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11 Attorneys for Plaintiffs and all others similarly situated

12 **UNITED STATES DISTRICT COURT**  
13 **FOR THE EASTERN DISTRICT OF CALIFORNIA**

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

18 Plaintiffs,

19 vs.

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

22 Defendant.

23 ZIONS BANCORPORATION, N.A., a  
24 national banking association, formerly known  
25 as ZB, N.A., doing business as California Bank  
26 & Trust,

27 Third-Party Plaintiff

28 vs.

JTS COMMUNITIES, INC., a California  
Corporation; LARRY A. CARTER, an  
individual; JACK T. SWEIGART, an  
individual; and BRISTOL INSURANCE  
COMPANY, a dissolved Utah corporation; and  
ROES 1-20 inclusive

Third-Party Defendants

**CASE NO.: 2:17-cv-01123-WBS-DB**

**STIPULATION AND ORDER  
CONTINUING CASE DEADLINES DUE  
TO OMICRON VARIANT**

**Complaint Filed:** May 26, 2017

**Trial Date:** None set

1 Plaintiffs and putative class representatives Ronald C. Evans, Joan M. Evans, and  
2 Dennis Treadaway, (the “Evans Plaintiffs”); Defendant, Zions Bancorporation, N.A., a national  
3 banking association, formerly known as ZB, N.A., doing business as California Bank & Trust  
4 (“Zions”); and Third Party Defendants JTS Communities, Inc., Larry A. Carter, Jack T.  
5 Sweigart, and Bristol Insurance Company (“Third Party Defendants”), (collectively, the  
6 “Parties”) by and through their respective counsel of record, enter into the following stipulation  
7 (the “Stipulation”):

8 1. On October 28, 2021, in Document 92, the Court ordered that:

- 9 (a) All experts must be disclosed, and all reports on all issues, including liability,  
10 damages, and class certification, must be produced in accordance with Federal Rule  
11 of Civil Procedure 26(a)(2) on or before **May 24, 2022**;
- 12 (b) Discovery on all issues, including depositions for preservation of testimony, must  
13 be completed by **July 19, 2022**;
- 14 (c) All motions, including motions for summary judgment or partial summary judgment  
15 and including motions for class certification, shall be filed on or before **September**  
16 **20, 2022**; and
- 17 (d) The Court shall conduct a further Scheduling Conference in Courtroom 5 (WBS) on  
18 **August 29, 2022 at 1:30 p.m.**

19 2. The Evans Plaintiffs filed their case in Federal Court (the “Evans Federal Class  
20 Action”) on May 26, 2017. On June 1, 2017, the Third-Party Defendants sued Zions in a  
21 factually related case entitled *JTS Communities, Inc., et al. v. Z.B., N.A., et al.*, Sacramento  
22 County Superior Court, Case No. 34-2017-00213368-CU-FR-GDD (hereinafter the “JTS State  
23 Court Action”). On February 21, 2020, Zions countersued the Third-Party Defendants in the  
24 Evans Federal Class Action. (Doc. #55).

25 3. In the JTS State Court Action, the Third-Party Defendants in this action, are  
26 acting as Plaintiffs, and they have alleged claims against Zions arising out of the same fraud  
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1 scheme (committed by now-imprisoned Deepal Wannakuwatte) from which the claims in this  
2 action arise.

3 4. Discovery has been proceeding in the JTS State Court Action and the Evans  
4 Federal Class Action. Over **2,200 exhibits** have been marked for examination during the  
5 roughly **50 depositions** that have been taken. Discovery is completed in the JTS State Court  
6 Action. Discovery continues in the Evans Federal Class Action.

7 5. The Evans Federal Class Action was filed in 2017 a week before the JTS State  
8 Court Action was filed. Due to the 9<sup>th</sup> Circuit appeal in the Evans Federal Class Action, the JTS  
9 State Court Action advanced more rapidly against Zions and is ready for trial. An **eight-week**  
10 **trial** was scheduled to begin in November 2021. The trial date was vacated due to a stay issued  
11 by the California Court of Appeal. On January 21, 2022, after the denial of a petition for review  
12 by the Court of Appeal, the trial court held a status conference, following which the Court  
13 entered a minute order stating, “[t]he Court communicated to counsel the department's schedule  
14 and informed that trial proceedings may not commence until early June.” The court also stated  
15 that the postponement was due to public safety concerns brought on by the **Covid-19 Omicron**  
16 **variant**.

17 6. The trial court in the JTS State Court Action also ordered mandatory mediation  
18 to be held by the parties before one of three mediators selected by the Court. A mediator has  
19 been selected by Zions and the Third-Party Defendants with mediation set to take place on  
20 March 16, 2022.

21 7. Additionally, on June 8, 2015, the Bankruptcy Trustee for International  
22 Manufacturing Group, Beverly McFarland, filed an adversary action against Third-Party  
23 Defendants, *McFarland v. Carter, et al.*, U.S. Bankruptcy Court, Eastern District of California  
24 Case No. 14-25820-D-11, Adv. No. 15-2122-D (the “Carter Adversary Action”), also arising  
25 out of the same fraud scheme from which the claims in this action arise. A pretrial conference  
26 is scheduled for March 29, 2022.

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1           8.       The Evans Plaintiffs and Zions have also agreed to attend a settlement  
2 conference before a paid mediator and are in the process of scheduling that mediation. The  
3 parties expect it to occur within the next 60 days, mediator’s schedule permitting.

4           9.       Due to the 6-month public health delay in the trial of the JTS State Court  
5 Action, and Zions’ and the Evans Plaintiffs’ agreement to mediate this action, the Parties agree  
6 that the deadlines in the Evans Federal Class Action should be continued for 4-months or  
7 approximately 120 more days. With the Court’s permission, the following new deadlines would  
8 apply:

- 9           (a) All experts must be disclosed, and all reports on all issues, including liability,  
10           damages, and class certification, must be produced in accordance with Federal Rule  
11           of Civil Procedure 26(a)(2) on or before **September 23, 2022**;
- 12           (b) Discovery on all issues, including depositions for preservation of testimony, must  
13           be completed by **November 18, 2022**;
- 14           (c) All motions, including motions for summary judgment or partial summary judgment  
15           and including motions for class certification, shall be filed on or before **January 20,**  
16           **2023**; and
- 17           (d) The Court shall conduct a further Scheduling Conference in Courtroom 5 (WBS) on  
18           or about **December 16, 2022**, based on the Court’s schedule.

19           10.       This Stipulation does not waive, alter, or modify any rights, defenses, or claims  
20 of any of the parties in this case.

21  
22 Dated: February 17, 2022

BUCHALTER, A Professional Corporation

23 By:           /s/ Robert S. McWhorter          

24           Robert S. McWhorter  
25           Jarrett S. Osborne-Revis  
26           Attorneys for Defendant,  
27           Zion Bancorporation, N.A., a national  
28           banking association, formerly known as  
              ZB, N.A., doing business as California  
              Bank & Trust

1 Dated: February 17, 2022

LAW OFFICES OF IAN W. CRAIG, PC

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By: /s/ Ian W. Craig

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Ian W. Craig  
Attorneys for Third-Party Defendants,  
JTS Communities, Inc., a California  
Corporation, Larry A. Carter, an  
individual; Jack T. Sweigart, an individual  
and Bristol Insurance Company, a  
dissolved Utah corporation

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Dated: February 17, 2022

PETERSON WATTS LAW GROUP, LLP

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By: /s/ Glenn W. Peterson

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Glenn W. Peterson  
Attorneys for Third-Party Defendants,  
JTS Communities, Inc., a California  
Corporation, Larry A. Carter, an  
individual; Jack T. Sweigart, an individual  
and Bristol Insurance Company, a  
dissolved Utah corporation

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Dated: February 17, 2022

By: /s/ Robert L. Brace

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Robert L. Brace  
Attorneys for Plaintiffs and all other  
similarly situated

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Dated: February 17, 2022

By: /s/ Michael P. Denver

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Michael P. Denver  
Attorneys for Plaintiffs and all other  
similarly situated

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

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Dated: February 17, 2022

By: /s/ Michael P. Denver

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Michael P. Denver

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**ORDER**

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

**IT IS HEREBY ORDERED** that:

- a. All experts must be disclosed, and all reports on all issues, including liability, damages, and class certification, must be produced in accordance with Federal Rule of Civil Procedure 26(a)(2) on or before **September 23, 2022**;
- b. Discovery on all issues, including depositions for preservation of testimony, must be completed by **November 18, 2022**;
- c. All motions, including motions for summary judgment or partial summary judgment and including motions for class certification, shall be filed on or before **January 20, 2023**;
- d. The Scheduling Conference is continued from August 29, 2022 to **December 19, 2022 at 1:30 p.m.** ; and
- e. The Parties shall meet and confer on Rule 26 issues and file a joint conference report no later than **December 5, 2022**.

Dated: February 17, 2022



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WILLIAM B. SHUBB  
UNITED STATES DISTRICT JUDGE