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A NATIONAL BANKING ASSOCIATION, FORMERLY KNOWN AS
11 ZB, N.A., DOING BUSINESS AS CALIFORNIA BANK & TRUST

12 **UNITED STATES DISTRICT COURT**
13 **EASTERN DISTRICT OF CALIFORNIA**
14 **SACRAMENTO DIVISION**

15 RONALD C. EVANS, an individual; JOAN M.
EVANS, an individual; DENNIS
16 TREADAWAY, an individual; and all others
similarly situated,

17 Plaintiffs,

18 vs.

19 ZB, N.A., a national banking association, dba
20 California Bank & Trust,

21 Defendant.

Case No. 2:17-cv-01123-WBS-DB

**STIPULATION AND [PROPOSED
ORDER] CONTINUING STATUS
CONFERENCE**

Complaint Filed: May 26, 2017
Trial Date: None set

1 Plaintiffs Ronald C. Evans, Joan M. Evans, and Dennis Treadway, (the “Putative Class
2 Action Representatives”) and Defendant, Zions Bancorporation, N.A., a national banking
3 association, formerly known as ZB, N.A., doing business as California Bank & Trust (“CB&T”
4 and together with Plaintiffs, the “Parties”), by and through their respective counsel of record,
5 enter into the following stipulation (the “Stipulation”):

6 1. On May 26, 2017, the Putative Class Action Representatives filed a Class Action
7 Complaint (the “Complaint”) against CB&T;

8 2. On December 19, 2017, this Court issued a Memorandum and Order Re: Motion to
9 Dismiss (the “Decision”), dismissing the Complaint. The Putative Class Action Representatives
10 subsequently appealed this Court’s dismissal.

11 3. On June 24, 2019, the U.S. Court of Appeals for the Ninth Circuit (the “Ninth
12 Circuit”) issued a Memorandum (the “Memorandum”) reversing, vacating, and remanding this
13 Court’s decision dismissing the Complaint. *Evans v. ZB, N.A.*, No. 18-15094, 2019 U.S. App.
14 LEXIS 18781 (9th Cir. June 24, 2019).

15 4. On August 1, 2019, the Ninth Circuit denied CB&T’s Petition for Panel Rehearing
16 and for Rehearing En Banc. *Evans v. ZB, N.A.*, No. 18-15094, 2019 U.S. App. LEXIS 23059, at
17 *1 (9th Cir. Aug. 1, 2019).

18 5. On August 9, 2019, the Ninth Circuit issued its formal mandate pursuant to Rule
19 41(a) of the Federal Rules of Appellate Procedure.

20 6. On August 29, 2019, this Court ordered the parties to appear for a status
21 conference on **January 21, 2020 at 1:30 p.m.** and to file a Joint Status Report by **January 7,**
22 **2020.**

23 7. On October 15, 2019, the Putative Class Action Representatives filed their First
24 Amended Complaint (“FAC”).

25 8. On November 15, 2019, CB&T filed a Motion to Dismiss the Putative Class
26 Action Representatives’ FAC (“Dismissal Motion”), which the Court heard on December 16,
27 2019.

28 9. On December 18, 2019, this Court issued its Memorandum and Order granting in

1 part and denying in part CB&T's Dismissal Motion. This Court's Memorandum and Order
2 dismissed with leave to amend the Putative Class Action Representatives' second cause of action
3 (securities fraud) based on transactions or acts before May 26, 2012, fourth cause of action
4 (aiding and abetting breach of fiduciary duty), and fifth cause of action (intentional interference
5 with contract). This Court's Memorandum and Order denied CB&T's Dismissal Motion as to the
6 Putative Class Action Representatives' first cause of action (aiding and abetting fraud), second
7 cause of action (securities fraud) based on transactions or acts after May 26, 2012, third cause of
8 action (conspiracy to commit fraud), and sixth cause of action (violation of Penal Code section
9 496) (collectively, "Remaining Claims.") This Court's Memorandum and Order afforded the
10 Putative Class Action Representatives until January 2, 2020 to file a Second Amended Complaint.

11 10. The Putative Class Action Representatives did not file a Second Amended
12 Complaint by January 2, 2020.

13 11. Counsel for the Parties met and conferred via telephone on January 6, 2020. In
14 this telephone conversation, the Parties agreed to the following stipulation and schedule, subject
15 to this Court's approval:

- 16 a. The Putative Class Action Representatives will not file a Second Amended
17 Complaint to attempt to cure the dismissals as outlined above;
- 18 b. CB&T will file and serve an answer to the Remaining Claims asserted in
19 Putative Class Action Representatives' FAC on or before **January 31, 2020**;
- 20 c. The Putative Class Action Representatives' counsel will file and serve a
21 motion with this Court seeking an order designating them as interim counsel
22 under Federal Rules of Civil Procedure 23(g)(3) on or before **March 6, 2020**;
- 23 d. The Parties will confer and attempt to agree upon a discovery plan, as required
24 by Federal Rule of Civil Procedure 26(f), on or before **March 20, 2020**;
- 25 e. The Parties will exchange their initial disclosures under Federal Rule of Civil
26 Procedure 26(a) on or before **April 3, 2020**; and
- 27 f. The Parties will file a joint status report on or before **March 30, 2020**.

28 12. The Parties submit this proposal in an effort to conserve judicial resources. If the

1 foregoing schedule is acceptable, the Parties request that this Court continue the Status
2 Conference scheduled for January 21, 2020 at 1:30 p.m. to April 13, 2020 at 1:30 p.m. or to such
3 other date and time as this Court deems appropriate.

4 13. This Stipulation does not waive, alter, or modify any rights, defenses or claims of
5 any of the Parties in this case.

6 Dated: January 7, 2020

BUCHALTER, A Professional Corporation

7 By: /s/ Robert S. McWhorter

8 Robert S. McWhorter
Jarrett S. Osborne-Revis

9 Attorneys for Defendant,
10 Zions Bancorporation, N.A., a national banking
11 association, formerly known as ZB, N.A., doing
business as California Bank & Trust

12 Dated: January 7, 2020

13 By: /s/ Robert L. Brace

14 Robert L. Brace, Esq.

15 Attorney for Plaintiffs and all others similarly
situated

16 Dated: January 7, 2020

HOLLISTER & BRACE,
A Professional Corporation

18 By: /s/ Michael Denver

19 Michael P. Denver

20 Attorneys for Plaintiffs and all others similarly
situated

21 I, the filer of this document, attest that each of the other signatories have consented to the
22 filing of this document.

23
24 /s/ Robert S. McWhorter

25 Robert S. McWhorter

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ORDER

Based upon the Parties' Stipulation, and good cause appearing,

IT IS HEREBY ORDERED that:

1. CB&T must file and serve an answer to the Putative Class Representatives' First Amended Complaint on or before January 31, 2020.
2. The Parties must confer and attempt to agree upon a discovery plan, as required by Federal Rule of Civil Procedure 26(f), on or before March 20, 2020.
3. The Parties must exchange their initial disclosures under Federal Rule of Civil Procedure 26(a) on or before April 3, 2020.
4. The Status Conference scheduled for January 21, 2020 at 1:30 p.m. is hereby continued to **April 27, 2020 at 1:30 p.m.**
5. The Parties must file a joint status conference report on or before **April 13, 2020.**

Dated: January 7, 2020



WILLIAM B. SHUBB
UNITED STATES DISTRICT JUDGE