

1 Lisa M. Carvalho (SBN 161420)  
 Email: lcarvalho@reedsmith.com  
 2 Renee C. Feldman (SBN 253877)  
 Email: rfeldman@reedsmith.com  
 3 Reed Smith LLP  
 101 Second Street, Suite 1800  
 4 San Francisco, CA 94105-3659  
 Telephone: +1 415 543 8700  
 5 Facsimile: +1 415 391 8269

6 Attorneys for Defendant  
 Bank of America, N.A.

8 UNITED STATES DISTRICT COURT  
 9 NORTHERN DISTRICT OF CALIFORNIA

11 VINCENT THADANI,  
 12 Plaintiff,  
 13 vs.  
 14 BANK OF AMERICA, N.A.,  
 15 Defendant.

No.: CV 12-04414-LHK

**STIPULATION AND ~~PROPOSED~~  
 ORDER GRANTING LEAVE TO FILE  
 AMENDED ANSWER**

REED SMITH LLP  
 A limited liability partnership formed in the State of Delaware

17 **STIPULATION**

18 WHEREAS, Plaintiff Vincent Thadani (“Plaintiff”) filed his First Amended Complaint on  
 19 October 24, 2012;

20 WHEREAS, Defendant Bank of America, N.A. (“Defendant”) filed its Answer on  
 21 November 7, 2012; and

22 WHEREAS, Defendant desires to file the First Amended Answer (“Amended Answer”),  
 23 attached hereto as Exhibit A, which adds the following affirmative defense:

24 **TWENTY-THIRD AFFIRMATIVE DEFENSE**  
 25 **(NATIONAL BANK ACT PREEMPTION)**

26 23. Defendant is informed and believes, and on that basis alleges, that some or all  
 27 of Plaintiff’s state law claims for relief are preempted by the National Bank Act, 12  
 U.S.C. § 21 *et seq.*

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WHEREAS, Plaintiff stipulates to Defendant's filing of the Amended Answer;

NOW, THEREFORE, based on the foregoing, Plaintiff and Defendant, by and through their respective counsel of record, agree and stipulate as follows:

- 1. The proposed Amended Answer, attached hereto as Exhibit A, may be filed in this action.
- 2. Defendant will file the Amended Answer within 3 business days of the Court's order approving this stipulation.
- 3. Plaintiff reserves all rights to respond to the Amended Answer as provided by applicable law.

IT IS SO STIPULATED.

DATED: January 24, 2013 REED SMITH LLP

By: /s/ Lisa M. Carvalho  
Lisa M. Carvalho  
Renee C. Feldman  
Attorneys for Defendant  
Bank of America, N.A.

DATED: January 24, 2013 BERGER LAW OFFICES

By: /s/ Jeffrey A. Berger  
Jeffrey A. Berger  
Attorneys for Plaintiff  
Vincent Thadani

**~~PROPOSED~~ ORDER**

IT IS SO ORDERED.

DATED: January 25, 2013

  
\_\_\_\_\_  
Lucy H. Koh  
United States District Court Judge