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**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA**

ALBERT LOPEZ, as an individual and RENE
POMPA, as an individual, both on behalf of
others similarly situated,

Plaintiff,

v.

BANK OF AMERICA, N.A. , a national
association, and DOES 1 through 100, inclusive,

Defendants.

CASE NO.: CV 10-01207 JL

(Assigned to the Hon. James Larson, Ctrm. F)

**~~PROPOSED~~ ORDER DISMISSING LABOR
CODE § 226.7 CLAIM FOR REST BREAK
VIOLATIONS WITHOUT PREJUDICE AND
GRANTING LEAVE TO AMEND**

~~PROPOSED~~ ORDER

This matter is before the Court on the Stipulation To Dismiss Labor Code § 226.7 Claim For Rest Break Violations Without Prejudice And For Leave To Amend (“Stipulation”). The Court, having considered the Stipulation, now finds that the Stipulation should be granted.

PURSUANT TO STIPULATION, IT IS SO ORDERED as follows:

1. Plaintiffs Albert Lopez’s and Renee Pompa’s (“Plaintiffs”) Labor Code § 226.7 Claim For Rest Break Violations is hereby dismissed without prejudice. No notice shall be sent to the putative class of this dismissal.


2. Plaintiffs and Defendants Bank of America, N.A., Bank of America Corporation, and Banc of America Investment Services, Inc.’s (“Defendants”) shall bear their own costs and attorneys’ fees in connection with the dismissal of the Labor Code § 226.7 Claim For Rest Break Violations.

3. Plaintiffs are granted leave to file the Third Amended Complaint, attached as Exhibit A to the Stipulation, which shall be filed and served within five (5) days after this Order.

4. The Answer of Defendant Bank of America, N.A. to Plaintiffs’ First Amended Complaint, filed in the Superior Court for the County of Alameda on March 19, 2008, and made a part of this Court’s record through Defendant Bank of America Corporation’s Notice of Removal, filed on March 23, 2010, shall be deemed to be the Answer of Defendants to Plaintiffs’ Second Amended Complaint, and it will not be necessary for Defendants to file an Answer to the Third Amended Complaint.

IT IS SO ORDERED.

May 7, 2010
Dated: _____



Honorable James Larson
United States Magistrate Judge

1 Respectfully submitted:

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3 DATED: May 6, 2010

LAW OFFICES OF KENNETH H. YOON

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By: _____/s/

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Kenneth H. Yoon

Attorney for Plaintiffs

ALBERT LOPEZ AND RENE POMPA

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8 DATED: May 6, 2010

PAUL, HASTINGS, JANOFSKY & WALKER LLP

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By: _____/s/

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Maria A. Audero

Attorney for Defendants

BANK OF AMERICA, N.A., BANK OF AMERICA

CORPORATION, AND BANC OF AMERICA

INVESTMENTS SERVICES, INC.

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