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FILED
Superior Court of California
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08/20/2024
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13 *Aggrieved Employees*

14 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
15 **COUNTY OF SACRAMENTO**
16 **UNLIMITED CIVIL JURISDICTION**

16 JOSE GONZALEZ, DAVID LU, REQUIBA
17 HERNDON-ALLEN, DAVID DANIEL, AND
18 MARTIN BERMUDEZ, on behalf of
19 themselves and all those similarly situated,

19 Plaintiffs,

20 v.

21 BANK OF THE WEST,

22 Defendant.

Case No. 23CV001422

~~CE OP ÖÖÖ~~
**[PROPOSED] ORDER GRANTING
PLAINTIFFS' UNOPPOSED MOTION
FOR FINAL APPROVAL OF CLASS
ACTION AND PAGA SETTLEMENT**

Judge: Hon. Jill Talley
DEPT.: 23
Date Action Filed: May 9, 2023

1 The Motion for Final Approval of Class and Collective Action Settlement came for a
2 hearing on August 16, 2024 at 720 9th Street, Sacramento, CA 95814 in Department 23 of this
3 Court.

4 The Parties have submitted their Amended Class Action and PAGA Settlement
5 Agreement (the “Settlement Agreement”), which this Court preliminarily approved in its April
6 25, 2024 order (the “Preliminary Approval Order”). In accordance with the Preliminary
7 Approval Order, Settlement Class Members have been given notice of the terms of the
8 Settlement Agreement and the opportunity to comment on or object to the Settlement
9 Agreement, and/or opt out of its provisions.

10 The Court, having received and considered the Settlement Agreement, the supporting
11 papers filed Plaintiffs, and the evidence and argument received by the Court at the Final
12 Approval hearing on August 16, 2024, by means of this order (the “Final Approval Order”) the
13 Court grants final approval to the Settlement Agreement, and GOOD CAUSE appearing,
14 HEREBY ORDERS THE FOLLOWING:

15 **Definitions**

16 1. Except as otherwise specified herein, the Court for purposes of this Final
17 Approval Order adopts all defined terms set forth in the Settlement Agreement.

18 **Jurisdiction**

19 2. This Court has jurisdiction over the subject matter of this litigation and all related
20 matters and all state and federal claims raised in this Action and released in the Settlement
21 Agreement, and personal jurisdiction over Bank of the West and Settlement Class Members.

22 **Dissemination of Notice to Settlement Class Members**

23 3. Pursuant to the Preliminary Approval Order, the Class Notices were sent by first-
24 class mail and email to all Settlement Class Members at their last known address, as updated by
25 the postal service’s National Change of Address database. Settlement Class Members had 45
26 days from issuance of the Notice Packet to submit a written Request for Exclusion, to file an
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1 objection, or to submit a challenge in writing to their presumptive number of Work Months.

2 4. None of the Settlement Class Members submitted an objection, Request for
3 Exclusion, or challenge to their number of Work Months.

4 5. The Class Notice fairly, plainly, accurately, and reasonably informed Settlement
5 Class Members of: (1) appropriate information about the nature of this action, the Class
6 definition, the identity of Class Counsel, and the essential terms of the Settlement Agreement,
7 including the plan of allocation and release of claims; (2) appropriate information about the
8 specific amounts to be paid from the Gross Settlement Amount for Class Counsel’s requested
9 attorneys’ fees and litigation expenses, Plaintiffs’ requested Enhancement Awards, the Private
10 Attorneys General Act (“PAGA”) Penalty Payment, and costs of the claims administrator; (3)
11 appropriate information about how Settlement Class Members’ individual Settlement Payments
12 will be calculated; (4) appropriate information about this Court’s procedures for final approval of
13 the Settlement Agreement, and about Settlement Class Members’ right to appear at the final
14 approval hearing if they desired; (5) appropriate information about how to exclude themselves
15 from, to opt out of, or to challenge their Work Months under the Settlement; and (6) appropriate
16 instructions as to how to obtain additional information regarding this Action and the Settlement
17 Agreement.

18 6. The Court finds and determines that this notice procedure afforded adequate
19 protections to Settlement Class Members and provides the basis for the Court to make an
20 informed decision regarding approval of the Settlement based on the responses of Settlement
21 Class Members. Notice was accomplished in the manner prescribed by the Settlement
22 Agreement. The Court finds and determines that the notice provided in this case was the best
23 notice practicable, which satisfied the requirements of law and due process under California
24 Code of Civil Procedure § 382, California Rules of Court, rules 3.766 and 3.769(f), the
25 California and United States Constitutions, and other applicable law.

1 **Certification of Settlement Class and Collective**

2 7. Pursuant to California Code of Civil Procedure § 382, the Court certifies the
3 following Settlement Class for settlement purposes only: All Current or former ~~non-exempt~~
4 employees of BOTW who, during the Class Period worked for BOTW in California in one of the
5 following four job titles: (1) Mortgage Banker, (2) Mortgage Banker HC NonNetwork, (3)
6 Mortgage Banker Private, and/or (4) Mortgage Banker Std NonNetwork.

7 8. Outten & Golden LLP and Shavitz Law Group, P.A., which the Court previously
8 appointed as Class Counsel, satisfy the adequacy requirements.

9 **Final Approval of the Class Action and PAGA Settlement**

10 9. The Court finds the Settlement was entered into in good faith, that the Settlement
11 is fair, reasonable, and adequate, and that the Settlement satisfies the standards and applicable
12 requirements for final approval under California law, including the provisions of California Code
13 of Civil Procedure § 382 and California Rules of Court, rule 3.769.

14 10. The Settlement is binding on all Settlement Class members. By operation of the
15 entry of this Final Approval Order, upon the Effective Date, except as to such rights or claims as
16 may be created by the Settlement Agreement, each individual Settlement Class Member, on his
17 or her behalf and on behalf of his or her respective current, former and future heirs, spouses,
18 executors, administrators, agents, and attorneys, forever and fully releases the Released Parties
19 from the Released Claims.

20 **Gross Settlement Amount Allocation and Distribution**

21 11. The Motion for Approval of Attorneys' Fees and Costs, Class Representative
22 Enhancement Awards, and Administration Costs is granted. Class Counsel shall be awarded
23 \$154,355.33 as attorneys' fees, and \$15,401.88 as litigation costs. These amounts shall be paid
24 to Class Counsel according to the terms of the Settlement Agreement.

25 12. Enhancement Awards of \$2,000 each to Plaintiffs Jose Gonzalez, David Lu,
26 Requiba Herndon, David Daniel, and Martin Bermudez (for a total of \$10,000) are approved and
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1 shall be paid to Plaintiffs pursuant to the terms of the Settlement Agreement.

2 13. Administration costs of \$25,000 shall be paid to the Claims Administrator, A.B.
3 Data, pursuant to the terms of the Settlement Agreement.

4 14. No other litigation costs and/or attorneys' fees shall be awarded, either against
5 Bank of the West or any related persons or entities or from the award to the Class.

6 15. The Parties are ordered to give notice to all Settlement Class Members in
7 accordance with California Rules of Court, rule 3.771(b).

8 16. If no individual or party appeals this Final Approval Order, the Effective Date of
9 this Settlement will be 60 calendar days after the Final Approval Order is entered.

10 17. Defendant shall pay the Gross Settlement Amount into the Qualified Settlement
11 Fund within ten (10) days of the Effective Date. Twenty (20) days after the Effective Date, the
12 Claims Administrator will issue Settlement Payments to the Settlement Class and PAGA Penalty
13 Payments to the Aggrieved Employees and the LWDA. Twenty (20) days after the Effective
14 Date, the Claims Administrator will pay the Enhancement Awards to the Plaintiffs and Class
15 Counsel's Attorneys' Fees and Litigation Expenses.

16 18. The Claims Administrator will provide Class Counsel and Defendant's Counsel
17 with a declaration under oath to verify the mailing of Settlement Payment checks and the other
18 distributions from the Gross Settlement Amount within seventy-five (75) days following the
19 Effective Date.

20 19. Any portion of the Gross Settlement Amount not distributed as per the terms of
21 the Settlement Agreement, including any interest accrued on the Qualified Settlement Fund, and
22 any check not cashed after the expiration of the 180 days following issuance of checks to
23 Settlement Class Members shall be donated to the Center for Workers' Rights as a *cy*
24 *pres* recipient.

25 20. The Court sets a compliance hearing for ~~ED-ES~~ at ~~FCHEA~~ in Department 23 of
26 this Court. Pursuant to California Code of Civil Procedure § 384, no later than five (5) days
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1 before the compliance hearing, the Parties shall file a compliance report specifying the total
2 amount paid to Settlement Class Members, and the residual of unclaimed funds that will be paid
3 to the Center for Workers' Rights, along with a proposed amended judgment. No later than five
4 (5) court days after receipt of notice of entry of amended judgment, the Parties shall submit the
5 amended judgment to the Judicial Council, pursuant to Code Civ. Proc 384.5 and shall file a
6 proof of service with the Court.

7 21. Notice of entry of final judgment shall be posted on the Claims Administrator's
8 website in compliance with California Rules of Court, rule 3.771(b).

9 22. The Court hereby enters Judgment in the case. Pursuant to California Rules of
10 Court, rule 3.769(h), the Court shall retain continuing jurisdiction over the Action, the Parties,
11 and the Settlement Class, as well as the administration and enforcement of the terms of the
12 Settlement of this Action to enforce the terms of the Judgment.

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14 **IT IS SO ORDERED.**

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16 Dated: 08/20/2024



17 *Jill Talley*
18 HONORABLE JILL TALLEY
19 SUPERIOR COURT OF CALIFORNIA
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