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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

ELLE NGUYEN, ARDAVAN MOVASSAGHI, and ETIENNE BERNSTEIN, individually and on behalf of all others similarly situated,

Plaintiffs,

v.

BANK OF AMERICA, N.A.,

Defendant.

Case No. 5:23-cv-04999-PCP

PLAINTIFFS' NOTICE OF MOTION AND UNOPPOSED MOTION FOR FINAL APPROVAL OF CLASS ACTION SETTLEMENT; MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT

Judge: Hon. P. Casey Pitts
Date: January 28, 2027
Time: 10:00 a.m.
Place: Courtroom 8, 4th Floor

NOTICE OF MOTION

TO ALL PARTIES AND TO THEIR ATTORNEYS OF RECORD:

PLEASE TAKE NOTICE THAT on January 28, 2027, at 10:00 a.m. or as soon thereafter as the matter may be heard, before the Honorable P. Casey Pitts of the United States District Court for the Northern District of California, San Jose Courthouse, Courtroom 8, 4th Floor, 280 South First Street, San Jose, CA 95113, Plaintiffs Elle Nguyen, Ardavan Movassaghi, and Etienne Bernstein ("Plaintiffs") will and hereby do move the Court for an order granting final approval of the class action settlement with Defendant Bank of America, N.A ("Defendant"). This motion is made pursuant to Rule 23(e) of the Federal Rules of Civil Procedure and is made on the ground that settlement is fair, reasonable, and adequate.

This motion is based on this Notice of Motion and Motion, the accompanying Memorandum of Points and Authorities, the Declaration of George A. Hanson ("Hanson Decl."), the Declaration of the Settlement Administrator, Jeffrey Mitchell ("Mitchell Decl."), attached as Exhibit 1 and Exhibit 2 respectively, the pleadings and papers on file in this action, and any oral argument the Court may entertain. Defendant Bank of America, N.A. does not oppose the relief requested in this motion.

MEMORANDUM OF POINTS AND AUTHORITIES

I. INTRODUCTION

This motion seeks final approval of a class action settlement on behalf of former Bank of America employees in California, New York, and Illinois who received no payout for a positive vacation balance at separation. The settlement provides a cash recovery of $4,280,000. There is no claims process: every Settlement Class Member who does not opt out will automatically receive a check calculated from the Bank's records. Dkt. 87 at 7.

This Court granted preliminary approval on September 1, 2026 (Dkt. 95), and class notice was disseminated soon thereafter. A separate motion for attorneys' fees, litigation expenses, and class representative service awards is being filed contemporaneously with this motion in accordance with the Court's November 10, 2026 Order Granting In-Part Plaintiffs' Motion to

Modify Preliminary Approval Order and Settlement Schedule. Dkt. 97. The deadline for Class Members to opt out or object to the settlement is January 7, 2027. *See* Dkt. 97. As of the filing of this motion, there are no objections to any aspect of the settlement, and there are no opt-outs. The same considerations that supported preliminary approval now warrant final approval.

II. BACKGROUND

A. Procedural Background

Plaintiff Nguyen filed this action on September 28, 2023, asserting claims for violations of state wage payment statutes, breach of contract, and violation of California's Unfair Competition Law, Cal. Bus. & Prof. Code § 17200, *et seq.* Bank of America's nationwide written vacation policy promises its departing employees payment for all accrued but unused vacation. Plaintiffs allege that the Bank failed to fulfill that promise to thousands of salaried exempt employees. As a result, Plaintiffs claim that this practice violates the laws of the many states that treat accrued vacation as earned wages that must be paid upon separation, *see, e.g.*, Cal. Lab. Code §§ 201, 202, 227.3; 820 Ill. Comp. Stat. Ann. 115/5; N.Y. Lab. Law § 191, and breaches the Bank's express written promise to pay.

The procedural background has been described in prior filings, including the motion for preliminary approval (Dkt. 87) and the accompanying Declaration of George A. Hanson (Dkt. 87-2, Ex. 2). For the sake of brevity and in keeping with the Northern District's Procedural Guidance for Class Action Settlements, the procedural background from those motions is incorporated herein by reference. It is sufficient now to recite just a few procedural events for context. Plaintiff Nguyen filed this action on September 28, 2023. The parties then engaged in substantial discovery, including the production of class-wide payroll data, the deposition of the Bank's corporate designee, and the deposition of Plaintiff Nguyen. Plaintiff Nguyen's motion for class certification was fully briefed and argued, and the Court denied it without prejudice to a renewed motion by a different class representative. Dkt. 65. On October 30, 2025 Plaintiffs then filed the operative First Amended Complaint, adding Ardavan Movassaghi and Etienne Bernstein as named plaintiffs. Dkt. 77. The parties reached a settlement in early 2026 after a full-day mediation before the Hon. Vedica

Puri (Ret.) on January 20, 2026, followed by both sides' acceptance of a double-blind mediator's proposal to settle for $4,280,000. Hanson Decl. ¶ 3. The parties notified the Court of the settlement on March 4, 2026. Dkt. 81.

The Court granted preliminary approval on September 1, 2026. Dkt. 95. It conditionally certified the Settlement Class for settlement purposes, appointed Plaintiffs Movassaghi and Bernstein as Class Representatives, and appointed lawyers from Stueve Siegel Hanson LLP as Class Counsel. *Id.* ¶¶ 5–6. It also appointed Analytics Consulting LLC ("Analytics") as Administrator. *Id.* ¶ 7. On November 10, 2026, the Court granted in-part Plaintiffs' unopposed motion to modify the schedule and set the deadlines that now govern. Dkt. 97.

B. Overview of Settlement Terms

The Settlement creates a $4,280,000 Gross Settlement Value ("GSV"). The GSV funds payments to Settlement Class Members, payroll taxes (including the employer's share), settlement administration costs, and any Court-approved service awards, attorneys' fees, and expenses. Dkt. 87-1, Ex. 1 at ¶¶ 24–25. The Bank agreed to fund the entire GSV within 15 business days of preliminary approval, which it did on September 29, 2026. *Id.* at ¶ 26; Mitchell Decl. ¶ 22.

The Net Settlement Value is allocated under the Plan of Allocation. *See* Dkt. 87-1, Ex. B. Each Settlement Class Member receives a minimum payment of $200. *Id.* The remainder is allocated in proportion to the value of each member's unpaid vacation balance at the member's final rate of pay, with a 1.4 multiplier for California class members. *Id.* Plaintiffs estimate the average net payment at approximately $962.77.[1] Plaintiffs further estimate the highest payment at $15,933.39. Mitchell Decl. ¶ 13.

There is no claims process. Every Settlement Class Member who does not opt out will automatically be mailed a check. Dkt. 87-1, Ex. 1 ¶¶ 9, 41. No funds revert to the Bank. *Id.* at ¶ 40. Any fees, expenses, or service awards requested but not awarded will be reallocated to the

[1] As discussed in in greater detail in Section II.C. of this motion, *infra*, because the Settlement Agreement's Covered Period continued through September 1, 2026, the Settlement Class has grown since Plaintiffs' counsel filed the motion for preliminary approval with this Court. Although the larger Class means the average net payment to each Class Member is lower than estimated at preliminary approval, the same $4.28 million Settlement Fund now reaches more affected individuals. The updated average award follows directly from including every eligible Class Member, as the Settlement Agreement intended. It does not undermine the fundamental fairness of the Settlement, which Class Counsel believes remains intact. (Hanson Decl. ¶ 4.)

class. Checks left uncashed after 120 days, following a reminder-postcard campaign at 60 days, will be transmitted to the unclaimed property fund of the state where the class member worked, to be held in that member's name. Dkt. 87-1, Ex. 1 ¶¶ 40, 44; Hanson Decl. ¶ 5.

In return, Settlement Class Members release wage-and-hour claims that were alleged, or could have been alleged based on the facts alleged, in the operative complaints during the applicable Covered Period. Dkt. 87-1, Ex. 1 ¶¶ 45–53. Only the named Plaintiffs give a broader general release, in exchange for their service awards. *Id.* ¶ 54.

In the motion for preliminary approval and supplemental submissions, Plaintiffs addressed each item in the Northern District's Procedural Guidance for Class Action Settlements. Dkt. 87 at 21–23. The Court then preliminarily found that the Settlement "falls within the range of reasonableness" and that the notice plan "constitutes the best notice practicable under the circumstances." Dkt. 95 ¶¶ 1, 8.

C. Developments Since This Court Granted Preliminary Approval

In addition to the Notice process, which is described in greater detail in Section III of this motion *infra*, there are additional updates regarding the size of the Settlement Class after the Bank produced final Class data to conform to the Settlement terms. Because the Settlement Agreement's Covered Period continued through September 1, 2026, the date the Court granted preliminary approval, the now final Settlement Class has grown in an anticipated but material way since the preliminary-approval submissions. Hanson Decl. ¶ 4. The Settlement Class includes 3,003 former Bank employees, an increase of nearly 30% from the data Plaintiffs had at the time of mediation. Bank records also yield an aggregate value of approximately $17 million in allegedly unpaid vacation under Plaintiffs' best-case damages calculation. The $4.28 million Settlement Fund thus represents approximately 25% of that undiscounted, best-case figure, before accounting for the substantial risks associated with class certification, the merits, trial, and appeal. Hanson Decl. ¶ 6.

Importantly, however, the approximately $17 million "best day" figure does not represent damages Plaintiffs were assured of recovering. That calculation depends on the reliability and evidentiary weight of vacation records maintained for salaried, exempt employees who were not

subject to a uniform requirement to record vacation use. The Bank vigorously maintained that, because vacation-use records were discretionary, varied by individual practice, and were maintained on an ad hoc basis, those records could not reliably establish class wide liability or damages. In fact, the Bank's position was that those workers with a positive vacation balance and no PTO payout took that vacation because, so it argued, that managers were tasked with ensuring any unused vacation was paid to departing salaried, exempt workers. Hanson Decl. ¶ 7.

To be sure, Plaintiffs had substantial responses to those arguments, but the absence of automated records and a uniform recordkeeping policy nevertheless presented meaningful risks both to certification and to Plaintiffs' ability to prove liability and damages on a class wide basis. Hanson Decl. ¶ 7. Against that evidentiary record, Class Counsel submits that the negotiated discount from Plaintiffs' maximum damages calculation appropriately reflects the significant litigation risks the Class would have faced absent settlement. The resulting $4.28 million common fund therefore represents a substantial recovery for the Settlement Class and supports a finding that the Settlement is fair, reasonable, and adequate. Hanson Decl. ¶ 8.

III. SUMMARY OF SETTLEMENT ADMINISTRATION TO DATE

A. CAFA Notice Has Been Completed

To satisfy the requirements of 28 U.S.C. § 1715(b), Bank of America provided notice of the Settlement to the appropriate federal and state officials by U.S. mail and electronic mail on July 27, 2026. Dkt. 89.

B. Class Notice Has Been Mailed

Using class data provided by the Bank, Analytics compiled a class list of 3,003 Settlement Class Members. After cross-checking addresses through the USPS National Change of Address database, Analytics mailed the Court-approved Class Notices of Settlement and individualized Adjustment Forms to each Settlement Class Member by first-class mail on October 13, 2026. *See* Dkt. 95 ¶ 7. Through November 11, 2026, 15 Notices to Class Members have been returned to Analytics by the U.S. Postal Service with a forwarding address. In each case, Analytics updated the class list with the forwarding address and processed a re-mail of the Notice to the updated

address. Through November 11, 2026, 208 Notices were returned to Analytics by the U.S. Postal Service without a forwarding address. For each returned Notice, Analytics performed skip traces in attempt to ascertain a valid address for each affected Class Member, and as a result of those efforts, 149 new addresses were identified for Class Members. Analytics subsequently updated the class list with these new addresses and processed a re-mail of the applicable Notice to each of those addresses. As a result, notice was successfully delivered to approximately 2,944 Class Members, representing approximately 98% of Settlement Class Members. *See* Mitchell Decl. ¶¶ 5–10.

C. To Date, There Are No Opt-Outs or Objections

January 7, 2027, is the deadline for Class Members to submit a request for exclusion. Dkt. 97. As of November 13, 2026, Analytics has not received any requests for exclusion. January 7, 2027, is also the deadline for Class Members to submit an objection. *Id.* As of the filing of this motion, Analytics has not received any objections to the Settlement. Further, to date, Analytics has not received any Adjustment Forms from notified Class Members. *See* Mitchell Decl. ¶¶ 17–20.

IV. THE SETTLEMENT WARRANTS FINAL APPROVAL

A. This Court Should Grant Final Approval for the Same Reasons It Granted Preliminary Approval

In granting preliminary approval, the Court found that the Settlement "falls within the range of reasonableness" and that the notice plan "constitutes the best notice practicable under the circumstances." Dkt. 95 ¶¶ 1, 8. The Court also conditionally certified the Settlement Class under Rule 23(a) and (b)(3), appointed Class Representatives and Class Counsel, and approved the Plan of Allocation. *Id.* ¶¶ 3, 5–7. Nothing has occurred since then that changes any of those findings. The Settlement terms are unchanged. The $4,280,000 non-reversionary fund, the automatic-payment structure, the Plan of Allocation, and the scope of the release remains as the Court reviewed them. *See* Dkt. 87-1, Ex. 1. Although the now final Settlement Class has grown in number due to the Settlement Agreement's Covered Period, which continued through September 1, 2026, this does not disturb a finding that the Settlement is fair, reasonable, and adequate. To the contrary,

extending recovery to more individuals is consistent with fundamental fairness, as more affected Class Members now have the opportunity to share in the Settlement award.

The considerations that supported preliminary approval therefore apply with equal force now. They include the litigation risks highlighted by the denial of the first class certification motion; the arm's-length, mediator-proposed resolution; and the equitable, records-based Plan of Allocation. Dkt. 87-2 ¶¶ 17–23, 32–34. The Rule 23(a) and (b)(3) requirements likewise remain satisfied for the reasons the Court accepted when it conditionally certified the Settlement Class. Dkt. 95 ¶ 3. Accordingly, Plaintiffs incorporate by reference their motion for preliminary approval and its supporting declaration. *See* Dkt. 87; Dkt. 87-2. For the sake of brevity, and in keeping with the Northern District's Procedural Guidance for Class Action Settlements, Plaintiffs do not repeat those arguments in full here and instead summarizes them. For these reasons and those previously accepted by the Court, final approval is warranted.

B. The Standard for Final Approval

"There is a strong judicial policy that favors settlements, particularly where complex class action litigation is concerned." *Campbell v. Facebook, Inc.*, 951 F.3d 1106, 1121 (9th Cir. 2020) (citation omitted); *see also Franklin v. Kaypro Corp.*, 884 F.2d 1222, 1225 (9th Cir. 1989). The "universal standard" in evaluating the fairness of a settlement is whether the settlement is "fundamentally fair, adequate and reasonable." *Officers for Justice v. Civil Serv. Comm'n*, 688 F.2d 615, 625 (9th Cir. 1982) (citations omitted).

Rule 23(e)(2) directs courts to consider whether: (A) the class representatives and class counsel adequately represented the class; (B) the proposal was negotiated at arm's length; (C) the relief is adequate; and (D) the proposal treats class members equitably relative to each other. Fed. R. Civ. P. 23(e)(2). These factors overlap with the Ninth Circuit's traditional fairness factors: "the strength of the plaintiffs' case; the risk, expense, complexity, and likely duration of further litigation; the risk of maintaining class action status throughout the trial; the amount offered in settlement; the extent of discovery completed and the stage of the proceedings; the experience and views of counsel; the presence of a governmental participant; and the reaction of the class members

to the proposed settlement." *Hanlon v. Chrysler Corp.*, 150 F.3d 1011, 1026 (9th Cir. 1998); *Churchill Vill., L.L.C. v. Gen. Elec.*, 361 F.3d 566, 575 (9th Cir. 2004). The weight given to any factor depends on the circumstances of the case. *Torrisi v. Tucson Elec. Power Co.*, 8 F.3d 1370, 1376 (9th Cir. 1993).

For the same reasons explained in the motion for preliminary approval, each consideration supports final approval.

C. Stage of the Proceedings

The parties plainly have exchanged sufficient information to enable Plaintiffs and Class Counsel to evaluate the case and enter into the proposed settlement. The discovery in this case was extensive. The Bank produced its vacation policies, termination-processing materials, and class-wide payroll data for multiple years. Plaintiffs deposed the Bank's corporate designee, Plaintiff Nguyen was deposed, and class certification was fully briefed and argued. Hanson Decl. ¶¶ 9-13.

D. The Strength of Plaintiffs' Claims, the Settlement Amount, and the Risks and Expense of Further Litigation

For the same reasons explained in the motion for preliminary approval, these factors likewise weigh in favor of final approval. Although Plaintiffs believe in the substantive merit of their claims, further litigation would entail material risk. Plaintiffs' first certification motion was denied. The Bank made clear it would vigorously oppose any renewed motion, including by questioning the reliability of its own Workday vacation-balance records, disputing the vacation-accrual eligibility of commissioned employees, and contesting the manageability of multistate claims. Even if a class were certified, Plaintiffs faced a potential Rule 23(f) petition, summary judgment, trial, and appeal, and the class would have waited years for any recovery.

E. The Experience and Views of Counsel

As stated in support of preliminary approval, Class Counsel, who have extensive experience in wage-and-hour class litigation, believe the Settlement is fair, reasonable, and adequate. Hanson Decl. ¶ 14.

F. Reaction of the Class to Settlement

Settlement Class Members have until January 7, 2027 to object, request exclusion, or submit adjustment forms. Dkt. 97 at 1–2. As of November 13, 2026, there are no requests for exclusion and no objections. Mitchell Decl. ¶¶ 18–19. The absence of objections "is a significant factor in favor of final approval." *Cancilla v. Ecolab, Inc.*, No. 12-CV-03001-JD, 2016 WL 54113, at *3 (N.D. Cal. Jan. 5, 2016). Plaintiffs will report final results to the Court in the notice-status declaration due January 11, 2027, and will promptly advise the Court in a supplemental filing of any opt-outs or objections received by the deadline. Dkt. 97 at 1.

V. CONCLUSION

Plaintiffs respectfully request that the Court grant final approval, make awards for attorneys' fees, litigation expenses, and class representative service awards, enter judgment, and direct the parties and the Settlement Administrator to proceed to the distribution phase of the settlement. A proposed Final Approval Order and Judgment is lodged herewith.

Dated: November 13, 2026

Respectfully submitted,

/s/ George A. Hanson

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EXHIBIT 1

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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

ELLE NGUYEN, ARDAVAN MOVASSAGHI, and ETIENNE BERNSTEIN, individually and on behalf of all others similarly situated, Plaintiffs, v. BANK OF AMERICA, N.A., Defendant.	**Case No. 5:23-cv-04999-PCP** **GEORGE A. HANSON DECLARATION IN SUPPORT OF PLAINTIFFS' UNOPPOSED MOTION FOR FINAL APPROVAL OF CLASS ACTION SETTLEMENT** Judge: Hon. P. Casey Pitts Date: January 28, 2027 Time: 10:00 a.m. Place: Courtroom 8, 4th Floor

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

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

2. Plaintiff Elle Nguyen filed this action on September 28, 2023, asserting claims for violations of state wage payment statutes, breach of contract, and violation of California's Unfair Competition Law, Cal. Bus. & Prof. Code § 17200, *et seq.* The Bank has denied the claims throughout, has contended that its policies and practices comply with all applicable laws, and has disputed that its internal vacation-balance records reliably establish that any amounts were owed. Dkt. 77.

3. The parties reached a settlement in early 2026 after a full-day mediation before the Hon. Vedica Puri (Ret.) on January 20, 2026, followed by both sides' acceptance of a double-blind mediator's proposal to settle for $4,280,000. The parties notified the Court of the settlement on March 4, 2026.

4. Because the Settlement Agreement's Covered Period continued through September 1, 2026, the Settlement Class has grown since Plaintiffs' counsel filed the motion for preliminary approval with this Court. Although the larger Class means the average net payment to each Class Member is lower than estimated at preliminary approval, the same $4.28 million Settlement Fund now reaches more affected individuals. The updated average award follows directly from including every eligible Class Member, as the Settlement Agreement intended. It does not undermine the fundamental fairness of the Settlement, which Class Counsel believes remains intact.

5. There is no claims process. Every Settlement Class Member who does not opt out will automatically be mailed a check. Dkt. 87-1, Ex. 1 ¶¶ 9, 41. No funds revert to the Bank. *Id.* at ¶ 40. Any fees, expenses, or service awards requested but not awarded will be reallocated to the class. Checks left uncashed after 120 days, following a reminder-postcard campaign at 60 days, will be transmitted to the unclaimed property fund of the state where the class member worked, to be held in that member's name. Dkt. 87-1, Ex. 1 ¶¶ 40, 44.

6. The Settlement Class includes 3,003 former Bank employees, an increase of nearly 30% from the data Plaintiffs had at the time of mediation. Bank records also yield an aggregate value of approximately $17 million in allegedly unpaid vacation under Plaintiffs' best-case damages calculation. The $4.28 million Settlement Fund thus represents approximately 25% of

that undiscounted, best-case figure, before accounting for the substantial risks associated with class certification, the merits, trial, and appeal.

7. The Bank vigorously maintained that, because vacation-use records were discretionary, varied by individual practice, and were maintained on an ad hoc basis, those records could not reliably establish class wide liability or damages. In fact, the Bank's position was that those workers with a positive vacation balance and no PTO payout took that vacation because, so it argued, that managers were tasked with ensuring any unused vacation was paid to departing salaried, exempt workers. Plaintiffs had substantial responses to those arguments, but the absence of automated records and a uniform recordkeeping policy nevertheless presented meaningful risks both to certification and to Plaintiffs' ability to prove liability and damages on a class wide basis.

8. Against that evidentiary record, Class Counsel submits that the negotiated discount from Plaintiffs' maximum damages calculation appropriately reflects the significant litigation risks the Class would have faced absent settlement. The resulting $4.28 million common fund therefore represents a substantial recovery for the Settlement Class and supports a finding that the Settlement is fair, reasonable, and adequate.

9. The discovery in this case was extensive. The Bank produced its vacation policies, termination-processing materials, and class-wide payroll data for multiple years. Plaintiffs deposed the Bank's corporate designee, Plaintiff Nguyen was deposed, and class certification was fully briefed and argued.

10. Plaintiffs deposed the Bank's corporate designee, Patricia Johnson, regarding the Bank's vacation policy, the Workday tracking system, and the termination payout process, and relied on that testimony and the Bank's document productions in briefing class certification. Plaintiff Nguyen was deposed on April 17, 2025 in Newport Beach, California, which I defended.

11. Following that discovery, Plaintiff Nguyen moved for certification of multistate statutory and contract classes and a California subclass. The motion was fully briefed and argued to the Court. The Court denied the motion, but did so expressly "without prejudice to any future motion to certify a class that might be filed by a different class representative," holding that Nguyen could not satisfy Rule 23(a)'s typicality requirement because, "[u]nlike other members of

the putative class, [] Nguyen may not have been eligible to accrue vacation time" under the Bank's written policies. Dkt. 65 at 5, 7.

12. Plaintiffs promptly addressed the Court's ruling by filing the operative First Amended Complaint, Dkt. 77, adding two additional class representatives whose eligibility to accrue vacation is not in doubt: Ardavan Movassaghi, who, per the Bank's employment and payroll records, separated from the company with 153.35 hours of accrued but unused vacation time for which he was not paid, and Etienne Bernstein, who separated with 40 hours of accrued but unused vacation time for which he was not paid. Dkt. 77 ¶¶ 21–24.

13. The litigation was thus poised for renewed class certification briefing when the parties reached the Settlement. The Bank made clear that it would vigorously oppose any renewed certification motion, including by questioning the reliability of its own Workday vacation-balance records, disputing the vacation-accrual eligibility of commissioned employees, and contesting the manageability of multistate claims. Had litigation continued, Plaintiffs also faced a potential petition under Rule 23(f), summary judgment, trial, and appeal, and the class would have waited years for any recovery.

14. In light of my extensive experience in wage-and-hour class litigation, as well as the unique circumstances of this case, I continue to believe the Settlement is fair, reasonable, and adequate.

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

Executed November 13, 2026, in Kansas City, Missouri.



George A. Hanson

EXHIBIT 2

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

ELLE NGUYEN, ARDAVAN MOVASSAGHI, and ETIENNE BERNSTEIN, individually and on behalf of all others similarly situated, Plaintiffs, v. BANK OF AMERICA, N.A., Defendant.	**Case No. 5:23-cv-04999-PCP** **DECLARATION OF SETTLEMENT ADMINISTRATOR, JEFFERY MITCHELL IN SUPPORT OF PLAINTIFFS' MOTION FOR FINAL APPROVAL** Judge: Hon. P. Casey Pitts Date: January 28, 2027 Time: 10:00 a.m. Place: Courtroom 8, 4th Floor

I, Jeffrey Mitchell, declare and state as follows:

1. 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.

2. 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 of funds.

3. In my capacity as Project Manager, I count among my duties responsibility for matters relating to the settlement administration for the above-captioned litigation.

4. Analytics has been engaged in this matter to provide settlement administration services, including (among other things) the mailing of the Court-approved Settlement Notices, the establishment and maintenance of a Settlement Website and telephone call center facility, and the distribution of settlement benefits to Class Members (following final approval).

5. On September 24, 2026, Analytics received an Excel file that contained Class

Member names, addresses, Social Security Numbers, Work States, pay rates, and unpaid vacation hours, amongst other information. Analytics was informed this file did not yet include Illinois employees prior to 2017 because defendant was still gathering that information. On October 6, 2026, Analytics received a revised Class List that included data on pre-2017 Illinois employees, containing the same data fields as the previous file (data combined on these two files hereinafter referred to as "Class Data"). The Class Data contained 3,003 unique Class Members. On October 9, 2026, Analytics received a supplemental file with data intended to populate Adjustment Forms; specifically, annual accrual, carryover, and Vacation paid.

6. After receiving the Class Data, Analytics cross-referenced the Class Member addresses with the United States Postal Service National Change of Address database.

7. On October 13, 2026, Analytics mailed by first-class mail the Court-approved Notices of Settlement to the 3,003 class members identified in the Class Data.

8. Through November 11, 2026, 15 Notices to Class Members have been returned to Analytics by the U.S. Postal Service with a forwarding address. In each case, Analytics updated the class list with the forwarding address and processed a re-mail of the Notice to the updated address.

9. Through November 11, 2026, 208 Notices were returned to Analytics by the U.S. Postal Service without a forwarding address. Analytics conducted a skip trace in attempt to ascertain a valid address for each affected Class Member. As a result of these efforts, 149 new addresses were identified for Class Members. Analytics subsequently updated the class list with these new addresses and processed a re-mail of the applicable Notice to each of those addresses.

10. As a result, to date, notice was successfully delivered to approximately 2,944 Class Members, representing approximately 98% of Settlement Class Members.

11. Prior to the Notice mailing, Analytics calculated estimated Settlement Payments for each Class Member pursuant to the Plan of Allocation. The Settlement Payment estimates assumed a Net Settlement Fund amount of $2,534,528.33. The projected Net Settlement Fund was determined by deducting from the Maximum Settlement Amount ($4,280,000) the following

estimated amounts: a) Attorneys' Fees of $1,426,666.67 (33.3%); b) litigation costs in the amount of $250,000; c) Service Awards totaling $30,000; d) estimated administrator fees and costs of $28,805; and e) a reserve for Employer-side payroll taxes in the amount of $235,000. Analytics routed the estimated payments to the parties for review prior to the Notice mailing.

12. In preparations for Final Approval, Class Counsel provided Analytics updated estimated amounts for their fee and costs, confirming they would be seeking a 25% fee, totaling $1,070,000 and that litigation costs should be $25,000. Analytics then updated the estimated payments taking these amounts into consideration and the Net Settlement Fund would be $2,891,195 with these adjustments.

13. According to the updated estimated Awards under Plan of Allocation:

- The average Class Member payment would be $962.77
- 12 Class Member estimated payments are for the minimum amount under the Plan of Allocation, $200
- The highest estimated payment would be $15,933.38

14. Beginning on or before the date of the Notice mailing, to the present, Analytics has hosted a project-specific Website, www.UnusedVacationSettlement.com to provide information and updates to Class Members. The website was referenced in the Notice. Among other things, the Settlement Website includes: (1) a "Frequently Asked Questions" page containing a clear summary of essential case information; (2) a "Home" page and "Important Dates" page, each containing clear notice of applicable deadlines; (3) case and settlement documents for download; (4) contact information for Class Counsel; and (5) email, phone, and U.S. mail contact information for Analytics.

15. Beginning on or before the date of the Notice mailing, to the present, Analytics has also maintained a toll-free telephone support line as a resource for 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 1-866-983-

3173 and was referenced in the Notice and on the Settlement Website.

16. Beginning on or before the date of the Notice mailing, to the present, Analytics has hosted an email address, UnusedVacationSettlement@noticeadministrator.com, for Class Member support. The email address was referenced in the Notices.

17. At the time of the Notice mailing, the deadline to object, opt out, or challenge underlying Settlement Award calculation data was November 27, 2026. This deadline was printed in the Notices and on the Website. Analytics was later informed of the Court's Order Granting in Part Plaintiffs' Motion to Modify, which extended the deadlines to request exclusion, object, or submit Adjustment Forms to January 7, 2027, Analytics promptly updated the deadlines on the Settlement website and added the Order Granting in Part Plaintiffs' Motion to Modify to the Website.

18. To date, Analytics has not received any requests for exclusion.

19. To date, Analytics has not received any objections.

20. To date, Analytics has not received any Adjustment Forms.

21. On September 23, 2026, Analytics established the Qualified Settlement Fund ("QSF") for this matter, and routed the account's information to the Parties.

22. On September 29, 2026, the QSF received a deposit for the Maximum Gross Amount, $4,280,000.

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge, information, and belief.

Executed on November 13, 2026

DocuSigned by:
Jeff Mitchell
13EC110C92464EC...

Jeffrey Mitchell

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

ELLE NGUYEN, ARDAVAN MOVASSAGHI, and ETIENNE BERNSTEIN, individually and on behalf of all others similarly situated, Plaintiffs, v. BANK OF AMERICA, N.A., Defendant.	Case No. 5:23-cv-04999-PCP **[PROPOSED] FINAL APPROVAL ORDER AND JUDGMENT**

Pending before the Court is Plaintiffs' Unopposed Motion for Final Approval of Class Action Settlement ("Final Approval Motion"). On September 1, 2026, this Court entered the Order Granting Preliminary Approval to Class Action Settlement Agreement between Plaintiffs Elle Nguyen, Ardavan Movassaghi, and Etienne Bernstein ("Plaintiffs") and Defendant Bank of America, N.A. ("Defendant" or "Bank of America") (collectively, the "Parties") (Dkt. 95) ("Preliminary Approval Order"). On November 10, 2026, the Court granted in-part Plaintiffs' Motion to Modify Preliminary Approval Order and Settlement Schedule (Dkt. 97).

Having considered the briefs and arguments of the Parties, including at the Final Approval/Fairness Hearing on January 28, 2027, and the complete record in this action, and for good cause shown, IT IS HEREBY ORDERED as follows:

1. All terms and phrases in this Order shall have the same meaning attributed to them in the Parties' Joint Stipulation of Settlement and Release ("Settlement Agreement") (Dkt. 87-1, Ex. 1), unless otherwise specified.

2. The Court has jurisdiction over the subject matter of this litigation and over all parties to the litigation, including all Class Members.

3. The Court finds that distribution of the class notice complied with the terms of the Settlement Agreement and the Preliminary Approval Order and provided the best notice practicable under the circumstances of this case and satisfied the requirements of Fed. R. Civ. P. 23, due process, and all other applicable laws.

4. The Court finds that the CAFA notice required by 28 U.S.C. § 1715(b) was served on the appropriate federal and state officials on July 27, 2026 (Dkt. 89). This Final Approval Order is being entered more than 90 days after the CAFA notice was served.

5. The Court finds and determines that:

a. No Class Member has objected to any aspect of the Settlement;

b. No Class Member has requested to be excluded from the Settlement;

c. The Settlement is the product of arm's-length and non-collusive negotiations among competent and able counsel and with the assistance of a professional mediator;

d. The record is sufficiently developed and complete to have enabled the parties to adequately evaluate and consider their positions and enter into the Settlement; and

e. The terms of the Settlement are fair, reasonable, and adequate.

6. The Court hereby grants final approval of the Settlement. The Parties and the Settlement Administrator are authorized and directed to implement and perform all of the terms and provisions of the Settlement Agreement and this Order.

7. The Parties are ordered to cause a copy of this Final Approval Order and Judgment to be posted on the Settlement Website.

8. This Final Approval Order and Judgment constitutes a final judgment that is binding on the parties and the Class Members. Without affecting the finality of this Final Approval Order and Judgment, the Court hereby retains continuing jurisdiction over the subject matter of the action, the parties, and the Class Members to effectuate and ensure compliance with the Settlement Agreement and this Order.

9. The Clerk shall administratively close this case, without taxable costs to any party. The case will remain closed unless otherwise ordered, but counsel must file the post-distribution

accounting document on the ECF docket when required by the Northern District's Procedural Guidance for Class Action Settlements.

IT IS SO ORDERED.

Dated: _____

_____
The Honorable P. Casey Pitts
United States District Court Judge