONES DAY**
17 100 High Street
18 Boston, MA 02210
19 Tel.: +1 617 960 3939
20 Fax: +1 617 449 6999

20 *Counsel for Defendant*
21 *Bank of America, N.A.*

SIGNATURE CERTIFICATION

Pursuant to Section 2(f)(4) of this Court's Electronic Case Filing
Administrative Policies and Procedures Manual, I, Brian Danitz, hereby certify
that the content of this document is acceptable to all the signatories herein and that
I have obtained counsel's authorization to affix their electronic signatures to this
document.

/s/ Brian Danitz

BRIAN DANITZ