IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS

RICHARD MARCH, *et al*., individually and on behalf of all others similarly situated, Plaintiffs, v. BANK OF AMERICA, N.A., Defendant.	Case No. 2:23-cv-02360-HLT-TJJ

PLAINTIFFS' MEMORANDUM OF LAW IN SUPPORT OF UNOPPOSED MOTION FOR FINAL APPROVAL OF CLASS ACTION SETTLEMENT

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INTRODUCTION

The Court previously granted Plaintiffs' motion to preliminarily approve and send notice of this class action settlement to approximately 7,700 current and former Bank of America employees because the Court found the settlement would likely be approved under Rule 23(e). Dkt. 57 at 1. Class members' reaction to the notice confirms that the Court's preliminary approval order was well-founded. Following a successful notice program that reached 99% of the class, no class members objected to the settlement and only a small fraction—a quarter of one percent—opted out. The absence of class member opposition confirms what the objective metrics all demonstrate: this settlement is fair, reasonable, and adequate and should be granted final approval.

Plaintiffs' wage and hour claims arose from the Bank's administration of COVID-era PPP loans with the work at issue mostly occurring during a discrete 16-week period between April and July 2020. Plaintiffs principally alleged the Bank pressed exempt workers into performing non-exempt loan processing work without being paid overtime, and that the Bank promised non-exempt workers incentive payments that were improperly excluded from the regular rate while also being offset against statutory overtime. As explained within, the Bank's vigorous defense reflects the legitimate risks Plaintiffs' claims faced, both procedurally and substantively.

After completing Phase I discovery in parallel federal district court actions in Kansas, California, and New York and with two fully briefed class certification motions pending, the parties reached a $17,500,000 non-reversionary class settlement following their third full-day mediation. Net of all projected attorneys' fees, expenses, and administrative costs, the average class member recovery is approximately $1,469 per person with the highest payment exceeding $30,000. Importantly, there is no claims process; instead, checks will be automatically distributed to all class members who did not opt out upon final approval. In exchange for these payments, class members agree to an appropriately narrow release of claims tailored to the facts asserted in

the Amended Complaint. Further, none of this money will revert to the Bank. Any uncashed settlement checks will be transferred to the state unclaimed property fund where the class member worked to be held for that class member. By any measure, Class Counsel achieved a favorable result despite meaningful risk that should be approved as fair, reasonable, and adequate.

In support of this motion, Plaintiffs submit, along with this memorandum, the Declaration of George A. Hanson and the Declaration of Jeffrey Mitchell of Analytics Consulting LLC. Plaintiffs also previously moved for an award of attorneys' fees and expenses as well as service awards. *See* Dkt. 59-60. For the reasons explained below, Plaintiffs request the Court grant final approval of the settlement and award the requested attorneys' fees, expenses, and service awards.

PRELIMINARY APPROVAL AND NOTICE

Plaintiffs extensively detailed the nature of the claims and defenses at issue, as well as Class Counsel's investigation and work on the case, in briefing preliminary approval (Dkt. 55-56) and Plaintiffs' motion for attorneys' fees, expenses, and service awards (Dkt. 59-60). For the sake of brevity, Plaintiffs focus their efforts here on analyzing the pertinent Rule 23 factors in light of the class response and rely on their earlier recitation of the procedural history and legal issues.

Plaintiffs moved for preliminary approval of the settlement on August 12, 2025. Dkt 55. In granting that motion, the Court found it would likely approve the settlement as fair, reasonable, and adequate and could certify the class for purposes of settlement, and thus directed that notice be issued to the class. Dkt. 57 at ¶¶ 1-7. In addition, for purposes of issuing notice of the settlement, the Court appointed George A. Hanson, Alexander T. Ricke, and Caleb J. Wagner, of Stueve Siegel Hanson LLP as Class Counsel. *Id*. ¶ 6. The Court also approved the parties' form and plan of notice and directed the parties to carry it out. *Id*. at ¶¶ 7-8.

Class Counsel engaged Analytics Consulting LLC to provide settlement administration services, including the mailing of the Court-approved notice. Consistent with the Settlement

Agreement, the Bank sent Analytics a data file identifying the class members, their contact information, and the information necessary to calculate their settlement payments. Mitchell Decl. at ¶¶ 6-7. After running each class member's address through the National Change of Address database, Analytics mailed the notice to all class members by first class mail on September 26, 2025. *Id.* at ¶¶ 7-8. 207 notices were returned to Analytics by the U.S. Postal Service as undeliverable. *Id.* at ¶ 10. For those class members, Analytics conducted a skip trace to ascertain a valid address for the affected individuals and was able to remail notice to 133 of them. *Id.* The Notice was thus successfully delivered to approximately 99% of the class. *Id.*

In connection with notice, Analytics also established a toll-free telephone number for class members to contact them for more information and where they could speak to a live operator to answer questions. *Id.* at ¶ 11. Class members could also e-mail a dedicated e-mail address with questions about the settlement. *Id.* at ¶ 12. Analytics also established and continues to maintain a dedicated settlement website where class members have been able to obtain detailed information about the case and review key documents, such as the complaint, class notice, settlement agreement, and preliminary approval order, among others. *Id.* at ¶¶ 14-16. The telephone number, e-mail address, and settlement website were referenced in the Notice. *Id.* at ¶¶ 11-12, 14.

The deadline for class members to object or request exclusion was November 10, 2025. No class members objected to the settlement. *Id.* at ¶ 18. Only 21 of the 7,702 class members—about 0.27%—requested to be excluded. *Id.* at ¶ 17.

ARGUMENT

I. The Court Should Grant Final Approval of the Settlement.

A class action can only be settled with a court's approval. Fed. R. Civ. P. 23(e). To approve a settlement under Rule 23(e)(2), the Court must find that it is "fair, reasonable, and adequate" after considering whether:

> (A) the class representatives and class counsel have adequately represented the class;
>
> (B) the proposal was negotiated at arm's length;
>
> (C) the relief provided for the class is adequate, taking into account:
>
> > (i) the costs, risks, and delay of trial and appeal;
> >
> > (ii) the effectiveness of any proposed method of distributing relief to the class, including the method of processing class-member claims;
> >
> > (iii) the terms of any proposed award of attorney's fees, including timing of payment; and
> >
> > (iv) any agreement required to be identified under Rule 23(e)(3); and
>
> (D) the proposal treats class members equitably relative to each other.

Fed. R. Civ. P. 23(e)(2). Paragraphs (A) and (B) of Rule 23(e)(2) "identify matters that might be described as 'procedural' concerns, looking to the conduct of the litigation and of the negotiations leading up to the proposed settlement," while paragraphs (C) and (D) "focus on what might be called a 'substantive' review of the terms of the proposed settlement." Fed. R. Civ. P. 23, Advisory Committee Notes (Dec. 1, 2018) (hereafter "Advisory Committee Notes").

"The authority to approve a settlement of a class action is in the sound discretion of the trial court." *Aks v. Southgate Tr. Co.*, 1992 WL 401708, at *10 (D. Kan. Dec. 24, 1992) (citing *Jones v. Nuclear Pharmacy, Inc.*, 741 F.2d 322 (10th Cir.1984)). "The court's decision to approve the settlement should be influenced by the strong federal policy of encouraging settlement." *Id.* (citing *Stanspec Corp. v. Jelco, Inc.*, 464 F.2d 1184, 1186 (10th Cir.1972)).

A. The Class Representatives and Class Counsel adequately represented the Class.

To approve a settlement, Rule 23(e)(2)(A) requires a court to find that "the class representatives and class counsel have adequately represented the class." This factor focuses "on

the actual performance of counsel acting on behalf of the class." Fed. R. Civ. P. 23, Advisory Committee Notes. This factor favors final approval.

First, the interests of the Plaintiffs are aligned with those of other settlement class members, as they all suffered and seek to redress the same injuries: unpaid wages for work on the Bank's PPP loan program. *See Amchem Prod., Inc. v. Windsor,* 521 U.S. 591, 625–26 (1997) ("[A] class representative must be part of the class and possess the same interest and suffer the same injury as the class members.") (cleaned up).

Next, Class Counsel are highly experienced in complex class actions and that is particularly true with respect to wage and hour litigation. *See* Dkt. 55-2 at ¶¶ 56-67; *Garcia v. Tyson Foods, Inc*., 2012 WL 5985561, at *4 (D. Kan. Nov. 29, 2012), *aff'd*, 770 F.3d 1300 (10th Cir. 2014) (stating with respect to Stueve Siegel Hanson LLP that "it appears that plaintiffs' counsel's experience in wage-hour class actions has unmatched depth."). This knowledge and experience enabled Class Counsel to efficiently conduct Phase I discovery across three cases, move for class certification in two of them, and negotiate a well-informed, global settlement. Class Counsel's research and creative approach allowed them to develop novel strategies to address the challenges posed by the Bank's defenses. This paid significant dividends for the class. In fact, absent Class Counsel's timely work, class members almost certainly would have ended up with *nothing* as the limitations periods on their claims would have lapsed absent counsel acting quickly to file and prosecute the litigation. This factor is met, and final approval is warranted.

B. The parties negotiated the settlement at arm's length.

This factor focuses on whether the settlement negotiations "were conducted in a manner that would protect and further the class interests." Fed. R. Civ. P. 23(e), Advisory Committee Notes. Here, this factor is satisfied because the settlement was achieved after three arm's-length mediations presided over by three separate, well-respected mediators (Judge Gandhi (Ret.) of

JAMS, Mr. Fuchsman, and then finally Mr. Dickstein). Even after three full-day mediations at various stages of the litigation, final settlement in this case required weeks of follow-up conferences presided over by Mr. Dickstein, which culminated in the parties only reaching settlement through a double-blind mediator's proposal. Dkt. 55-2 at ¶¶ 29-32. That process evidences a contested, arm's length negotiation. *See, e.g., Marcus v. Kansas Dep't of Revenue*, 209 F. Supp. 2d 1179, 1182 (D. Kan. 2002) (finding this factor satisfied where the settlement was reached through mediation done "by experienced counsel for the class"); *Krant v. UnitedLex Corp.*, 2024 WL 5187565, at *3 (D. Kan. Dec. 20, 2024) (same). Indeed, some courts have found that "participation of an independent mediator . . . virtually [e]nsures that the negotiations were conducted at arm's length and without collusion between the parties." *In re Viropharma Inc. Sec. Litig.*, 2016 WL 312108, at *8 (E.D. Pa. Jan. 25, 2016). This factor favors final approval.

C. The relief provided to the Class is adequate.

Rule 23(e) requires the Court to consider whether "the relief provided for the class is adequate, taking into account: (i) the costs, risks, and delay of trial and appeal; (ii) the effectiveness of any proposed method of distributing relief to the class, including the method of processing class-member claims; (iii) the terms of any proposed award of attorney's fees, including timing of payment; and (iv) any agreement required to be identified under Rule 23(e)(3). Fed. R. Civ. P. 23(e)(2)(C)(i-iv). In this case, these factors point clearly towards settlement approval.

All the factors identified by Rule 23(e)(2)(C) should be viewed in light of the meaningful monetary benefit this settlement confers on class members, the direct mailing of checks, and the tailored release resolving claims about a legacy program that largely concluded five years ago and that principally focused on a discrete, 16-week period of time. The average payment to class members will be $1,469—a meaningful amount by any measure, but especially so when considering the principal impact of the challenged practice here lasted only a few months. Based

on Class Counsel's analysis of the Bank's class-wide wage and hour records with the assistance of expert statisticians, the average estimated amount of unpaid wages is $2,095 for non-exempt workers and $3,046 for exempt workers. Dkt. 60-1 at ¶ 16. In other words, Class Counsel's expert data analysis showed unpaid wages of approximately $17,522,055. Depending on the assumptions made, the $17.5 million common fund approximates make-whole relief for the class.

Even after accounting for attorneys' fees, expenses, service awards, and administration costs, the net fund represents approximately 64% of the unpaid wages alleged. That marks an excellent result considering the risks posed by class certification, summary judgment, trial, and appeal. *See, e.g., Kauffman v. U-Haul Int'l, Inc.*, 2019 WL 1785453, at *3 (E.D. Pa. Apr. 24, 2019) (approving wage and hour settlement where "Plaintiff will receive payment of a meaningful portion (approximately 28%) of his alleged unpaid overtime wages..."); *Dillworth v. Case Farms Processing, Inc.*, 2010 WL 776933, at *8 (N.D. Ohio Mar. 8, 2010); (approving a class action settlement that recovered "approximately one-third of claimed unpaid wages" and finding "there can be no doubt that the results achieved for the class members are exceptional."); *Li v. HLY Chinese Cuisine Inc.*, 596 F. Supp. 3d 439, 448 (E.D.N.Y. 2022) (approving settlement where the recovery of wages amounted to "approximately 13.8% of the total alleged damages…").

Moreover, payments are substantial. The average estimated *per capita* settlement payment net of all fees and costs is $1,469 across the class, with an average exempt worker's payment of $1,941 and an average non-exempt worker's payment of $1,359.[1] Further, given that these settlement payments are principally allocated proportional to each class member's damages, the

[1] These average estimated settlement payments increased slightly from earlier projections because Class Counsel moved for an award of expenses of $222,081.84 while the notice to class members (and thus the earlier fund analysis) contemplated expenses of $250,000. In addition, the payments allocated to the 21 individuals who opted out will be reallocated to the class.

highest exempt worker's settlement payment is more than $35,000 and the highest non-exempt worker's settlement payment is more than $16,000. Mitchell Decl. at ¶¶ 19-20.

i. The relief provided to the class is adequate considering the costs, risks, and delay of trial and appeal.

Considering the costs, risks, and delay of trial and appeal, the proposed settlement satisfies Rule 23(e)(2)(C)(i). As noted above, the settlement confers a significant monetary payment on class members as the $17,500,000 common fund represents significant relief on a *per capita* basis—$1,469 on average. That is a noteworthy outcome in any wage and hour case, but it is particularly so when weighed against the procedural and substantive risks in the case.

Although Class Counsel believe Plaintiffs' claims are strong, there is no question Plaintiffs' claims faced uncertainty on the path to a class recovery. To obtain *any* recovery, Plaintiffs would have had to prevail on their motion to certify a class comprising 48 separate states and corresponding state laws—a proposition the Bank vigorously contested. *See* Dkt. 43. Moreover, Plaintiffs' argument for the timeliness of most claims hinged on the Court's application of Kansas' COVID-19 tolling order to out-of-state class members, a contention that rested on the vitality of a 1987 Kansas Supreme Court opinion (Westlaw lists only thirteen cases having cited it in more than 38 years since it was decided; none since 2011). *See Wortman v. Sun Oil Co.* 241 Kan. 226, 232, 755 P.2d 488, 493 (1987). Class Counsel cleared these procedural hurdles to deliver a strong result.

Plaintiffs also faced significant resistance on the merits. The Bank vigorously contested nearly every aspect of their claims. As to the exempt-classified workers, the company relied heavily on a regulation stating that employees do not lose their exemption when they perform nonexempt work responding to "emergencies", *see* 29 CFR § 541.706, along with a Department of Labor bulletin stating that this principle applied to temporary assignments in response to the COVID-19 pandemic. As to the non-exempt workers, Plaintiffs' theory of recovery turned on the

interpretation of a complex web of regulations regarding when certain premium payments or incentives can be credited by an employer toward its statutory overtime obligations and when they cannot. *See* 29 CFR §§ 778.201(c); 778.202; 778.203; 778.207; 778.211. Plaintiffs believe they had the better of each of these arguments. But all required the application of rarely litigated legal principles to unique factual circumstances. That meant a high degree of risk.

Indeed, Plaintiffs faced significant risk at class certification, summary judgment, trial, and possibly then on appeal, all of which would have been lengthy and complex. *See, e.g.*, *In re Austrian & German Bank Holocaust Litig.*, 80 F. Supp. 2d 164, 174 (S.D.N.Y. 2000) (recognizing that "[m]ost class actions are inherently complex and settlement avoids the costs, delays, and multitude of other problems associated with them"). The settlement, in contrast, delivers significant money to class members with no risk. *See Grant v. Capital Mgmt. Servs., L.P.*, 2014 WL 888665, at *3 (S.D. Cal. Mar. 5, 2014) ("The court shall consider the vagaries of the litigation and compare the significance of immediate recovery by way of compromise to the mere possibility of relief in the future, after protracted and expensive litigation. In this respect, it has been held proper to take the bird in hand instead of a prospective flock in the bush") (citations and quotations omitted). This factor strongly supports approval.

ii. The relief provided to the class is adequate considering the effectiveness of distributing relief to the class.

Under this factor, the Court "scrutinize[s] the method of claims processing to ensure that it facilitates filing legitimate claims" and "should be alert to whether the claims process is unduly demanding." Advisory Committee Notes. In this case, class members are not required to file any claim forms or take any affirmative steps to receive a settlement payment. Instead, unless class members request to be excluded (roughly a quarter of one percent did), they will automatically be sent a check for their settlement amount. Dkt. 55-1 at § III(I)(1). Moreover, every individual

covered by the settlement was sent an individualized notice form to their last known address that explains the settlement and specifies his or her anticipated settlement payment amount and the allocation plan. *See* Mitchell Decl. at ¶ 9. This factor weighs in favor of settlement approval.

iii. The relief provided to the class is adequate considering the terms of the proposed award of attorneys' fees.

This factor recognizes that "[e]xamination of the attorney-fee provisions may also be valuable in assessing the fairness of the proposed settlement." Advisory Committee Notes. Class Counsel previously moved for and justified an award of attorneys' fees in the amount of one-third of the settlement fund, or $5,833,333.33. *See* Dkt. 59-60. This requested fee is consistent with District and Circuit precedent. *See, e.g., In re Syngenta AG MIR 162 Corn Litig.*, 61 F.4th 1126 (10th Cir. 2023) (awarding one-third of the common fund); *Hershey v. ExxonMobil Oil Corp.*, 2012 WL 5306260, at *8 (D. Kan. Oct. 26, 2012) ("an award of one-third the total settlement award is reasonable and appropriate."). Moreover, the Settlement Agreement is not contingent on the Court awarding a particular fee. Dkt. 55-1, Settlement Agreement, § III(H)(4).

Class Counsel previously addressed at length why the requested one-third fee is reasonable under the specific circumstances of this case. *See* Dkt. 60. Having now completed a successful direct notice process, the complete absence of opposition to the settlement—including Class Counsel's requested fee—supports the reasonableness of the fee. *In re Rite Aid Corp. Sec. Litig.*, 396 F.3d 294, 305 (3d Cir. 2005), *as amended* (Feb. 25, 2005) ("the absence of substantial objections by class members to the fee requests weighed in favor of approving the fee request.").

Likewise, the additional work performed by Class Counsel also supports the requested fee. Having now completed the notice process and in preparation for the final approval hearing, Class Counsel supplement the "time and labor" component of the *Johnson* factor analysis. Dkt. 60 at 22-23. With more work remaining, Class Counsel has currently expended nearly 3,700 hours for a

total lodestar at their standard rates of just over $3.5 million across the three cases now consolidated for settlement. Hanson Decl. at ¶¶ 2-3. Although the Tenth Circuit has often held that a lodestar crosscheck is not required and that such an analysis "can fail to account for the productive quality of an attorney's labor," *see In re Syngenta AG MIR 162 Corn Litig.*, 61 F.4th 1129 at 1192 (10th Cir. 2023), here a crosscheck confirms the reasonableness of the requested fee. Class Counsel's requested one-third fee is a 1.6 multiplier on their current expenditure of time and is well below multipliers approved in this District. *In re Syngenta AG MIR 162 Corn Litig.*, 357 F. Supp. 3d 1094, 1115-16 (D. Kan. 2018) (noting that multipliers of 2 and 3 "are well within the range accepted by other courts, even in cases without trials"). And the work is not done—the multiplier will decrease as Class Counsel prepare for the final approval hearing, administer the settlement fund, and continue to communicate with class members about the settlement. *Marquez v. Midwest Div. MMC, LLC*, 2022 WL 17093036, at *6 (D. Kan. Nov. 21, 2022) (considering that future "work with the Settlement Administrator to process the class and collective action members' claims, answer their questions, and distribute their settlement awards" will increase lodestar and decrease multiplier, which supported the fee request).

After litigating three novel wage and hour cases across the country through class certification and achieving a groundbreaking result that provides meaningful payments to class members without a claims process in the face of legitimate risk, the Court can be satisfied that Class Counsel earned the requested fee. *See, e.g.,* Dkt. 60. This factor supports final approval.

iv. The relief provided to the class is adequate considering there are no agreements required to be identified under Rule 23(e).

The only agreement between the parties is the Settlement Agreement. Dkt. 55-2 at ¶ 34. This factor weighs in favor of final approval.

D. The Settlement Treats Class Members Equitably to One Another.

This factor seeks to prevent the "inequitable treatment of some class members *vis-a-vis* others." Advisory Committee Notes. Class Counsel worked diligently to create an allocation that ties distribution to the proportional value of each individual's claims. Class members' settlement allocation is based on the number of weeks worked on the PPP loan program, total incentives earned, rates of pay, and whether they were classified as exempt or nonexempt, recognizing that employees who worked on the program for longer periods sustained greater losses, and that exempt employees were underpaid what they were owed by a greater amount than nonexempt workers. *See* Dkt. 55-1, Exhibit B to Settlement Agreement, Plan of Allocation. Further, class members who worked in California or New York will receive additional enhancements to account for the relatively stronger protections provided by their states' wage and hour laws. *Id.* at ¶ 43. Thus, the class members with higher potential damages and strongest claims will recover the largest settlement payments. This factor weighs in favor of settlement approval.

II. Class Certification for Settlement Purposes is Appropriate.

Having determined that the settlement is fair, reasonable, and adequate under Rule 23(e)(2), the Court can turn to the second half of the final approval inquiry: whether the Court can grant final "[certification of] the class for purposes of judgment on the proposal." Fed. R. Civ. P. 23(e)(1)(B)(ii). Plaintiffs move the Court to maintain class certification for settlement purposes.

Certification of a class for settlement purposes is proper when the plaintiff demonstrates that the proposed class and proposed class representative meet the four threshold prerequisites of Rule 23(a) commonly known as the "numerosity," "commonality," "typicality," and "adequacy of representation" elements, along with at least one of the three provisions of Rule 23(b). *Amchem Prods., Inc. v. Windsor*, 521 U.S. 591, 613-14 (1997). Where, as here, plaintiffs seek certification under Rule 23(b)(3), they must also demonstrate that common questions of law or fact predominate

over individual issues and that maintaining the suit as a class action is superior to other methods of adjudication. Fed. R. Civ. P. 23(b)(3); *Amchem Prods.*, 521 U.S. at 615-16. As a practical matter, "[j]udicial economy factors and advantages over other methods for handling the litigation" underlie these two tests. *Emig v. Am. Tobacco Co. Inc.*, 184 F.R.D. 379, 388 (D. Kan. 1998). Plaintiffs satisfy these requirements here.

Moreover, the settlement class is ascertainable, as it is comprised only of employees who worked on the PPP loan program, as demonstrated by the Bank's employment records. *See Gomez v. Epic Landscape Prods., L.C.*, 2024 WL 4605146, at *10 (D. Kan. Oct. 29, 2024) (ascertainability met when class is "identifiable [through] Defendants' employment records.").

A. Numerosity is Satisfied

Rule 23(a)(1) requires Plaintiffs to show that "the class is so numerous that joinder of all members is impracticable." Fed. R. Civ. P. 23(a)(1). "[A] class of 40 or more members raises a presumption of impracticability of joinder based on numbers alone." 1 Newberg and Rubenstein on Class Actions § 3:12 (6th ed.); *Whitton v. Deffenbaugh Indus., Inc.*, 2016 WL 4493570, at *4 (D. Kan. Aug. 26, 2016) ("In light of prevailing precedent, the difficulty inherent in joining as few as 40 class members should raise a presumption that joinder is impracticable, and the Plaintiff whose class is that large or larger should meet the test of Rule 23(a)(1) on that fact alone."). Here, there are more than 7,000 class members. *See* Dkt. 55-2 at ¶ 37. Numerosity is met.

B. Commonality is Satisfied

Rule 23(a) further requires that questions of fact or law must exist that are common to the class as a whole. Fed. R. Civ. P. 23(a)(2). "[F]or purposes of Rule 23(a)(2) 'even a single common question' will do," *Wal-Mart Stores, Inc. v. Dukes*, 564 U.S. 338, 369 (2011) (cleaned up); *accord DG ex rel. Stricklin v. Devaughn*, 594 F.3d 1188, 1195 (10th 2010), so long as "the determination

of its truth or falsity will resolve an issue that is central to the validity of each one of the claims in one stroke." *Dukes*, 564 U.S. at 350. Here, such common questions include:

- Whether the Bank properly calculated and paid its employees' PPP incentives in conjunction with overtime;
- Whether the Bank used an improper pay calculation formula;
- Whether the Bank breached its contractual agreements, whose terms were uniform and standardized as to all class members, when it counted statutory overtime payments toward its PPP incentive obligations;
- Whether the Bank breached its contractual agreements, whose terms were uniform and standardized as to all class members, when it treated its PPP incentive promises as "enhanced overtime";
- Whether the Bank violated state overtime laws when it counted PPP incentive payments toward its overtime obligations, or otherwise failed to include all PPP incentives earned in its regular rate calculations; and
- Whether the Bank violated state overtime laws when it failed to pay any overtime to PPP employees who were classified as exempt.

The Rule 23(a)(2) commonality requirement is thus satisfied.

C. Typicality is Satisfied

Rule 23(a)(3) requires Plaintiffs show that "the claims of the representative parties are typical of the claims of the class." Fed. R. Civ. P. 23(a)(3). This "typicality" requirement "helps ensure that the plaintiff's interests are aligned with those of the represented group, so that in pursuing his own claims, the named plaintiff will also advance the interests of the class members." 1 Newberg and Rubenstein on Class Actions § 3:29 (6th ed.) (cleaned up). Its test is "not demanding", *Komoroski v. Util. Serv. Partners Priv. Label, Inc.*, 2017 WL 3261030, at *5 (W.D. Mo. July 31, 2017) (quotations omitted), requiring only that the lead plaintiffs' claims be "reasonably co-extensive with those of absent class members." *Salter v. Quality Carriers, Inc.*, 2021 WL 2333098, *7 (C.D. Cal. 2021). Typicality is satisfied when "the claims of the class representative and class members are based on the same legal or remedial theory." *Adamson v.*

Bowen, 855 F.2d 668, 676 (10th Cir. 1988); *see also Riley v. PK Mgmt., LLC*, 2019 WL 6998757, at *4 (D. Kan. Dec. 20, 2019) ("The claims of the representative plaintiffs need not be identical [] to those of the other class members.").

Here, Plaintiffs seek recovery of unpaid overtime wages and promised PPP incentive payments—just like the rest of the affected employees. Further, they have sought that relief by invoking the same statutory and common law principles as the class as a whole. They thus satisfy the typicality requirement.

D. Adequacy is Satisfied

Rule 23(a)(4) requires Plaintiffs to show that "the representative parties will fairly and adequately protect the interests of the class." Fed. R. Civ. P. 23(a)(4). They meet this requirement for substantially the same reasons they satisfy typicality (and the adequacy of representation Rule 23(e) factor discussed above). After all, "the adequacy of the class representative prong of Rule 23(a)(4) tends to merge with the requirement that the class representative's claims be typical of the class." 1 Newberg and Rubenstein on Class Actions § 3:57 (6th ed.). The adequacy requirement asks "whether the proposed representatives have any conflicts of interest with other class members", and whether they will "prosecute the action vigorously on behalf of the class." *Rutter & Wilbanks Corp. v. Shell Oil Co.*, 314 F.3d 1180, 1187-88 (10th Cir. 2002). Like the class as a whole, Plaintiffs here advance the same types of wage claims and seek the same types of unpaid wages arising out of the Bank's pay practices for administering PPP loans. Their success and the success of the class are inherently intertwined. They are thus adequate class representatives.

Rule 23(a)(4) also requires that class counsel "fairly and adequately protect the interests of the class." *See id.* at 1187. Here, Plaintiffs have retained qualified counsel experienced in complex wage and hour litigation to protect the interests of the class. *See Garcia,* 2012 WL 5985561, at *4. Plaintiffs thus meet the adequacy requirement.

E. Predominance is Satisfied

Predominance is satisfied if "questions of law or fact common to class members predominate over any questions affecting only individual members." Rule 23(b)(3); *see Amgen, Inc. v. Conn. Retirement Plans and Trust Funds*, 568 U.S. 455, 459 (2013). This predominance requirement does not require that *all* questions of law or fact be common. *See, e.g.*, *In re Urethane Antitrust Litig.*, 768 F.3d 1245, 1255 (10th Cir. 2014) ("Class-wide proof is not required for all issues."). Rather, it requires only that the common questions *predominate* over individual questions. *Id.* As the Supreme Court distilled it, "[t]he predominance inquiry asks whether the common, aggregation-enabling, issues in the case are more prevalent or important than the non-common, aggregation-defeating, individual issues." *Tyson Foods, Inc. v. Bouaphakeo*, 577 U.S. 442, 453 (2016). Common questions are those wherein "the same evidence will suffice for each member to make a prima facie showing or the issue is susceptible to generalized, class-wide proof", as opposed to ones where "members of a proposed class will need to present evidence that varies from member to member." *Id.* In essence, "[t]he predominance inquiry tests whether proposed classes are sufficiently cohesive to warrant adjudication by representation." *CGC Holding Co. v. Broad & Cassel*, 773 F.3d 1076, 1087 (10th Cir. 2014).

Here, each class member's claim hinges on one of two overarching questions. For nonexempt employees, it is whether the Bank's method of calculating the PPP incentive payments in conjunction with statutory overtime complied with the law. And for exempt employees, it is whether PPP loan processing work qualified as exempt work. As courts have recognized, predominance is met when the focus is on the defendant's conduct, rather than that of the individual class members. *Thomas & Thomas Rodmakers, Inc. v. Newport Adhesives & Composites, Inc.*, 209 F.R.D. 159, 167 (C.D. Cal. 2002) ("[T]o determine predominance, the Court looks to whether the focus of the proposed class action will be on the words and conduct of the

defendants rather than on the behavior of the individual class members."). Here, the focus of Plaintiffs' theories is squarely on the Bank's uniform PPP pay practices. Predominance is met.

F. Superiority is Satisfied

Rule 23(b)(3) requires that a class action is "superior to other available methods for the fair and efficient adjudication of the controversy," and sets forth the following factors:

> The matters pertinent to the findings include: (A) the class members' interest in individually controlling the prosecution or defense of separate actions; (B) the extent and nature of any litigation concerning the controversy already begun by or against class members; (C) the desirability or undesirability of concentrating the litigation of the claims in the particular forum; and (D) the likely difficulties in managing a class action.

Fed. R. Civ. P. 23(b)(3). The superiority requirement ensures that a class action will "achieve economies of time, effort, and expense, and promote . . . uniformity of decision as to persons similarly situated, without sacrificing procedural fairness or bringing about other undesirable results." *Amchem*, 521 U.S. at 615 (internal quotation marks omitted); *see also CGC Holding Co. v. Broad & Cassel*, 773 F.3d 1076, 1096 (10th Cir. 2014). Because the claims are being certified for purposes of settlement, questions regarding the manageability of the case for trial purposes are not considered. *See Amchem Prod., Inc.*, 521 U.S. at 620 ("Confronted with a request for settlement-only class certification, a district court need not inquire whether the case, if tried, would present intractable management problems … for the proposal is that there be no trial.").

A class action is the only reasonable method to fairly and efficiently adjudicate settlement class members' claims against the Bank. *See, e.g., Phillips Co. v. Shutts*, 472 U.S. 797, 809 (1985) ("[c]lass actions . . . permit the plaintiffs to pool claims which would be uneconomical to litigate individually . . . [in such a case,] most of the plaintiffs would have no realistic day in court if a class action were not available"). Certification avoids numerous individual actions (for those who can afford to sue), prevents inconsistent results, and ensures that settlement class members with

smaller claims have an opportunity for redress. *See In re Currency Conversion Fee Antitrust Litig.*, 264 F.R.D. 100, 117 (S.D.N.Y. 2010) ("Many of the class members' claims will be small relative to the high costs of maintaining an antitrust action," and therefore "[s]treamlining the litigation in one forum will simplify the process and avoid inconsistency."). The superiority requirement is thus satisfied.

G. The Court Should Confirm the Appointments of Class Counsel and Class Representatives.

The Court appointed George A. Hanson, Alexander T. Ricke, and Caleb J. Wagner of Stueve Siegel Hanson LLP as Class Counsel pending final approval of the settlement. Dkt. 57 at ¶ 6. Upon final certification of the class for purposes of entry of judgment on the settlement, Plaintiffs request that these counsel be confirmed as Class Counsel under Rule 23(g)(1).

The Court likewise appointed Plaintiffs Richard March, Belinda Hollins, Diane Coluzzi, Michael Marchelos, Gary Lieb, Jean Lu, Giovanna Bolanos, and Claude Grant as Settlement Class Representatives. *Id.* at ¶ 5. Because Plaintiffs have diligently and successfully fulfilled their responsibilities as the representative of the class, the Court should confirm their appointment as Class Representatives consistent with the Settlement Agreement.

CONCLUSION

Plaintiffs respectfully request that the Court enter an Order (1) granting final approval of the settlement as fair, reasonable, and adequate under Rule 23(e)(2); (2) granting final certification of the class for settlement purposes; (3) granting Plaintiffs' Unopposed Motion for an Award of Attorneys' Fees, Expenses, and Service Awards (Dkt. 59-60) and approving those awards as requested; and (4) entering final judgment on the settlement directing the parties to carry out the terms of the Settlement Agreement.

Dated: November 20, 2025

Respectfully submitted,

STUEVE SIEGEL HANSON LLP

/s/ George A. Hanson
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Alexander T. Ricke, KS Bar # 26302
Caleb J. Wagner, D Kan # 78945
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hanson@stuevesiegel.com
ricke@stuevesiegel.com
wagner@stuevesiegel.com

Attorneys for Plaintiffs

CERTIFICATE OF SERVICE

The undersigned certifies that on November 20, 2025, the foregoing document was filed with the Court's CM/ECF system, which served a copy of the foregoing document on all counsel of record.

/s/ *George A. Hanson*
Counsel for Plaintiff

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS

RICHARD MARCH, *et al*., individually and on behalf of all others similarly situated, Plaintiffs, v. BANK OF AMERICA, N.A., Defendant.	Case No. 2:23-cv-02360-HLT-TJJ

DECLARATION OF GEORGE A. HANSON

I, George A. Hanson, declare and state as follows:

1. I am a founding partner with the Kansas City-based law firm Stueve Siegel Hanson LLP. I am lead counsel for Plaintiffs in the above-captioned matter. I submit this Declaration in support of Plaintiffs' Unopposed Motion for Final Approval of Class Action Settlement. I have personal knowledge of the facts declared herein and would competently testify to them if called to do so.

2. Class Counsel submit this Declaration to update the Court with respect to the "time and labor" factor under the *Johnson* factors analysis. To date, Class Counsel (including their local counsel in the *Coluzzi* (S.D.N.Y.) and *Bolanos* (N.D. Cal.) matters) have expended 3,678.5 hours in furtherance of the three cases that have now been consolidated for settlement. At Class Counsel's standard hourly rates, that time yields a lodestar of $3,507,946.89. When measured against the requested one-third fee of $5,833,333.33, the requested fee is a 1.6 multiplier on Class Counsel's *current* lodestar. This multiplier will continue to decrease as Class Counsel continues to devote time to the matter.

3. Class Counsel reasonably expect to expend more time on necessary tasks such as

preparing for and attending the final approval hearing, overseeing the settlement administrator's duties, overseeing the distribution of settlement payments, and communicating with class members. Since the notice was issued, Class Counsel have logged scores of telephone calls and emails with class members regarding the settlement. The substance includes further explaining the allocation plan, how individual payments were calculated, the tax treatment of payments, and the timing of payments. Based on Class Counsel's significant experience in similar cases, I expect there will be many dozens more of these conversations following final approval, following the distribution of payments, and also during next year's tax preparation season.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed November 20, 2025, in Kansas City, Missouri.

George A. Hanson

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS

RICHARD MARCH, *et al*., individually and on behalf of all others similarly situated, Plaintiffs, v. BANK OF AMERICA, N.A., Defendant.	Case No. 2:23-cv-02360-EFM-TJJ

DECLARATION OF SETTLEMENT ADMINISTRATOR

I, Jeffrey J. Mitchell, pursuant to 28 U.S.C. § 1746, state as follows:

1. I am over the age of twenty-one. I am competent to give this declaration. This declaration is true and correct to the best of my knowledge, information and belief.

2. I am currently a Project Manager for Analytics Consulting, LLC (hereinafter "Analytics"), located at 18675 Lake Drive East, Chanhassen, Minnesota, 55317. Analytics provides consulting services to the design and administration of class action and mass tort litigation settlements and notice programs. The settlements Analytics has managed over the past twenty-five years range in size from fewer than 100 class members to more than 40 million, including some of the largest and most complex notice and claims administration programs in history.

3. Analytics' clients include corporations, law firms (both plaintiff and defense), the Department of Justice, the Securities and Exchange Commission, and the Federal Trade Commission, which since 1998 has retained Analytics to administer and provide expert advice regarding notice and claims processing in their settlements/distribution funds.

4. In my capacity as Project Manager, I have been assigned to matters relating to the Settlement Administration for the above-captioned litigation.

5. Analytics has been engaged in this matter to provide settlement administration services, including the mailing of the Court-approved class notice and, upon final approval, the distribution of settlement benefits to Class Members.

Mailing of the Notice

6. Pursuant to the August 21, 2025 Order, Analytics received from the Defendant a data file identifying 7,702 Class Members.

7. All addresses were updated using the National Change of Address ("NCOA") database maintained by the United States Postal Service ("USPS")[1]; certified via the Coding Accuracy Support System ("CASS")[2]; and verified through Delivery Point Validation ("DPV").[3]

8. These measures ensured that all appropriate steps have been taken to send Notices to current and valid addresses and resulted in mailable address records for 7,702 Class Members.

9. Analytics formatted the Class Notice and caused them to be printed, personalized with the name, address, and estimated pre-tax payment amount of each Class Member, posted for

[1] The NCOA database contains records of all permanent change of address submissions received by the USPS for the last four years. The USPS makes this data available to mailing firms and lists submitted to it are automatically updated with any reported move based on a comparison with the person's name and last known address.

[2] The CASS is a certification system used by the USPS to ensure the quality of ZIP +4 coding systems.

[3] Records that are ZIP +4 coded are then sent through Delivery Point Validation ("DPV") to verify the address and identify Commercial Mail Receiving Agencies. DPV verifies the accuracy of addresses and reports exactly what is wrong with incorrect addresses.

First-Class Mail, postage pre-paid, and delivered on September 26, 2025, to the USPS for mailing. A copy of the Class Notice is attached as **Exhibit A**

10. Analytics requested that the USPS return (or otherwise notify Analytics) of Class Notices with undeliverable mailing addresses. Of the 7,702 notices mailed, 207 were returned undeliverable. Analytics was able to locate updated addresses for and remail notices to 133 of those. This research was performed using Experian's TrueTrace and Metronet Databases, research tools that draw upon Experian's credit reporting database as well as additional third-party sources.[4] The Class Notice and Claim Form was successfully delivered to approximately 99% of the Settlement Class, according to Analytics' records.

11. Beginning on September 26, 2025, Analytics established and maintains a toll-free telephone support line as a resource for Settlement Class Members seeking information about the Settlement. The toll-free telephone line employs an interactive voice response system ("IVR system") to answer calls and provides callers the option of speaking with a live operator if they prefer. The toll-free number for the telephone support line is 877-832-8955. This telephone number was referenced in the Notice that was sent to Settlement Class Members and also appears on the Settlement Website.

12. Class Members could also email a dedicated email address - PPPSettlement@noticeadministrator.com with questions regarding the Settlement. This email was included in the Class Notice.

[4] TrueTrace draws on Experian's consumer credit database of more than 200 million consumers and 140 million households, and through third party sources (Clarity's alternative payday information and Experian RentBureau property management database) provides access to 100 million thin-file and underbanked consumers. Experian's Metronet database provides data regarding 215 million consumers in 110 million living units across United States.

13. Analytics' staff spent necessary time to answer each Class Member's questions regarding the Settlement. I am aware of no questions from Class Members that were unanswered or otherwise remain outstanding.

Settlement Website

14. Prior to September 26, 2025, Analytics established and continues to maintain a Website dedicated to this Action (www.PPPSettlement.com) to assist Class Members. The Website address was set forth in the Notice.

15. Recognizing the increasingly mobile nature of communications, the Website is mobile optimized, meaning it can be clearly read and used by Class Members visiting the Website via smart phone or tablet.

16. By visiting the Website, Class Members are able to read and download key information about the litigation, including, without limitation:

a. important dates and deadlines;

b. answers to frequently asked questions; and

c. case documents, including the Class Notice and other relevant case documents such as the Settlement Agreement.

Requests for Exclusion and Objections

17. Class Members could opt out of the settlement by mailing a written statement requesting exclusion from the Settlement Class to Analytics by November 10, 2025. As of the date of this Declaration, Analytics has received only twenty-one (21) requests for exclusion out of 7,702 Class Members, representing 0.27% of the Settlement Class. The persons having submitted timely requests for exclusion are listed in **Exhibit B**.

18. Class Members could object to the proposed settlement by mailing a written statement objecting to the settlement to Analytics by November 10, 2025. As of the date of this Declaration, Analytics has received no objections from a Settlement Class Member.

I declare under penalty of perjury pursuant to 28 U.S.C. § 1746 that the foregoing is true and correct.

Executed this 20 day of November 2025.

DocuSigned by:
Jeff Mitchell
13EC110C92464EC...

Jeffrey J. Mitchell

EXHIBIT A

COURT APPROVED NOTICE OF CLASS ACTION SETTLEMENT AND HEARING DATE FOR FINAL COURT APPROVAL

March et al. v. Bank of America, N.A., Case No. 2:23-cv-02360-EFM-TJJ

The United States District Court for the District of Kansas authorized this Notice.

Read it carefully! It's not junk mail, spam, an advertisement, or solicitation by a lawyer. This concerns your rights.

You may be eligible to receive money from the settlement of a class action lawsuit against Bank of America, N.A. ("Bank of America") if you are an individual who was currently or formerly employed by Bank of America in the United States and are identified in certain Bank of America records as someone who was: (1) classified as non-exempt and earned Paycheck Protection Program ("PPP") incentive payments during April 1, 2020 through May 31, 2021; or (2) was classified as exempt and were redeployed to perform work that Plaintiffs alleged was non-exempt on the PPP during April 1, 2020 through August 31, 2020.

Former employees known as the "Plaintiffs" sued Bank of America in three separate lawsuits filed under the Fair Labor Standards Act ("FLSA") and multiple state laws, asserting claims against Bank of America, N.A. ("Defendant" or "Bank of America"). The three cases were captioned as *March et al. v. Bank of America, N.A*., Case No. 2:23-cv-02360-EFM-TJJ (D. Kan.), *Coluzzi et al. v. Bank of America, N.A*., Case No. 1:24-cv-06042-LGS [rel. 1:23-cv-06885-LGS] (S.D.N.Y), and Bolanos et al. v. Bank of America, N.A., Case No. 3:23-cv-04027-JCS (N.D. Cal.) (collectively, the "Litigation"). Plaintiffs asserted claims based on, *inter alia*: alleged overtime violations under the Fair Labor Standards Act ("FLSA"), 29 U.S.C. §§ 201, *et seq*., alleged misclassification of exempt employees, alleged failure to pay overtime compensation and all promised wages under the laws of all fifty states and Puerto Rico, violation of the wage payment laws of all fifty states and Puerto Rico, alleged breach of contract for failure to pay PPP incentive payments under the laws of all fifty states and Puerto Rico; alleged failure to provide accurate wage statements and provide written notice of wage-related changes under the New York Wage Theft Prevention Act (*Coluzzi* only); and alleged failure to provide accurate and timely wage statements, maintain accurate wage records, pay timely wages, pay all wages due to former employees, failure to provide one day's rest in seven violation in violation of California Labor Code, and alleged violation of the California Unfair Competition Law (*Bolanos* only).

Bank of America denies the allegations in the Litigation and maintains that it at all times properly compensated its employees. The parties have entered into this settlement solely with the intention to avoid further disputes and litigation with the attendant inconvenience and expense. The Court has not made any ruling on the merits of the Plaintiffs' claims, and no party has prevailed in this Litigation.

Based on Bank of America's records, and the Parties' current assumptions, under the allocation formula created by the settlement **your Individual Settlement Payment is estimated to be $_____**. The actual amount you may receive likely will be different and will depend on a number of factors.

The Court has preliminarily approved the proposed Settlement and approved this Notice. The Court has not yet decided whether to grant final approval. Your legal rights are affected whether you act or not. Read this Notice carefully. You will be deemed to have carefully read and understood it. At the Final Approval Hearing, the Court will decide whether to finally approve the Settlement, how much of the Settlement will be paid to Plaintiffs, and Plaintiffs' attorneys ("Class

Counsel"). The Court will also decide whether to enter a judgment that requires Bank of America to make payments under the Settlement and requires Class Members give up their rights to assert certain claims against Bank of America.

You have two basic options under the Settlement:

(1) **Do Nothing**. You don't have to do anything to participate in the proposed Settlement and be eligible for an Individual Settlement Payment. As a Participating Class Member, though, you will give up your right to assert certain claims against Bank of America.

(2) **Opt-Out of the Class Settlement**. You can exclude yourself from the Class Settlement (opt-out) by submitting the written Request for Exclusion or otherwise notifying the Administrator in writing. If you opt-out of the Settlement, you will not receive an Individual Settlement Payment. You will, however, preserve your right to personally pursue certain claims against Bank of America.

Bank of America will not retaliate against you for any actions you take with respect to the proposed Settlement.

SUMMARY OF YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT

You Don't Have to Do Anything to Fully Participate in the Settlement	If you do nothing, you will be a Participating Class Member eligible for an Individual Settlement Payment. In exchange, you will give up your right to assert the claims against Bank of America that are covered by this Settlement (Released Claims).
You Can Opt-out of the Class Settlement **The Opt-out Deadline is November 10, 2025**	If you don't want to fully participate in the proposed Settlement, you can opt-out of the Class Settlement by sending the Administrator a written Request for Exclusion. Once excluded, you will be a Non-Participating Class Member and no longer eligible for an Individual Settlement Payment. Non-Participating Class Members cannot object to any portion of the proposed Settlement. See Section 7 of this Notice.
Participating Class Members Can Object to the Class Settlement **Written Objections Must be Submitted by November 10, 2025**	All Class Members who do not opt-out ("Participating Class Members") can object to any aspect of the proposed Class Settlement. The Court's decision whether to finally approve the Settlement will include a determination of how much will be paid to Class Counsel and Plaintiffs who pursued the Litigation on behalf of the Class.
Participating Class Members Can Submit an Adjustment Form **The deadline for Adjustment Forms is November 10, 2025**	This Notice is accompanied by an Adjustment Form that estimates your Individual Settlement Payment and provides the data underlying that calculation. If you believe the underlying data is incorrect, you may submit a completed form and supporting documentation to the Claims Administrator. Forms without supporting documentation will be rejected, and the Claims Administrator will have sole and final, non-reviewable, discretion to resolve your dispute.
You Can Participate in the December 4, 2025 Final Approval Hearing	The Court's Final Approval Hearing is scheduled to take place on December 4, 2025. You don't have to attend but you do have the right to appear (or hire an attorney to appear on your behalf at your own cost).

1. WHAT IS THE LITIGATION ABOUT?

The lawsuit is about whether Bank of America failed to pay Plaintiffs and other employees properly for certain hours they worked on the PPP. Plaintiffs allege that some exempt employees were misclassified during the PPP by performing allegedly

non-exempt work on the PPP, and as a result, those employees should have received overtime compensation for such work. Plaintiffs also allege failure to pay and/or properly calculate overtime, failure to pay all promised wages, and failure to pay overtime for non-exempt employees who worked on the PPP in violation of wage payment statutes and contracts between Bank of America and these employees in all 50 states. Plaintiffs also allege failure to provide accurate wage statements and provide written notice of wage-related changes under the New York Wage Theft Prevention Act (*Coluzzi* only), alleged failure to provide accurate and timely wage statements, maintain accurate wage records, pay timely wages, pay all wages due to former employees, failure to provide one day's rest in seven violation in violation of California Labor Code, and violation of the California Unfair Competition Law (*Bolanos* only).

Bank of America denies that it did anything wrong. However, to avoid the burden, expense, and uncertainty of continuing litigation, the parties have agreed to this settlement. The Court has not made any ruling on the merits of the Plaintiffs' claims, and no party has prevailed in this Litigation.

This case is filed in the United States District Court for the District of Kansas and is called *March et al. v. Bank of America, N.A.*, Case No. 2:23-cv-02360-EFM-TJJ (D. Kan.). Two related lawsuits were also filed, one in California captioned *Bolanos et al. v. Bank of America, N.A.*, Case No. 3:23-cv-04027-JCS (N.D. Cal.), and one in New York captioned C*oluzzi et al. v. Bank of America, N.A.*, Case No. 1:24-cv-06042-LGS [rel. 1:23-cv-06885-LGS] (S.D.N.Y). Plaintiffs' claims in those cases have been consolidated and are now before the United States District Court for the District of Kansas in the *March* litigation for the purposes of settlement. If the settlement is not approved, litigation will continue in the aforementioned cases in their respective courts.

2. WHAT DOES IT MEAN THAT THE LITIGATION HAS SETTLED?

Plaintiffs and Bank of America hired experienced, neutral mediators in an effort to resolve the Litigation by negotiating an end to the cases by agreement (settle the cases) rather than continuing the expensive and time-consuming process of litigation. The negotiations were successful. By signing a lengthy written settlement agreement ("Agreement") and agreeing to jointly ask the Court to enter a judgment ending the Litigation and enforcing the Agreement, Plaintiffs and Bank of America have negotiated a proposed Settlement that is subject to the Court's Final Approval. Both sides agree the proposed Settlement is a compromise of disputed claims. By agreeing to settle, Bank of America does not admit any violations or concede the merit of any claims.

Plaintiffs and Class Counsel strongly believe the Settlement is a good result for you because they believe that: (1) Bank of America has agreed to pay a fair, reasonable and adequate amount considering the strength of the claims and the risks and uncertainties of continued litigation; and (2) Settlement is in the best interests of the Class Members. The Court preliminarily approved the proposed Settlement as fair, reasonable and adequate, authorized this Notice, and scheduled a hearing to determine Final Approval.

3. WHAT ARE THE IMPORTANT TERMS OF THE PROPOSED SETTLEMENT?

1. Bank of America Will Pay $17,500,000.00 as the Gross Settlement Amount (Gross Settlement). Bank of America has agreed to deposit the Gross Settlement into an account controlled by the Administrator of the Settlement. The Administrator will use the Gross Settlement to pay the Individual Settlement Payments, Class Representative Service Payments, Class Counsel's attorney's fees and expenses, and the Administrator's expenses. Bank of America will fund the Gross Settlement not later than 15 business days after Preliminary Approval has been granted. The Judgment will be final on the date the Court enters Judgment, or a later date if Participating Class Members object to the proposed Settlement or the Judgment is appealed.
2. Court Approved Deductions from Gross Settlement. At the Final Approval Hearing, Named Plaintiffs and/or Class Counsel will ask the Court to approve the following deductions from the Gross Settlement, the amounts of which will be decided by the Court at the Final Approval Hearing:
   A. Up to one-third (1/3) of the Gross Settlement to Class Counsel for attorneys' fees and approximately $250,000 for their litigation expenses. To date, Class Counsel have worked and incurred expenses on the Litigation without payment.

B. Up to $10,000.00 as Class Representative Payments for filing the Litigation, working with Class Counsel and representing the Class. A Class Representative Payments will be the only monies Named Plaintiffs will receive other than their *pro rata* share of Plaintiffs' Individual Settlement Payment.

C. Approximately $75,000 to the Administrator for services administering the Settlement.

Participating Class Members have the right to object to any of these deductions. The Court will consider all objections.

3. Net Settlement Distributed to Class Members. After making the above deductions in amounts approved by the Court, the Administrator will distribute the rest of the Gross Settlement (the "Net Settlement") by making Individual Settlement Payments to Participating Class Members.

4. Taxes Owed on Payments to Class Members. Fifty percent (50%) of each Individual Settlement Payment is subject to deductions for applicable taxes and withholdings like any other paycheck, and for which you will receive a W-2; and the remaining fifty percent (50%) will be reported on an IRS Form 1099.

5. Need to Promptly Cash Payment Checks. The front of every check issued for Individual Settlement Payments will show the date when the check expires (the void date). If you don't cash it by the void date or negotiate the settlement check within 120 days after the date on the settlement check, the settlement Administrator will transfer the payment to the unclaimed property fund of the state in which you worked for Bank of America. Participating Class Members will be bound by the releases in the Settlement regardless of whether or not they cash their check, with the exception of claims under the FLSA (which will only be released if they do cash their check).

6. Requests for Exclusion from the Class Settlement (Opt-Outs). You will be treated as a Participating Class Member, participating fully in the Class Settlement, unless you notify the Administrator in writing, no later than **November 10, 2025** (forty-five (45) days after the date this Notice was mailed), that you wish to opt-out. This deadline may be extended if you received a re-mailed notice. The easiest way to notify the Administrator is to send a written and signed Request for Exclusion by the **November 10, 2025** Response Deadline. The Request for Exclusion should be a letter from a Class Member setting forth a Class Member's name, present address, telephone number, and the statement "I opt out of the Bank of America wage and hour settlement" or words substantially similar thereto. Excluded Class Members (i.e., Non-Participating Class Members) will not receive Individual Settlement Payments but will preserve their rights to personally pursue wage and hour claims against Bank of America related to the facts of the Litigation.

7. The Proposed Settlement Will be Void if the Court Denies Final Approval. It is possible the Court will decline to grant Final Approval of the Settlement or decline to enter a Judgment. It is also possible the Court will enter a Judgment that is reversed on appeal. Plaintiffs and Bank of America have agreed that, in either case, the Settlement will be void: Bank of America will not pay any money and Class Members will not release any claims against Bank of America.

8. Administrator. The Court has appointed a neutral company, Analytics Consulting LLC (the "Administrator") to send this Notice, and make payments, and process Class Members' Requests for Exclusion. The Administrator will also mail and re-mail settlement checks and tax forms, and perform other tasks necessary to administer the Settlement. The Administrator's contact information is contained in Section 9 of this Notice.

9. Release for Participating Class Members. After the Judgment is final and Bank of America has fully funded the Gross Settlement, Participating Class Members will be legally barred from asserting any of the claims released under the Settlement. This means that unless you opted out by validly excluding yourself from the Class Settlement, you cannot sue, continue to sue, or be part of any other lawsuit against Bank of America or related entities for claims based on the facts as alleged in the Litigation and resolved by this Settlement. A complete description of the claims being released by this settlement is provided in the Summary of Released Claims attached at the end of this Notice.

4. HOW WILL MY PAYMENT BE CALCULATED?

Individual Settlement Payments. The Administrator will calculate Individual Settlement Payments by a settlement allocation formula, which takes into account the individual amount of qualifying incentive payments received and the individual rate of pay according to Bank of America's records. The allocation formula also takes into account additional remedies and penalties available under the state laws of California and New York. Your estimated Individual Settlement Payment is disclosed in the accompanying Adjustment Form.

5. HOW WILL I GET PAID?

Participating Class Members. The Administrator will send, by U.S. mail, a single check to every Participating Class Member (i.e., every Class Member who doesn't opt-out) with the Individual Settlement Payment.

Your check will be sent to the same address as this Notice. If you change your address, be sure to notify the Administrator as soon as possible. Section 9 of this Notice has the Administrator's contact information.

6. HOW DO I OPT-OUT OF THE CLASS SETTLEMENT?

Submit a written and signed letter with your name, present address, telephone number, and the words "I opt out of the Bank of America wage and hour settlement" or words substantially similar thereto. The Administrator will exclude you based on any writing communicating your request be excluded. Be sure to personally sign your request, identify the Litigation as *March et al. v. Bank of America, N.A.*, and include your identifying information (full name, address, telephone number). You must make the request yourself. If someone else makes the request for you, it will not be valid. **The Administrator must be sent your request to be excluded by November 10, 2025 (forty-five (45) days after the date this Notice was mailed), or it will be invalid.** This deadline may be extended if you received a re-mailed notice. Section 9 of the Notice has the Administrator's contact information.

7. HOW DO I OBJECT TO THE SETTLEMENT?

Only Participating Class Members have the right to object to the Settlement. In advance of the Final Approval Hearing, Plaintiffs will file in Court (1) a Motion for Final Approval that includes, among other things, the reasons why the proposed Settlement is fair, and (2) a Motion for Fees, Litigation Expenses and Service Awards stating (i) the amount Class Counsel is requesting for attorneys' fees and litigation expenses; and (ii) the amount Named Plaintiffs are requesting as a Class Representative Service Payment. You can also view these materials on the Administrator's Website, available at www.PPPSettlement.com.

A Participating Class Member who disagrees with any aspect of Settlement may object. **The deadline for sending written objections to the Administrator is November 10, 2025 (forty-five (45) days after the date this Notice was mailed).** This deadline may be extended if you received a re-mailed notice. Be sure to tell the Administrator what you object to, why you object, and any facts that support your objection. Make sure you identify the Litigation, *March et al v. Bank of America, N.A.*, Case No. 2:23-cv-02360-EFM-TJJ (D. Kan.) and include your name, current address, telephone number, and approximate dates of employment and sign the objection. Section 9 of this Notice has the Administrator's contact information.

8. CAN I ATTEND THE FINAL APPROVAL HEARING?

You can, but don't have to, attend the Final Approval Hearing on December 4, 2025 at 9:00 a.m., in Courtroom 408 of the United States District Court for the District of Kansas, located at 401 N Market, Wichita, Kansas 67202. At the Hearing, the judge will decide whether to grant Final Approval of the Settlement and how much of the Gross Settlement will be paid to Class Counsel, Plaintiffs, and the Administrator. You can attend (or hire a lawyer to attend, at your own cost).

It's possible the Court will reschedule the Final Approval Hearing. You should check the Administrator's website www.PPPSettlement.com beforehand or contact Class Counsel to verify the date and time of the Final Approval Hearing.

9. HOW CAN I GET MORE INFORMATION?

The Agreement sets forth everything Bank of America and Plaintiffs have promised to do under the proposed Settlement. The easiest way to read the Agreement, the Judgment or any other Settlement documents is to go to the case website at www.PPPSettlement.com. You can also telephone or send an email to Class Counsel or the Administrator using the contact information listed below.

Do not telephone the court to obtain information about the settlement.

Class Counsel:
George A. Hanson
Alexander T. Ricke
Caleb J. Wagner
Stueve Siegel Hanson LLP
460 Nichols Road, Suite 200
Kansas City, Missouri, 64112
Telephone: (866)-714-0879
Email: boa-ppp@stuevesiegel.com

Settlement Administrator:
PPP Settlement Administrator
P.O Box 2007
Chanhassen, MN 55317-2007
Email Address: PPPSettlement@noticeadministrator.com
Telephone: (877) 832-8955
Fax Number: (952) 404-5750

10. WHAT IF I LOSE MY SETTLEMENT CHECK?

If you lose or misplace your settlement check before cashing it, the Administrator will replace it as long as you request a replacement before the void date on the face of the original check.

11. WHAT IF I CHANGE MY ADDRESS?

To receive your check, you should immediately notify the Administrator if you move or otherwise change your mailing address.

SUMMARY OF RELEASED CLAIMS

For putative class members in California: Conditioned upon the Court's entry of the Final Approval Order, and in exchange for the monetary consideration recited in this Agreement, and upon full payment of all monetary obligations by Bank of America, CA Putative Class Members who do not opt out hereby release, discharge, and covenant not to sue, from and with respect to any and all wage and hour actions, causes of action, suits, liabilities, claims, and demands whatsoever, whether known or unknown, during the Covered Period, which the CA Putative Class Members has, or had, against the Bank of America Releasees, or any of them, which are or were alleged in the Litigation or could have been alleged in the Litigation based on the facts alleged in each of the operative complaints at the time of settlement, including without limitation claims under the California Labor Code, and claims under Industrial Welfare Commission Wage Order 4, for misclassification as exempt employees, failure to pay or properly calculate overtime, failure to timely pay overtime, failure to pay for all hours worked, failure to pay wages owes by agreement, breach of contract, failure to provide accurate and timely wage statements, failure to maintain accurate wage records, failure to pay timely wages, failure to pay all wages due to former employees, and failure to provide one day's rest in seven in violation of various California Labor Code sections, and violation of the California Unfair Competition Law, and any additional claims for penalties, wages, interest, liquidated damages, or other monies predicated on same (the "CA Class Released Claims"). In addition, any CA Putative Class Member who is a Putative Class Member and who timely endorses and negotiates his or her settlement check shall also release claims under the Fair Labor Standards Act, 29 U.S.C. § 201 et seq. and implementing regulations.

1. The CA Class Released Claims include specifically, by way of further description, but not by way of limitation, any and all claims arising out of or in any way related to any and all attorneys' fees, attorneys' costs/expenses, fines, penalties, wages, interest, restitution, liquidated damages, punitive damages, declaratory relief, and/or injunctive relief allegedly due and owing by virtue of the allegations set out in the Litigation and/or the claims referenced in this Paragraph IV(A), whether based on statutory, regulatory, or common law.
2. The CA Putative Class Members acknowledge and/or are deemed to acknowledge that they may hereafter discover claims that arose during the Covered Period in addition to or different from those which they now know or believe to exist with respect to the subject matter of this Agreement and/or this release, and which, if known or suspected at the time of executing this Agreement, may have materially affected this release. Nevertheless, CA Putative Class Members hereby waive any right, claim, or cause of action that might arise as a result of such different or additional claims or facts.

For putative class members in New York: Conditioned upon the Court's entry of the Final Approval Order, and in exchange for the monetary consideration recited in this Agreement, and upon full payment of all monetary obligations by

Bank of America, NY Putative Class Members who do not opt out hereby release, discharge, and covenant not to sue, from and with respect to any and all wage and hour actions, causes of action, suits, liabilities, claims, and demands whatsoever, whether known or unknown, that accrued during the Covered Period while employed by Bank of America, which the NY Putative Class Members has, or had, against the Bank of America Releasees, or any of them, which are or were alleged in the Litigation or could have been alleged in the Litigation based on the facts alleged in each of the operative complaints at the time of settlement, including without limitation claims under the New York Labor Law, Article 6 §§ 190 et seq., and claims under the New York State Department of Labor regulations supporting the same, misclassification as exempt employees, failure to pay or properly calculate overtime, failure to timely pay overtime, failure to pay for all hours worked, failure to pay wages owed by agreement, breach of contract, failure to provide accurate wage statements and failure to provide written notice of wage-related changes under the New York Wage Theft Prevention Act, and any additional claims for penalties, wages, interest, liquidated damages, or other monies predicated on same (the "NY Class Released Claims"). In addition, any NY Putative Class Member who timely endorses and negotiates his or her settlement check shall also release claims under the Fair Labor Standards Act, 29 U.S.C. § 201 et seq. and implementing regulations.

1. The NY Class Released Claims include specifically, by way of further description, but not by way of limitation, any and all claims arising out of or in any way related to any and all attorneys' fees, attorneys' costs/expenses, fines, penalties, wages, interest, restitution, liquidated damages, punitive damages, declaratory relief, and/or injunctive relief allegedly due and owing by virtue of the allegations set out in the Litigation and/or the claims referenced in this Paragraph IV(B), whether based on statutory, regulatory, or common law
2. The NY Putative Class Members acknowledge and/or are deemed to acknowledge that they may hereafter discover claims that arose during the Covered Period in addition to or different from those which they now know or believe to exist with respect to the subject matter of this Agreement and/or this release, and which, if known or suspected at the time of executing this Agreement, may have materially affected this release. Nevertheless, the NY Putative Class Members hereby waive any right, claim, or cause of action that might arise as a result of such different or additional claims or facts.

For putative class members in all other states: Conditioned upon the Court's entry of the Final Approval Order, and in exchange for the monetary consideration recited in this Agreement, and upon full payment of all monetary obligations by Bank of America, KS Putative Class Members who do not opt out hereby release, discharge, and covenant not to sue, from and with respect to any and all wage and hour actions, causes of action, suits, liabilities, claims, and demands whatsoever, whether known or unknown, that accrued during the Covered Period while employed by Bank of America which the KS Putative Class Members has, or had, against the Bank of America Releasees, or any of them, which are or were alleged in the Litigation or could have been alleged in the Litigation based on the facts alleged in each of the operative complaints at the time of settlement, including without limitation claims under the following state overtime laws and implementing regulations, for the states and unincorporated territories in which the KS Putative Class Member is or has been located, for misclassification as exempt employees, failure to pay or properly calculate overtime, failure to timely pay wages, failure to pay for all hours worked, failure to pay wages owed by agreement in violation of applicable wage payment provisions, and breach of contract, and any additional claims for penalties, wages, interest, liquidated damages, or other monies predicated on same (the "KS Class Released Claims"). By way of example, the KS Released Claims are intended to release the foregoing claims under statutes including, but not limited to, the following: Alaska Stat. Ann. §§ 23.05.140 et seq. & §§ 23.10.060 et seq.; Ariz. Rev. Stat. Ann. §§ 23–351 et seq.; Ark. Code Ann. §§ 11–4–401 et seq.; Colo. Rev. Stat. §§ 8–4–101 et seq. & §§ 8–6–101 et seq.; 7 Colo. Code Regs. §§ 1103–1:4 et seq.; Conn. Gen. Stat. Ann. §§ 31–71b et seq. & § 31–76b et seq.; Del. Code Ann. tit. 19, §§ 1102 et seq.; D.C. Code Ann. §§ 32-1302 et seq.;; Fla. Stat. Ann. §§ 448.08 et seq.; Ga. Code Ann. §§ 9-3-22 et seq. & §§ 34–7–2 et seq. & §§ 51-1-6 et seq.; Haw. Rev. Stat. Ann. §§ 387–3 et seq. & §§ 388–2 et seq.; Idaho Code Ann. §§ 45–608 et seq.; 820 Ill. Comp. Stat. Ann. 105/4a et seq. & 115/1 et seq.; Ind. Code Ann. §§ 22–2-5–1 et seq.; Iowa Code Ann. §§ 91A.3 et seq.; Kan. Stat. Ann. §§ 44-313 et seq. & §§ 44–314 et seq.; Ky. Rev. Stat. Ann. §§ 337.020 et seq. & §§ 337.285 et seq.; La. Stat. Ann. §§ 23:631 et seq.; Me. Rev. Stat. tit. 26, §§ 621-A et seq.; Md. Code Ann., Lab. & Empl. §§ 3-502 et seq.; Mass. Gen. Laws Ann. ch. 149, §§ 148 et seq.; Mich. Comp. Laws Ann. §§ 408.414a et seq.; Minn. Stat. Ann. §§ 177.23 et seq. & §§ 181.101 et seq.; Miss. Code. Ann. §§ 71–1–35 et seq.; Mo. Ann. Stat. §§ 290.080 et seq. & §§ 290.505 et seq.; Mont. Code Ann. §§ 39–3–204 et seq. & §§ 39–3–405 et seq.; Neb. Rev. Stat. Ann. §§ 48–1230 et seq.; Nev. Rev. Stat. Ann. §§ 608.018 et seq. & §§ 608.060 et seq.; N.H. Rev. Stat. Ann. §§ 279:21 et seq. & §§ 275:43 et seq.; N.J. Stat. Ann. §§ 34:11–4.2 et seq. & §§ 34:11–56a4 et seq.; N.M. Stat. Ann. §§ 50–4–22 et seq. & §§

50–4–26 et seq.; N.C. Gen. Stat. Ann. §§ 95–25.4 et seq. & §§ 95–25.6 et seq.; N.D. Cent. Code Ann. §§ 34–14-02 et seq.; N.D. Admin. Code 46–02–07–02(4) et seq.; Ohio Rev. Code Ann. §§ 4111.03 et seq. & §§ 4113.15 et seq.; Okla. Stat. Ann. tit. 40, §§ 165.2 et seq.; Okla. Stat. Ann. tit. 74, §§ 840–2.15 et seq.; Or. Rev. Stat. Ann. §§ 652.120 et seq. & §§ 653.055 & §§ 653.261 et seq.; 43 Pa. Stat. Ann. §§ 260.3 et seq. & §§ 333.104 et seq.; 28 R.I. Gen. Laws Ann. §§ 28–12–4.1 et seq. & §§ 28–14–2.2 et seq.; S.C. Code §§ 41–10–10 et seq.; S.D. Codified Laws §§ 60–11–9et seq.; Tenn. Code Ann. §§ 50-2-103 et seq.; Tex. Labor Code Ann. §§ 61.011 et seq.; Utah Code Ann. §§ 34–28–3 et seq.; Vt. Stat. Ann. tit. 21, §§ 342 et seq. & §§ 384 et seq.; Va. Code Ann. §§ 40.1–29 et seq. & §§ 40.1–29.2 et seq.; Wash. Rev. Code Ann. §§ 49.46.130 et seq. & §§ 49.48.010 et seq.; W. Va. Code Ann. §§ 21–5–3 et seq. & §§ 21–5C–3 et seq.; Wis. Stat. Ann. §§ 109.03 et seq.; Wis. Admin. Code DWD §§ 274.015 et seq.; and Wyo. Stat. Ann. §§ 27–4-101 et seq. In addition, any KS Putative Class Member who worked during the Covered Period and who timely endorses and negotiates his or her settlement check shall also release claims under the Fair Labor Standards Act, 29 U.S.C. § 201 et seq. and implementing regulations.

1. The KS Class Released Claims include specifically, by way of further description, but not by way of limitation, any and all claims arising out of or in any way related to any and all attorneys' fees, attorneys' costs/expenses, fines, penalties, wages, interest, restitution, liquidated damages, punitive damages, declaratory relief, and/or injunctive relief allegedly due and owing by virtue of the allegations set out in the Litigation and/or the claims referenced in this Paragraph IV(C), whether based on statutory, regulatory, or common law.

2. The KS Putative Class Members acknowledge and/or are deemed to acknowledge that they may hereafter discover claims that arose during the Covered Period in addition to or different from those which they now know or believe to exist with respect to the subject matter of this Agreement and/or this release, and which, if known or suspected at the time of executing this Agreement, may have materially affected this release. Nevertheless, the KS Putative Class Members hereby waive any right, claim, or cause of action that might arise as a result of such different or additional claims or facts.

EXHIBIT B

March v BOA - Opt Out Requests

KIM BEEBE
STEFANIE BROWN
EILEEN CRANSTON
KAREN ELIZABETH MEGHOO
BETH FARMER
DEBORAH FEFFER
DANA FERRANDINO
PATTIE FONES
RONALD FURMAN
MELANIE GORMAN
ERICA LEWIS DOZIER
SHARON LUCIDI
ANNE MARIE SCOLNICK
DENISE MARTIN
VALERIE MCCALL
DEANA PAHL
MARIAN PEREZ BOUDOUSQUIE
SARAH ROBERTS WELCH
PATRICIA RONEY
ROBERT VALENTINE
MARTINA WHITE