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BofA Benefit Card Recipents Get Cert. In Covid Fraud MDL

By **Katryna Perera**

Law360 (June 25, 2025, 8:30 PM EDT) -- A California federal judge has granted certification to five different classes in a multidistrict litigation alleging Bank of America NA's security failures exposed their unemployment and disability benefits cards to fraud and led the bank to breach their contracts by freezing all accounts during the COVID-19 pandemic.

U.S. District Judge Gonzalo P. Curiel issued a 98-page **order** Tuesday certifying five different classes, all of which include recipients of unemployment benefits during the pandemic. The classes include a "claim denial class," which consists of all Bank of America prepaid debit cardholders who notified the bank that an unauthorized transaction had occurred on their card at an ATM and whose claim the bank denied between Sept. 28, 2020, and June 8, 2021.

Another certified class, named the "account freeze class," covers all Bank of America prepaid debit cardholders who had their card account frozen by the bank between Sept. 28, 2020, and March 17, 2021.

The multidistrict litigation against the North Carolina-based bank was launched in 2021, following a wave of fraudulent transactions targeting California's public benefits programs in the early days of the COVID-19 pandemic in 2020.

The bank had a contract with the state to provide electronic benefits payment services via prepaid debit cards, or EDD cards, for the California Employment Development Department. However, the consumers claim that the bank's failure to implement basic security measures, such as using standard security card chips, led to a spike in fraudulent transactions.

Instead of investigating each cardholder's claims of unauthorized transactions, the plaintiffs contend the bank denied claims and froze thousands of accounts, then failed to manage the high volume of customer service calls from cardholders, depriving cardholders of access to crucial benefits for months.

In granting certification to the various classes Tuesday, Judge Curiel found they all meet the numerosity and typicality requirements.

"Because the proposed claim members, in each proposed class, are in the thousands, the court finds that numerosity has been satisfied," the order states.

"Class plaintiffs have claimed that they and all putative class members were subject to and injured by BANA's uniform practice and policy of implementing [an automated fraud monitoring program] when it automatically denied claims, rescinded permanent credits and froze accounts," the order says. "Further, they and the putative class members were injured by BANA's practice of understaffing its claims call center and failing to include industry-standard EMV chips on all its EDD debit cards."

The judge also found that the commonality element was satisfied because the suit's Electronic Fund Transfer Act claims rely on a uniform policy at Bank of America that was applied to all EDD cardholders.

"All putative class members were subject to defendant's uniform practice and policy of applying [an automated fraud monitoring program] which automatically denied EDD cardholders' error claims and

rescinded permanent credits. Therefore, the legal issue of whether these policies violate the EFTA predominates over a handful of identified class members who were not injured," the order states.

Judge Curiel also agreed with the plaintiffs that a class action is superior to litigating claims individually due to the uniform policies and practices, the numerosity of the classes and the high cost of pursuing claims against the bank.

The judge further stated that the plaintiffs have proposed a valid model for actual damages, that restitution can be calculated on a classwide basis and that "to the extent that plaintiffs demonstrate liability and have shown they are entitled to treble damages and punitive damages, they will be entitled to those damages."

All the proposed class definitions were maintained except the "EMV chip class," which Judge Curiel amended to exclude any EDD cardholders who reported a lost or stolen card at the time of the unauthorized transaction or who never received their card.

The certified EMV chip card class includes all members of the claim denial class and/or credit rescission class whose EDD debit card did not include an EMV chip before June 9, 2021, according to the order.

Finally, the judge named Cotchett Pitre & McCarthy LLP and Altshuler Berzon LLP as co-lead counsel in the suit.

In a statement, Brian Danitz of Cotchett Pitre, co-lead counsel for the class members, called the 98-page class certification order a "critical step toward achieving justice for Californians who were deprived of their only lifeline during the pandemic."

"Bank of America failed to safeguard the accounts of EDD debit cardholders and then failed to handle fraud claims when made. This pandemic-era case can finally move forward toward trial and hold the bank accountable for failing to live up to its obligations at a tremendous cost to so many vulnerable Californians," he said.

Connie Chan of Altshuler Berzon LLP, co-lead counsel for the classes, added that the class certification order "recognizes that the victims of the bank's 'claim fraud filter' policies should be allowed collectively to prove their claims in court."

"It is a crucial and long-awaited step towards holding the bank accountable for its callous and unlawful policies that harmed so many when they needed their unemployment insurance benefits most," she said.

Counsel for Bank of America did not immediately respond to requests for comment Wednesday.

The classes are represented by Joseph W. Cotchett, Brian Danitz, Karin B. Swope, Vasti S. Montiel, Caroline A. Yuen, Blair Kittle and Dave Hollenberg of Cotchett Pitre & McCarthy LLP, and Michael Rubin, Connie K. Chan, Stacey M. Leyton, Colin C. Jones and Caroline Hunsicker of Altshuler Berzon LLP.

Bank of America is represented by Matthew L. Riffee, Thomas M. Hefferon, Sabrina M. Rose-Smith, James W. McGarry, Laura G. Brys, Valerie A. Haggans and Lindsay E. Hoyle of Goodwin Procter LLP, Yvonne W. Chan of Jones Day, and Janice P. Brown and Matthew B. Nazareth of Meyers Nave.

The case is In re Bank of America California Unemployment Benefits Litigation, case number 3:21-md-02992, in the U.S. District Court for the Southern District of California.

--Editing by Kristen Becker.

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