

1 ANDREW R. LIVINGSTON (SBN 148646)
 2 alivingston@orrick.com
 3 KAYLA D. GRUNDY (SBN 300513)
 4 kgrundy@orrick.com
 5 ORRICK, HERRINGTON & SUTCLIFFE
 6 LLP
 7 The Orrick Building
 8 405 Howard Street
 9 San Francisco, CA 94105-2669
 10 Telephone: +1-415-773-5700
 11 Facsimile: +1-415-773-5759
 12
 13 Attorneys for Defendant
 14 BMO HARRIS BANK, N.A. (as successor in
 15 interest to BANK OF THE WEST)

JAMES HAWKINS APLC
 James R. Hawkins, Esq. (#192925)
 Gregory Mauro, Esq. (#222239)
 Michael Calvo, Esq. (#314986)
 Lauren Falk, Esq. (#316893)
 Ava Issary, Esq. (#342252)
 9880 Research Drive, Suite 200
 Irvine, CA 92618
 Tel.: (949) 387-7200
 Fax: (949) 387-6676
 Email: James@jameshawkinsaplc.com
 Email: Greg@jameshawkinsaplc.com
 Email: Michael@jameshawkinsaplc.com
 Email: Lauren@jameshawkinsaplc.com
 Email: Ava@jameshawkinsaplc.com

Attorneys for Plaintiff RAGINI MAL,
 individually and on behalf of all others
 similarly situated

13 SUPERIOR COURT OF THE STATE OF CALIFORNIA
 14 FOR THE COUNTY OF ORANGE

15 RAGINI MAL, individually and on behalf of
 16 all others similarly situated,

17 Plaintiffs,

18 v.

19 BANK OF THE WEST and DOES 1-50,
 20 inclusive,

21 Defendants.

Case No. 30-2022-01251706-CU-OE-CXC

Case No. 30-2022-01262144-CU-OE-CXC

CLASS ACTION

*[Assigned for All Purposes Hon. Peter
 Wilson, Dept. 102]*

**AMENDED CLASS AND PAGA
 ACTION SETTLEMENT
 AGREEMENT**

Action Filed: March 23, 2022

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CLASS ACTION SETTLEMENT AGREEMENT

This Amended Class Action Settlement and Release Agreement (“Settlement” or “Agreement”) is entered into between Plaintiff Ragini Mal (“Plaintiff”), individually and in her capacity as the representative of Settlement Class Members as defined herein, on the one hand, and Defendant BMO Harris Bank, N.A. (as successor in interest to Bank of the West) (“Defendant”), on the other hand, subject to the terms and conditions hereof and the approval of the Court. Plaintiff and Defendant are referenced collectively herein as “the Parties.”¹

I. CONDITIONAL NATURE OF SETTLEMENT

This Settlement is made in compromise of disputed claims as set forth in the class action lawsuit captioned *Mal v. Bank of the West*, which is now pending in the Superior Court of California, County of Orange as Case No. 30-2022-01251706-CU-OE-CXC (“Class Action”) and the PAGA representative action captioned *Mal v. Bank of the West*, which is pending in the Superior Court of California, County of Orange as Case No. 30-2022-01262144-CU-OE-CXC (“PAGA Action”). These lawsuits will be referred to herein as “the Lawsuit.” This Agreement is made for the sole purpose of settling the Lawsuit on a class-wide basis. The Settling Parties (as defined in Section 2 of this Agreement) enter into this Agreement on a conditional basis.

Furthermore, in the event that the Court does not enter the Final Approval Order, or a Judgment is not entered in the Lawsuit, or the conditions precedent are not met for any reason, this Settlement shall be deemed null and void *ab initio*, it shall be of no force or effect whatsoever, it shall not be referred to or utilized for any purpose whatsoever, and the negotiations, terms and entry of the Agreement shall remain subject to the provisions of California Evidence Code sections 1119 and 1152 and any other analogous rules of evidence that might apply. Notwithstanding this provision, the Parties hereby stipulate that the terms of Section 15.12 shall survive and be admissible in evidence even if the Settlement does not become final.

Defendant denies all claims as to liability, damages, penalties, interest, fees, restitution,

¹ Capitalized terms are defined in Section 3 unless otherwise noted.

1 injunctive relief, and all other forms of relief as well as the class allegations asserted in the
2 Lawsuit. Defendant has agreed to resolve the Lawsuit through this Settlement, but to the extent
3 this Settlement is deemed void, Defendant does not waive, but rather expressly reserves, all
4 rights to challenge all such claims and allegations in the Lawsuit upon all procedural and factual
5 grounds, including without limitation the ability to challenge class, collective, and representative
6 action treatment on any grounds, as well as asserting any and all other potential defenses or
7 privileges. The Class Representative and Class Counsel agree that Defendant retains and reserves
8 these rights.

9 **II. PARTIES TO AGREEMENT**

10 This Agreement is made and entered into by and among the following, herein referred to
11 as the “Settling Parties”: (i) the Class Representative (on behalf of herself and each of the Class
12 Members and Aggrieved Employees), with the assistance of Class Counsel; and (ii) Defendant,
13 with the assistance of its counsel of choice. The Settling Parties intend this Agreement to fully,
14 finally, and forever resolve, discharge, and settle the Released Claims upon and subject to the
15 terms and conditions hereof.

16 **III. DEFINITIONS**

17 As used in this Agreement, the following terms shall have the meanings specified below:

18 3.1 “Aggrieved Employees” means all current and former non-exempt employees of
19 Defendant who worked within the CESS Division of Defendant in California between August 11,
20 2021 through the earlier of either 120 from the execution of this Agreement or the date of
21 preliminary approval of the Settlement (the “PAGA Period”).

22 3.2 “Attorneys’ Fees” means the fees for work performed by Class Counsel and
23 approved for reimbursement by the Court as set forth in Section 8.2 of this Agreement.

24 3.3 “Settlement Administrator” or “Administrator” means Apex Class Action
25 Administrator who the Parties have selected to administer this Settlement. The Parties may jointly
26 select a different Settlement Administrator, subject to the approval of the Court.

27 3.4 “Claims Administration Costs” mean the fees and expenses reasonably and
28 necessarily incurred by the Settlement Administrator as a result of performing the settlement

1 administration procedures and functions expressly required in this Settlement and shall include all
2 costs of administering the Settlement, including but not limited to: formatting, printing and
3 mailing the Notice Packet, including filling in individuating information about the amount each
4 Settlement Class Member is estimated to receive; performing a National Change of Address
5 database search of Class Member addresses to update prior to the initial mailing of the Notice
6 Packet; skip-tracing of bad addresses upon the return of undelivered Notice Packets; establishing
7 a toll-free phone number and post office box for receipt of Class Member communications;
8 establishing a website where Class Members may view and download the operative complaint,
9 this Settlement Agreement, the Settlement Notice, approval motions/briefing, as well as any
10 Orders or Tentative Rulings issued by the Court; calculating, processing, reviewing, and issuing
11 Class Settlement Payments to participating Class Members and others as ordered by the Court;
12 reviewing and resolving Class Members' disputed claims regarding payments under this
13 Agreement; calculating tax withholdings and payroll taxes, making related payment to federal and
14 state tax authorities, and issuing tax forms relating to payments made under the Settlement;
15 establishing a QSF or other appropriate vehicle for receipt of the Gross Settlement Amount and
16 disbursement of payments provided by this Agreement and ordered by the Court; preparing any
17 tax returns and any other filings required by any governmental taxing authority or agency; and
18 any other costs and fees incurred and/or charged by the Settlement Administrator in connection
19 with the execution of its duties under this Agreement, which shall not exceed \$7,000 U.S. Dollars
20 and No Cents.

21 3.5 "Class Counsel" means:

22 James R. Hawkins, Esq. (#192925)
23 Gregory Mauro, Esq. (#222239)
24 Michael Calvo, Esq. (#314986)
25 Lauren Falk, Esq. (#316893)
26 Ava Issary, Esq. (#342252)
27 9880 Research Drive, Suite 200
28 Irvine, CA 92618
Tel.: (949) 387-7200
Fax: (949) 387-6676
Email: James@jameshawkinsapl.com
Email: Greg@jameshawkinsapl.com

1 Email: Michael@jameshawkinsaplc.com
2 Email: Lauren@jameshawkinsaplc.com
3 Email: Ava@jameshawkinsaplc.com

4 3.6 “Class Period” means the period from March 23, 2018 through the earlier of either
5 120 days from the execution of this Agreement or the date of preliminary approval of this
6 Settlement.

7 3.7 “Class Representative” means Plaintiff Ragini Mal.

8 3.8 “Class Settlement Payment” means the total amount due to an individual
9 Settlement Class Member, which shall be calculated as described in Section 8.7 of this
10 Agreement.

11 3.9 “Court” means the Superior Court for the State of California, County of Orange.

12 3.10 “Day” means calendar day, unless expressly stated otherwise.

13 3.11 “Defendant’s Counsel” means:

14 Andrew R. Livingston (SBN 148646)
15 Kayla D. Grundy (SBN 300513)
16 ORRICK, HERRINGTON & SUTCLIFFE LLP
17 The Orrick Building
405 Howard Street
San Francisco, California 94105-2669
Telephone: 415-773-5700
Facsimile: 415-773-5759

18 3.12 “Effective Date” means the date on which the Court’s Final Approval Order
19 becomes final. For purposes of this paragraph, the Court’s Final Approval Order “becomes final”
20 upon the last to occur of the following: (a) the date of final affirmance on appeal of the Judgment;
21 (b) the date of final dismissal of any appeal from the Judgment or the final dismissal of any
22 proceeding to review the Judgment; or (c) if no appeal is filed, the expiration date of the time for
23 the filing or noticing of any appeal from the Court’s Judgment.

24 3.13 “Employer Payroll Tax Liability” means payroll taxes paid by the employer
25 (FICA, FUTA, Medicare, and California payroll and withholding taxes).

26 3.14 “Final Approval Order” means an Order Granting Final Approval of Settlement of
27 the Lawsuit.

28 3.15 “Gross Settlement Amount,” “Settlement Fund,” and “Gross Settlement Fund” is

1 the sum of Three Hundred Ninety Five Thousand U.S. Dollars (\$395,000.00), which shall cover
2 payment of all claims on behalf of the Settlement Class and Aggrieved Employees, Claims
3 Administration Costs, Attorneys' Fees, Litigation Expenses, the PAGA Penalty Payment, the
4 Service Enhancement Payment to the Class Representative, but not the Employer Payroll Tax
5 Liability. The Gross Settlement Amount, together with the separately paid Employer Payroll Tax
6 Liability, is the maximum amount Defendant may be required to pay under this Settlement.

7 3.16 "Judgment" means a judgment entered by the Court following entry of the Final
8 Approval Order.

9 3.17 "Last Known Address" means the most recently recorded mailing address for a
10 Class Member as such information is contained in the personnel records maintained by
11 Defendant.

12 3.18 "Lawsuit" means the lawsuits captioned *Mal v. Bank of the West*, Case No. 30-
13 2022-01251706-CU-OE-CXC and Case No. 30-2022-01262144-CU-OE-CXC, which are
14 pending in the Superior Court of California, County of Orange.

15 3.19 "Litigation Expenses" means the expenses and costs of litigation incurred by Class
16 Counsel as detailed in their billing statement and approved for reimbursement by the Court as set
17 forth in Section 8.2 of this Agreement.

18 3.20 "LWDA" means the California Labor and Workforce Development Agency.

19 3.21 "Net Settlement Amount" means the Gross Settlement Amount less Class
20 Counsel's Attorneys' Fees, Litigation Expenses, Claims Administration Costs, the PAGA Penalty
21 Payment, and the Service Enhancement Payment to the Class Representative. To the extent the
22 Court does not approve the full requested amount of Attorneys' Fees, Litigation Expenses, Claims
23 Administration Costs, or the Service Enhancement Payment, the Net Settlement Amount will
24 increase accordingly.

25 3.22 "Notice Packet" refers collectively to the documents mailed to the Class Members
26 pursuant to the terms of this Settlement and includes the following: (1) Notice (**Exhibit A**); (2)
27 Request for Exclusion Form (**Exhibit B**); (3) a Change of Address Form (**Exhibit C**), and (4) a
28 pre-printed return envelope addressed to the Settlement Administrator.

1 3.23 “Notice of Pendency of Class Action Settlement And Final Hearing” or “Notice”
2 shall mean the notice of this Settlement to be provided to Class Members, in the same or
3 substantially same form as set forth in **Exhibit A** to this Agreement, pending approval by the
4 Court.

5 3.24 “Notice Period” means a period of forty-five (45) calendar days from the date the
6 Settlement Administrator first mails the Notice Packet to Class Members. If the 45th day falls on
7 a Sunday or holiday, the Notice Period shall end on the next business day that is not a Sunday or
8 holiday.

9 3.25 “Notice Response Deadline” shall be the last day of the Notice Period.

10 3.26 “PAGA Penalty Payment” means amount to be paid to settle any and all PAGA
11 Released Claims for which penalties under California’s Private Attorneys General Act
12 (“PAGA”), California Labor Code sections 2698 *et seq.*, may be sought or are otherwise
13 available, as set forth in Section 8.4 of this Agreement.

14 3.27 “PAGA Period” means period from August 11, 2021 through the earlier of either
15 120 days from execution of this Agreement or the date of preliminary approval of the Settlement.

16 3.28 “PAGA Work Weeks” means the total number of weeks worked by an Aggrieved
17 Employee during the PAGA Period. As of the date of mediation, March 20, 2024, there are
18 approximately 7,100 PAGA Pay Periods.

19 3.29 “Parties” means the Plaintiff/Class Representative and BMO Harris Bank, N.A.

20 3.30 “QSF” shall mean the Qualified Settlement Fund established by the Settlement
21 Administrator for the benefit of the Class Members and from which the Class Settlement
22 Payments and, if applicable, employee-side payroll taxes shall be paid.

23 3.31 “Reasonable Address Verification Measure” means utilization of the National
24 Change of Address Database maintained by the United States Postal Service prior to the initial
25 mailing of the Notice Packets, the customary skip-tracing measures used by the Administrator
26 upon the return of undelivered Notice Packets, and the forwarding of Notice Packets returned to
27 the Administrator with updated addresses affixed thereto by the U.S. Postal Service to the
28 updated address.

1 3.32 “Released Claims” shall have the meaning set forth in Section 11 of this
2 Agreement.

3 3.33 “Released Parties” means Defendant and each and all of its respective past and
4 present parents, subsidiaries, affiliated companies and corporations, and each and all of their
5 respective past and present directors, officers, managers, employees, general partners, limited
6 partners, principals, agents, insurers, reinsurers, shareholders, attorneys, advisors, representatives,
7 predecessors, successors, divisions, joint venturers, assigns, or related entities, and each and all of
8 their respective executors, successors, assigns and legal representatives.

9 3.34 “Request for Exclusion” means the document which a Class Member must
10 complete and timely submit to request exclusion from the Settlement, in the form set forth in
11 **Exhibit B** to this Agreement, pending approval by the Court.

12 3.35 “Service Enhancement Payment” shall have the meaning set forth in Section 8.5 of
13 this Agreement.

14 3.36 “Settlement” means the terms and conditions set forth in this Agreement.

15 3.37 “Settlement Class Members” means all current and former non-exempt employees
16 of Defendant who worked within the CESS division of Defendant in California during the Class
17 Period. As of the date of mediation, March 20, 2024, it is estimated there are approximately 230
18 Settlement Class Members.

19 3.38 “Updated Address” means a mailing address that was updated via a Reasonable
20 Address Verification Measure, or an updated mailing address provided by the United States
21 Postal Service, a Settlement Class Member, or any other valid source.

22 3.39 “Work Weeks” means the total number of weeks worked by a Class Member
23 during the Class Period.

24 **IV. PROCEDURAL BACKGROUND**

25 On March 23, 2022, Plaintiff Ragini Mal filed a class action lawsuit in Orange County
26 Superior Court (Case No. 30-2022-01251706-CU-OE-CXC) on behalf of herself and a putative
27 class of *all persons who have been employed by Defendants as Non-Exempt Employees or*
28 *equivalent positions, however titled, in the state of California within four (4) years from the filing*

1 *of the Complaint in this action until its resolution* (the “Class Complaint”). Plaintiff brings
2 claims for failure to pay wages, failure to provide meal periods, failure to timely pay wages,
3 failure to provide accurate itemized wage statements, failure to accurately record and pay sick
4 leave, failure to pay vested vacation pay, failure to indemnify necessary business expenses, and
5 an unfair competition claim. Plaintiff seeks damages on behalf of herself and a class including
6 unpaid wages, statutory penalties, interest, and attorney’s fees and costs.

7 On May 31, 2022, Plaintiff Ragini Mal filed a PAGA Representative Action complaint in
8 Orange County Superior Court (Case No. 30-2022-01262144-CU-OE-CXC) on behalf of herself
9 and all other aggrieved employees (the “PAGA Complaint”). Plaintiff asserts violations of
10 California Labor Code sections 201-203, 510, 226.7, 226, 226.7, 227.3, 246, 512, 1174, 1174.5,
11 1175, 1194, 1197, 1197.1, and 2802. Plaintiff seeks penalties, interest, attorneys’ fees and costs.

12 On September 14, 2022, in response to Defendant’s filing of a Notice of Related Cases
13 concerning the Class Complaint and the PAGA Complaint, the Court reassigned the PAGA
14 Complaint to Judge Peter Wilson who was already presiding over the Class Complaint. Though
15 not formally consolidated, the Lawsuits have preceded in parallel since that time.

16 The Parties have engaged in formal discovery. Plaintiff served written document requests
17 on November 11, 2022. Defendant served objections and responses on March 7, 2023. Defendant
18 served written document requests on October 12, 2022. Plaintiff served objections and responses
19 on January 3, 2023. Following a meet and confer process, Plaintiff then served amended
20 objections and responses on March 9, 2023. Plaintiff served form and special interrogatories on
21 November 11, 2022 and March 14, 2023. Defendant served objections and responses on March
22 7, 2023 and on May 22, 2023. Documents and information were exchanged in response to the
23 formal discovery.

24 In December 2023 and January 2024, the Parties met and conferred about an early private
25 mediation to resolve Plaintiff’s claims. The Parties ultimately agreed in January 2023 to mediation
26 with the Honorable Amy D. Hogue on March 20, 2024. The Parties exchanged sufficient
27 information to engage in good faith negotiations, including, policies, time and pay records for a
28 sample of approximately 60% of the putative class, and data points (e.g., workweeks, pay period,

1 class size) relating to the putative class. The Parties engaged in arm's length negotiation including,
2 but not limited to, a full day mediation session on March 20, 2024, facilitated by Judge Hogue,
3 who has extensive experience in labor and employment litigation, including in particular wage
4 and hour litigation. Towards the end of the day-long mediation, the Parties agreed to a
5 memorandum of understanding of the key terms of the Settlement, which was memorialized on
6 the same day and signed by all parties on March 21, 2024.

7 The Parties and their counsel are sufficiently familiar with the facts of this case and the
8 applicable laws to make an informed judgment as to the fairness of the Settlement, the respective
9 strengths and weaknesses of the claims of the class Plaintiff sought to certify, and the risks of
10 proceeding in litigation. The Parties are represented by competent counsel and have had the
11 opportunity to consult with counsel prior to the signing this Agreement.

12 **V. DEFENDANT'S DENIAL OF LIABILITY**

13 Defendant specifically and generally denies any and all liability or wrongdoing of any sort
14 with regard to any of the Released Claims and makes no concessions or admissions of liability of
15 any sort. Defendant maintains that for any purpose other than settlement, the Lawsuit is not
16 appropriate for class action treatment pursuant to California Code of Civil Procedure § 382.
17 Nonetheless, Defendant has concluded that further litigation would be protracted, distracting and
18 expensive, and that it is desirable that the Lawsuit be fully and finally settled in the manner and
19 upon the terms and conditions set forth in this Agreement. Defendant has also taken into account
20 the uncertainty and risks inherent in any litigation. Defendant has therefore determined that it is
21 desirable and beneficial to settle the Lawsuit in the manner and upon the terms and conditions set
22 forth in this Agreement.

23 The Parties agree there is a bona fide dispute as to whether wages and/or penalties are
24 owed to Plaintiff and the Class Members and neither this Agreement, nor the Settlement-related
25 documents, nor the Settlement itself shall be construed as an admission of either fact or law on
26 any issue by any Party.

27 **VI. CLAIMS OF THE CLASS REPRESENTATIVE AND BENEFITS OF**
28 **SETTLEMENT**

1 The Class Representative and Class Counsel believe that the claims asserted in the
 2 Lawsuit have merit and that evidence developed to date supports the claims. However, the Class
 3 Representative and Class Counsel recognize and acknowledge the significant expense, resources
 4 and time required to continue proceedings necessary to prosecute the Lawsuit against Defendant
 5 through trial and through appeals. The Class Representative and Class Counsel have also taken
 6 into account the uncertain outcome and the risks of litigation, the difficulties and delays inherent
 7 in this and similar litigation, and the problems of proving liability and damages and rebutting
 8 possible defenses to the Class Action Complaint. Based upon their evaluation, the Class
 9 Representative and Class Counsel have determined that the settlement set forth in this Agreement
 10 is fair, reasonable, adequate, and in the best interests of the Class Representative, the Settlement
 11 Class, and the State of California. Both Class Counsel and the Class Representative believe that
 12 the settlement set forth in this Agreement confers substantial benefits upon the Settlement Class
 13 and each of the Settlement Class Members.

14 **VII. CONDITIONS PRECEDENT TO EFFECTIVENESS OF AGREEMENT**

15 7.1 The Parties enter into this Agreement and the Settlement on a conditional basis.
 16 This Agreement and Settlement will become final and effective only upon the occurrence of all of
 17 the following events:

- 18 7.1.1 The Court enters an order granting conditional certification of the proposed
 19 settlement class;
- 20 7.1.2 The Court enters an order granting preliminary approval of the Settlement;
- 21 7.1.3 The Court enters a Final Approval Order; and
- 22 7.1.4 The Effective Date occurs, and any challenge to the Settlement, whether by
 23 objection or appeal, is resolved in favor of enforcement of the Settlement.

24 7.2 Unless the Court orders otherwise or agreed in writing by the Parties, this
 25 Agreement shall be deemed null and void *ab initio* upon the failure of any of these four
 26 conditions to occur.

27 **VIII. SETTLEMENT CONSIDERATION—NO CLAIM FORM REQUIRED;**
 28 **DEDUCTIONS FROM THE GROSS SETTLEMENT AMOUNT; CALCULATION**
OF CLASS SETTLEMENT PAYMENTS FROM THE NET SETTLEMENT

1 **AMOUNT**

2 This shall be an all-in Settlement without a reversion. Settlement Class Members who do
3 not request exclusion from the Settlement using the procedures specified below will be
4 automatically paid without submitting any claim form.

5 8.1 **Payment of the Gross Settlement Amount:** Defendant will pay the
6 Gross Settlement Amount in full and final settlement of the Lawsuit. The Gross Settlement
7 Amount will constitute adequate consideration for this Settlement. Because any uncashed
8 settlement check funds will be distributed pursuant to the *cy pres* doctrine, this Agreement and
9 the associated Judgment do not and will not create any unpaid residue or unpaid residual, and no
10 distribution of such shall be required. No money shall revert to Defendant.

11 8.2 **Attorneys' Fees and Litigation Expenses:** Class Counsel will submit an
12 application for: (a) an award of One Hundred Thirty Eight Thousand Two Hundred Fifty U.S.
13 Dollars and No Cents (\$138,250.00) or no more than 35% of the Gross Settlement Amount; and (b)
14 an award of Class Counsel's actual Litigation Expenses to date plus any expenses incurred between
15 the date this Settlement Agreement is executed and the date of final approval, estimated not to
16 exceed \$16,000 (as documented on an itemized cost sheet with appropriate support), both of which
17 would be paid out of the Gross Settlement Amount. The amounts set forth in this section will
18 constitute complete consideration for all work performed and expenses incurred to date and for all
19 work to be performed and expenses to be incurred through the completion of the Lawsuit, its
20 settlement, and the effort to secure final Judgment by Class Counsel.

21 8.2.1 In the event that the Court (or any appellate court) awards less than the
22 amount requested for Attorneys' Fees or Litigation Expenses, only the awarded amounts shall be
23 paid and shall constitute satisfaction of those obligations and full payment thereunder, and any
24 remaining or unawarded portion of the requested Attorneys' Fees or Litigation Expenses shall be
25 made a part of the Net Settlement Amount for distribution to Settlement Class Members. To the
26 extent the Court does not approve any or all of the amount of Attorneys' Fees or Litigation
27 Expenses, the Settlement shall remain binding except as otherwise provided, and this will not be a
28 justification for Plaintiff to withdraw from the Settlement.

1 8.2.2 Plaintiff's Counsel agrees to be solely responsible for any claims, liens or
2 other demands from persons or entities who previously represented Plaintiff and may seek to be
3 compensated out of the Gross Settlement Amount for attorneys' fees and/or legal costs arising
4 from prosecution of the Action against Defendant. If it is ever claimed or determined that some
5 portion of the Gross Settlement Amount should have been paid as Plaintiff's attorneys' fees
6 and/or costs to some person or entity other than Class Counsel, Class Counsel warrants and
7 agrees to pay and/or indemnify said amount, defend any claim for this amount, and hold
8 Defendant harmless from such liens or claims.

9 8.3 **Claims Administration Costs:** From the Gross Settlement Amount, Claims
10 Administration Costs shall be paid in an amount not to exceed \$7,000, subject to approval from
11 the Court.

12 8.4 **Payment of the PAGA Penalties:** From the Gross Settlement Amount,
13 Defendant will pay \$40,000 Dollars for settlement of any and all Released Claims for which
14 penalties under PAGA, Labor Code section 2698 *et seq.*, may be sought or are otherwise
15 available, as the PAGA Penalty Payment. Pursuant to the express requirements of Labor Code
16 section 2699(i), the PAGA Penalty Payment shall be allocated as follows: \$30,000 (75%) to the
17 LWDA for the enforcement of labor laws and education of employers, and \$10,000 (25%) to the
18 Aggrieved Employees as a part of the Net Settlement Amount. The PAGA Penalty Payments to
19 Settlement Class Members are not wages and will be reported on an IRS Form 1099. Each
20 Aggrieved Employee shall receive a pro-rata portion of the PAGA Payment based on the number
21 of eligible pay periods worked by each Aggrieved Employee. Each Aggrieved Employee's
22 portion of the PAGA Penalty Payment shall be determined by multiplying the 25 percent of the
23 PAGA Penalty Payment allocated to Aggrieved Employees by the ratio of (a) the number of
24 Eligible Pay Periods worked by that employee to (b) the total number of eligible pay periods
25 worked by all Aggrieved Employees. All Aggrieved Employees shall automatically receive their
26 portion of the PAGA Penalties consistent with this section regardless of their decision to opt-out
27 of the Class Settlement.

28 8.5 **Service Enhancement Payment to the Class Representative:** From the Gross

1 Settlement Amount, Plaintiff intends to request approval for, subject to Court approval, a Service
2 Enhancement Payment in the amount of \$10,000. The amount paid to Plaintiff is in consideration
3 for her efforts in connection with this Lawsuit. The Class Representative is not providing a
4 general release and the Service Enhancement Award is not tethered in any way to any general
5 releases. The Plaintiff shall be issued an Internal Revenue Service Form 1099 for any Service
6 Enhancement Payment. The Plaintiff hereby acknowledges that she has obtained no tax advice
7 from Defendant and that neither Defendant nor its attorneys have made any representation
8 concerning the tax consequences, if any, of the Service Enhancement Payment. The Class
9 Representative agrees that she is solely responsible for the tax consequences of the Service
10 Enhancement Payment.

11 8.5.1 In the event that the Court (or any appellate court) awards less than the
12 amount requested for the Service Enhancement Payment, only the awarded amount shall be paid
13 and shall constitute satisfaction of those obligations and full payment thereunder, and any
14 remaining or unawarded portion of the requested Service Enhancement Payment shall be made a
15 part of the Net Settlement Amount for distribution to Settlement Class Members. To the extent the
16 Court does not approve any or all of the amount of the Service Enhancement Payment, the
17 Settlement shall remain binding except as otherwise provided, and this will not be a justification
18 for Plaintiff to withdraw from the Settlement.

19 8.5.2 The Service Enhancement Payment, if approved by the Court, is in addition
20 to Plaintiff's Class Settlement Payment as described in Section 8.7 below.

21 8.6 **Employer Payroll Tax Liability:** The Employer Payroll Tax Liability on the
22 portions of all Class Settlement Payments allocated to wages in the form of back pay (as
23 described in Section 8.8 of this Agreement) shall be paid separately by Defendant in addition to
24 the Gross Settlement Fund.

25 8.7 **Payment to Settlement Class Members:** The Net Settlement Amount (as defined
26 in Section 3.21, after payment of all enumerated amounts from the Gross Settlement Amount)
27 shall be used to make the Class Settlement Payments described below.

28 8.7.1 Each Class Settlement Payment shall be calculated by dividing the

1 Net Settlement Amount by the total number of Work Weeks worked by Settlement Class
2 Members then multiplying that amount by the number of Work Weeks the individual Settlement
3 Class Member worked as a non-exempt hourly employee for Defendant in California during the
4 Class Period.

5 8.8 **Taxes:** For the purpose of calculating applicable taxes for the Settlement
6 Payments to Settlement Class Members (including any payments to the Class Representative
7 exclusive of any Service Enhancement Payment), the Parties agree that one-half (1/2) of each Class
8 Settlement Payment constitutes wages in the form of back pay (and each Settlement Class Member
9 will be issued an Internal Revenue Service Form W-2 for such payment to him or her), and one-
10 half (1/2) of each Class Settlement Payment constitutes interest, penalties, liquidated damages
11 and other non-wage payments (and each Settlement Class Member will be issued an Internal
12 Revenue Service Form 1099 for such payment to him or her). Defendant shall not be responsible
13 for payroll tax payments on any portion of the Gross Settlement Amount that is attributable to
14 Attorneys' Fees, Litigation Expenses, PAGA Penalty Payments, penalties, or interest. The Parties
15 further understand that Plaintiff, any Settlement Class Member who receives any Class Settlement
16 Payment pursuant to this Agreement, and any aggrieved employee who receives any PAGA
17 Penalty Payment shall be solely responsible for any and all tax obligations associated with such
18 receipt.

19 8.9 Defendant will not use the Class Settlement Payments or PAGA Penalty Payment
20 to calculate any additional benefits including without limitation vacation, holiday pay, pension, or
21 401(k) plan contributions. Defendant contends that neither the Class Settlement Payments nor any
22 aggrieved employee portion of the PAGA Penalty Payment represent any modification of
23 previously credited hours of service or other eligibility criteria under any employee pension or
24 employee welfare benefit plan sponsored by Defendant. Nor does Defendant consider the Class
25 Settlement Payments or PAGA Penalty Payment "compensation" for purposes of determining
26 eligibility for, or benefit accrual within, an employee pension benefit plan, an employee welfare
27 benefit plan, or other plan sponsored by Defendant or its predecessors, subsidiaries, or successors.

28 **IX. NOTICE PROCEDURE**

1 9.1 **Selection and Compensation of Settlement Administrator:** The Parties agree to
2 jointly utilize a third-party Settlement Administrator to give notice of and communicate with
3 Settlement Class Members regarding the Settlement and to establish a website where Settlement
4 Class Members may view and download the operative complaint, this Settlement Agreement, the
5 Settlement Notice, approval motions/briefing, as well as any Orders or Tentative Rulings issued
6 by the Court that relate to the Settlement. A Notice of Final Judgment will be posted on the
7 Settlement Administrator's website if the Court approves the settlement at the Fairness Hearing.
8 The Parties have initially selected Apex Class Action Administrators, LLC to administer the
9 Settlement, but may jointly select a different Settlement Administrator subject to the approval of
10 the Court. If the actual cost of claims administration is less than the amount approved by the
11 Court, the remaining amount shall be added to the Net Settlement Amount and distributed as set
12 forth in Section 8.7 of this Agreement. All costs associated with claims administration as
13 approved by the Court shall come out of the Gross Settlement Amount. The Settlement
14 Administrator's actions shall be governed by the terms of this Agreement.

15 9.2 **Establishment and Funding of the QSF:** The Parties agree that the QSF is
16 intended to be a "Qualified Settlement Fund" under Section 468B of the Internal Revenue Code and
17 Treasury Regulation § 1.468B-1 (26 C.F.R. § 1.468B-1 *et seq.*) and will be administered by the
18 Settlement Administrator as such. With respect to the QSF, the Settlement Administrator shall: 1)
19 open and administer a settlement account in such a manner as to qualify and maintain the
20 qualification of the QSF as a "Qualified Settlement Fund" under Section 468B of the Internal
21 Revenue Code and Treasury Regulation § 1.468B-1; (2) calculate, withhold, remit and report each
22 Settlement Class Member's share of applicable payroll taxes (including, without limitation, federal,
23 state and local income tax withholding, FICA, Medicare and any state or local employment taxes)
24 and indemnify Defendant for any penalty arising out of any error or incorrect calculation and/or
25 interest (if applicable) with respect to any late deposit of the same; (3) satisfy all federal, state and
26 local income and other tax reporting, return, and filing requirements with respect to the QSF; and
27 (4) satisfy out of the QSF all fees, expenses and costs incurred in connection with the opening and
28 administration of the QSF and the performance of its duties and functions as described in this

1 Agreement. The aforementioned taxes, fees, expenses, and costs shall be treated as and included in
2 the costs of administering the QSF and as Claims Administration Costs. The Parties and the
3 Settlement Administrator shall treat the QSF as coming into existence as a Qualified Settlement
4 Fund on the earliest date permitted as set forth in 26 C.F.R. § 1.468B-1(j)(2)(i), and such election
5 statement shall be attached to the appropriate returns as required by 26 C.F.R. § 1.468B-
6 1(j)(2)(ii). The Parties agree to cooperate with the Settlement Administrator and one another to
7 the extent reasonably necessary to carry out the provisions of this section of the Agreement.

8 9.3 **Settlement Administration:** Defendant will provide for each Settlement Class
9 Member and Aggrieved Employee the following information drawn from records of Defendant:
10 1) name; 2) Social Security number; 3) last known residential address; 4) last known telephone
11 numbers; and 5) number of Work Weeks for which the Class Member would be entitled to
12 recover as set forth in Section 8.7 (“Class Data”) to the Settlement Administrator. Defendant will
13 provide the Class Data to the Settlement Administrator no later than thirty (30) days (or, if that
14 date falls on a weekend or holiday, the next business day thereafter) after the date the Court enters
15 an order granting preliminary approval of the Settlement. Class Data shall be used by the
16 Settlement Administrator solely for the purpose of notifying the Class Members of the
17 Settlement. The Settlement Administrator shall run the Class Data list through the National
18 Change of Address database and will use the most recent address for each Class Member when
19 mailing the Class Notice.

20 9.4 **Notice to Class Members:** As soon as practicable after receiving the Class Data,
21 but no later than ten (10) business days after its receipt, the Settlement Administrator shall send the
22 Notice Packet to the Class Members via United States First Class Mail. The Notice shall specify
23 the Court-approved Notice Response Deadline by which Settlement Class Members must submit
24 any dispute regarding the payment amount, Requests for Exclusion, objections to the Settlement, or
25 Change of Address requests. Notice will be provided in English-only which is sufficient because
26 all eligible Settlement Class Members and/or Aggrieved Employees worked in roles where
27 proficiency in English was a job requirement. The costs of mailing this Notice Packet will be
28 considered part of the Claims Administration Costs to be paid from the Gross Settlement Amount.

1 Except as specifically set forth in Subsections 9.4.1 through 9.4.3 below, the Notice Packet shall be
2 deemed received by the Class Member to whom it was sent.

3 9.4.1 In the event that subsequent to the first mailing of a Notice Packet and prior
4 to the Notice Response Deadline, that Notice Packet is returned to the Settlement Administrator by
5 the United States Postal Service with a forwarding address for the recipient, the Settlement
6 Administrator shall re-mail the Notice Packet to that address within five (5) business days. The
7 Notice Packet will be deemed mailed as of the date of re-mailing, the forwarding address shall be
8 deemed the Updated Address for that Class Member, and any responses from the Class Member
9 (*i.e.*, a dispute regarding calculation of Work Weeks, a Request for Exclusion, or an objection) are
10 due to the Settlement Administrator by the Notice Response Deadline or within twenty-one (21)
11 days from the date of re-mailing, whichever is later.

12 9.4.2 In the event that subsequent to the first mailing of a Notice Packet, the
13 Notice Packet is returned to the Settlement Administrator by the United States Postal Service
14 because the address of the recipient is no longer valid, but no forwarding address is provided, the
15 Settlement Administrator shall perform Reasonable Address Verification Measures in an effort to
16 ascertain the current address of the particular Class Member in question. If such an address is
17 ascertained, the Settlement Administrator shall re-mail the Notice Packet within five (5) business
18 days of receiving such information, the Notice Packet will be deemed mailed as of that date of re-
19 mailing, the newly obtained address shall be deemed the Updated Address for that Class Member,
20 and any responses from the Class Member (*i.e.*, a dispute regarding calculation of Work Weeks, a
21 Request for Exclusion, or an objection) are due to the Settlement Administrator by the Notice
22 Response Deadline or within twenty-one (21) days from the date of re-mailing, whichever is later.

23 9.4.3 In the event that subsequent to the first mailing of a Notice Packet, the
24 Notice Packet is returned to the Settlement Administrator by the United States Postal Service but
25 no Updated Address is obtained for that Class Member using either method specified above, the
26 Notice Packet shall be re-mailed to the Last Known Address within five (5) business days of
27 receiving such information, the Notice Packet will be deemed mailed as of that date of re-mailing,
28 and the Class Member shall have until the Notice Response Deadline or within twenty-one (21)

1 days from the date of re-mailing to submit a response, whichever is later. In either event, the
2 Notice Packet shall be deemed received when it is mailed for the second time under this
3 paragraph.

4 9.4.4 In the event that any Notice Packet is returned to the Settlement
5 Administrator as undeliverable is associated with a Settlement Class Member who is currently
6 employed by Defendant, counsel for Defendant will make prompt efforts to obtain a current
7 mailing address and provide such updated address to the Settlement Administrator for re-mailing
8 of the Notice Packet.

9 9.5 **Disputes Regarding Work Weeks:** In calculating each individual Settlement
10 Class Member's share of the settlement, Defendant's reasonably available records regarding the
11 Work Weeks of Class Members shall be presumed to be correct. Settlement Class Members will
12 be provided with the individualized information upon which their respective shares of the Net
13 Settlement Amount will be based. Settlement Class Members who dispute Defendant's records
14 must submit a challenge in writing to the Settlement Administrator and will bear the burden of
15 proof, *i.e.*, a Class Member who fails to provide written documentation supporting a different the
16 number of Work Weeks than that specified in his or her Notice will have his or her dispute
17 denied. All such disputes must be submitted to the Settlement Administrator by the Notice
18 Response Deadline (as evidenced by the date of the postmark of the submission). Defendant will
19 investigate the dispute and cooperate with the Settlement Administrator, as necessary, to resolve
20 any such disputes. The Settlement Administrator shall ultimately determine the number of Work
21 Weeks for the Settlement Class Member raising the dispute based on Defendant's records and any
22 documentation submitted by the Settlement Class Member. In no case will a dispute regarding
23 the number of Work Weeks result in a payment by Defendant in excess of the Gross Settlement
24 Amount.

25 9.6 **Requests for Exclusion:** Settlement Class Members who wish to be excluded
26 from the Settlement must submit a written Request for Exclusion to the Settlement Administrator
27 by the Notice Response Deadline (as evidenced by the date of the postmark of the submission).
28 The Request for Exclusion must be submitted on the form attached as **Exhibit B** hereto and signed

1 by the Settlement Class Member. Requests for Exclusion must be made individually and cannot
2 be made on behalf of a group or other Settlement Class Members. If a Settlement Class Member
3 submits a Request for Exclusion that fails to include all required information or that cannot be
4 verified by the Settlement Administrator as being an authentic submission by the Settlement Class
5 Member, it will be considered invalid, and the Settlement Administrator shall mail notification of
6 the deficiency to the Settlement Class Member within five (5) business days of receipt. The
7 Settlement Class Member shall have until the Notice Response Deadline or twenty-one (21) days
8 from the date of the mailing of notification of the deficiency (whichever is later), to cure any
9 deficiencies, at which point his or her Request for Exclusion will be rejected if not received and
10 that Settlement Class Member will be mailed his or her share of the Net Settlement Amount
11 (according to the formulas set forth in this Agreement). In the event that five percent (5%) or
12 more of all Settlement Class Members timely request exclusion from the Settlement Class by
13 submitting Requests for Exclusion or comparable documentation, Defendant shall have the
14 absolute right in its sole discretion to revoke, terminate, and withdraw from this Agreement in its
15 entirety.

16 Any valid Request for Exclusion will be effective only as to the Class Settlement. Any
17 Settlement Class Member who is an Aggrieved Employee will be bound by the release of PAGA
18 claims and will receive their share of the PAGA Penalty Payment regardless of submitting a
19 Request for Exclusion.

20 9.7 **No Request for Exclusion by Class Representative:** The Class Representative
21 shall not request exclusion from the Settlement. The Class Representative agrees that by signing
22 this Agreement she is accepting the terms of this Settlement.

23 9.8 **Objections to Settlement:** Settlement Class Members who do not request
24 exclusion from the Settlement Class may object to the Agreement by submitting copies of their
25 written objections to the Settlement Administrator (as evidenced by the date of the postmark of the
26 submission) by the Notice Response Deadline. This Notice Response Deadline applies to any
27 objections notwithstanding any argument regarding alleged non-receipt of the Notice Packet.
28 Written objections should be signed by the Settlement Class Member or their counsel and should:

1 (1) state the objecting Settlement Class Member's name, address, telephone number, or the
2 equivalent information of their counsel if they are represented by an attorney, and the last four
3 digits of the Settlement Class Member's Social Security number, (2) state the case name and
4 number as follows: *Mal v. Bank of the West*, Case No. 30-2022-01251706-CU-OE-CXC, (3) state
5 concisely each objection to the Settlement, (4) explain the basis for each such objection, and (5)
6 be dated. If the Settlement Class Member intends to use any document(s) to support his or her
7 objection, a copy of the document(s) should be included with the written objection at the time of
8 submission. Submitting an objection to this Settlement does not affect the Settlement Class
9 Members' right to obtain the benefits of this Settlement. The Settlement Administrator shall
10 forward a copy of any written objections and/or supporting documentation that it receives to both
11 Class Counsel and Counsel for Defendant within two (2) business days of receipt.

12 9.9 Settlement Class Members may also appear at the final approval hearing regardless
13 of whether they have submitted written objections. Anyone wishing to appear at the final approval
14 hearing to object to the Settlement can, but is not required to, indicate this in his or her written
15 objections.

16 9.10 Any Settlement Class Member who fails to serve timely written objections in the
17 manner set forth herein may still appear at the final approval hearing to state their objections.
18 Settlement Class Members who timely and validly request exclusion from the Settlement shall
19 have no right to object and shall be foreclosed from making any objection to the Settlement.

20 **X. PAYMENT OF CLAIMS**

21 10.1 **Eligibility for Class Settlement Payment:** Settlement Class Members need not
22 submit a claim form to receive a Class Settlement Payment. As a condition of receiving any Class
23 Settlement Payment under this Agreement, Settlement Class Members must not request exclusion
24 from the Class. Each Settlement Class Member shall be entitled to a payment equal to the sum of
25 their individually determined Class Settlement Payment, less the required taxes and withholdings.
26 Settlement Class Members who have submitted untimely or invalid Requests for Exclusion will
27 still be considered part of the Settlement Class, will still be bound by the Settlement and the
28 Released Claims, and will be entitled to receive Class Settlement Payments.

1 10.2 **Distribution of Class Settlement Payments.** After the Court grants final
2 approval of the Settlement, and the Effective Date has passed, the Settlement Administrator shall
3 prepare a final list of all Settlement Class Members, excluding those who timely and validly
4 opted out of the Class. For each Settlement Class Member on this list, the Settlement
5 Administrator will calculate the amounts due to each Settlement Class Member using the
6 methodology set forth in Section 8.7 of this Agreement (excluding any individuals who
7 effectively and timely requested exclusion from the Settlement) and provide that calculation to
8 Class Counsel and Defendant’s Counsel within five (5) days after the Effective Date.

9 10.3 No later than fifteen (15) business days after the Effective Date has passed,
10 Defendant shall pay to the Settlement Administrator the Gross Settlement Amount of \$395,000.00
11 along with the Employer Payroll Tax Liability as calculated by the Settlement Administrator.
12 Defendant will wire the funds requested by the Settlement Administrator into the QSF set up and
13 controlled by the Settlement Administrator.

14 10.4 The Class Settlement Payments, the PAGA Penalty Payment to Aggrieved
15 Employees, and the PAGA Penalty Payment to the LWDA will be paid by the Settlement
16 Administrator no later than twenty-five (25) business days after the Effective Date.

17 10.5 Class Counsel’s Attorneys’ Fees and Litigation Expenses and the Service
18 Enhancement Payment to the Class Representative will be paid by the Settlement Administrator no
19 later than twenty-five (25) business days after the Effective Date. Payments made shall constitute
20 full satisfaction of any claim for fees or costs. Class Representative and Class Counsel, on behalf
21 of themselves and all Settlement Class Members, agree that they shall not seek nor be entitled to
22 any additional attorneys’ fees or costs for the Released Claims. Class Counsel shall provide the
23 Settlement Administrator with the pertinent taxpayer identification numbers and instructions on
24 the total amount of the payment for wiring and reporting purposes within five (5) days after the
25 Effective Date has passed (or, if that date falls on a weekend or holiday, the next business day
26 thereafter). Other than any reporting of this fee payment as required by this Agreement or law,
27 which Defendant shall make, Class Counsel shall be responsible for the reporting and payment of
28 any federal, state, and/or local income or other form of tax on any payment that they receive

1 pursuant to this Agreement.

2 10.6 Not later than seventy-five (75) calendar days following the Effective Date (or, if
3 that date falls on a weekend or holiday, the next business day thereafter), the Settlement
4 Administrator shall provide Class Counsel and Defendant’s Counsel with a declaration under oath
5 to verify the mailing of Class Settlement Payment checks and the other distributions from the
6 Gross Settlement Amount. Any checks issued to Settlement Class Members shall remain
7 negotiable for a period of one hundred eighty (180) calendar days from the date of mailing of the
8 Class Settlement Payment checks. Uncashed checks will be voided and, within two hundred (200)
9 calendar days from the date of mailing of the Class Settlement Payment checks, the funds
10 associated with such voided checks will be transmitted by the Settlement Administrator to the
11 Controller of the State of California to be held in that Settlement Class Member’s name pursuant
12 to the Unclaimed Property Law. No later than two hundred ten (210) calendar days from the date
13 of mailing of the Class Settlement Payment checks (or, if that date falls on a weekend or holiday,
14 the next business day thereafter), the Settlement Administrator shall provide Class Counsel and
15 Defendant’s Counsel with a declaration as to the total amount of any uncashed settlement checks.

16 10.7 Defendant understands its legal obligation not to retaliate against the Settlement
17 Class Members for their participation and/or election to participate in the benefits to be afforded
18 any of them by the Class Settlement Payments and/or the Lawsuit.

19 **XI. RELEASED CLAIMS**

20 11.1 Settlement Class Member Released Claims. Upon the funding of the Gross
21 Settlement Amount by Defendant (i.e., 75 days following the Effective Date), each of the
22 Settlement Class Members who have not opted out of the settlement, on behalf of themselves and
23 each of their heirs, representatives, successors, assigns, and attorneys, shall be deemed to have,
24 and by operation of the Judgment shall have, fully, finally, and forever released, relinquished, and
25 discharged the Released Parties from the following claims through and including the dates of the
26 Class Period: the claims alleged or could have reasonably been alleged based on the facts alleged
27 in Plaintiff’s First Amended Class Complaint, including all claims for any violation of California
28 Labor Code sections 203, 226, 226.7, 227.3, 246, 510, 512, 1194, 2802, and Business and

1 Professions Code sections 17200 *et seq.*, including claims for damages, penalties, interest,
2 liquidated damages, attorneys' fees, costs, injunctive relief, declaratory relief, or accounting
3 reasonably related to the allegations in the Complaint, (collectively, the "Settlement Class
4 Release"). The Settlement Class Release and the PAGA Release (defined in section 11.2 below)
5 shall be collectively referred to as the "Released Claims." "Released Claims" do not include claims
6 for vested benefits, wrongful termination, violation of the Fair Employment and Housing Act,
7 unemployment insurance, disability, social security, workers' compensation, or claims based on
8 facts occurring outside the Class Period.

9 11.1.1 All Settlement Class Members shall be bound by the release described in
10 Section 11.1 and considered Participating Class Members in this Settlement *unless* they formally
11 request exclusion from this Settlement by submitting a valid and timely Request for Exclusion or
12 comparable documentation.

13 11.1.2 Consistent with the foregoing, Settlement Class Members may not sue or
14 otherwise make a claim against any of the Released Parties that is in any way related to, arises out
15 of, or is connected with any of the Released Claims set forth in this section.

16 11.2 **Aggrieved Employees' Released Claims.** Upon the funding of the Gross
17 Settlement Amount by Defendant following the Effective Date (i.e., 75 days following the
18 Effective Date), Aggrieved Employees shall release any and all Private Attorneys General Act
19 (PAGA) claims under Labor Code section 2698 *et. seq.* or causes of action for the claims alleged
20 in, or that may arise out of, the First Amended Complaint and/or Amended LWDA Letter (which
21 is attached hereto as **Exhibit D**), or that could have reasonably been alleged in the First Amended
22 Complaint and Amended LWDA Letter, including but not limited to: California Labor Code
23 sections 201, 202, 203, 226, 226.7, 227.3, 246, 510, 512, 1174, 1174.5, 1175, 1194, 1197, 1197.1,
24 2698, and 2802, civil penalties, attorneys fees or costs, and any other applicable relief under
25 PAGA that could have reasonably been alleged in the First Amended Complaint and/or LWDA
26 letter (the "PAGA Release"). It is understood and acknowledged that the PAGA Release is
27 binding upon Representative Plaintiff and all Aggrieved Employees during the PAGA Period
28 from August 11, 2021 through the earlier of either 120 days from execution of this Agreement or

1 the date of preliminary approval of the Settlement. Aggrieved Employees, including those Class
2 Members who have opted out of the Settlement, are not able to opt out of the PAGA Penalty
3 Payment, including the release of PAGA Claims, defined herein.

4 **11.3 Class Representative Released Claims:** Upon the funding of the Gross Settlement
5 Amount by Defendant following the Effective Date (i.e., 75 days following the Effective Date), the
6 Class Representative on behalf of herself and her heirs, representatives, successors, assigns, and
7 attorneys, shall be deemed to have, and by operation of the Judgment shall have, fully, finally, and
8 forever released, finally, and forever released, relinquished, and discharged the Released Parties
9 from the following claims, which pursuant to the Agreement are being released through and
10 including the dates of the Class Period: the claims alleged or could have reasonably been alleged
11 based on the facts alleged in Plaintiff's Class Complaint, including all claims for any violation of
12 California Labor Code sections 203, 226, 226.7, 227.3, 246, 510, 512, 1194, 2802, and Business
13 and Professions Code sections 17200 *et seq.*, including claims for damages, penalties, interest,
14 punitive damages, liquidated damages, attorneys' fees, costs, injunctive relief, declaratory relief, or
15 accounting reasonably related to the allegations in the Complaint (collectively, the "Class
16 Representative Released Claims"). For the avoidance of doubt, the released PAGA claims
17 include, but are not limited claims or causes of action for civil penalties, attorneys fees or costs,
18 and any other applicable relief under PAGA, or that could have reasonably been alleged in the
19 First Amended Complaint, including but not limited to Labor Code sections 201, 202, 203, 226,
20 226.7, 227.3, 246, 510, 512, 1174, 1174.5, 1175, 1194, 1197, 1197.1, 2698, and 2802. The
21 Released Claims expressly exclude all unrelated claims including but not limited to claims for
22 retaliation, discrimination, unemployment insurance, disability, workers' compensation, and
23 claims outside the Class Period.

24 11.3.1 With regard to the Class Representative Released Claims, the Class
25 Representative does not provide a general release.

26 11.3.2 The Class Representative may hereafter discover facts in addition to or
27 different from those which they now know or believe to be true with respect to the subject matter of
28 the Class Representative Released Claims, but she shall be deemed to have, and by operation of the

1 Judgment shall have, fully, finally, and forever settled and released any and all Class Representative
2 Released Claims, known or unknown, suspected or unsuspected, contingent or non-contingent,
3 whether or not concealed or hidden, which then exist, or heretofore have existed upon any theory of
4 law or equity now existing or coming into existence in the future, including, but not limited to,
5 conduct which is negligent, intentional, with or without malice, or a breach of any duty, law or rule,
6 without regard to the subsequent discovery or existence of such different or additional facts.

7 **XII. MOTIONS FOR COURT APPROVAL**

8 12.1 **Motion for Preliminary Approval:** Class Counsel will file a motion for
9 preliminary approval within 3 days following the execution of this Agreement. Class Counsel
10 shall provide the motion to Defendant for review and comment at least one (1) business day before
11 the filing of the motion. Class Counsel shall file, if required by the Court: (i) this Agreement and its
12 Exhibits, (ii) a noticed motion seeking the Court's preliminary approval of this Settlement, (iii) a
13 proposed order granting such preliminary approval and setting hearing for final approval, and (iv)
14 any other document consistent with the Settlement and reasonably necessary to obtain the Court's
15 preliminary approval of the Settlement.

16 12.2 **Motion for Final Approval:** The Parties shall request that the motion for final
17 approval be set for hearing a reasonable period of time after the Notice Response Deadline, as the
18 Court's calendar will allow. Class Counsel shall prepare the motion for final approval of the
19 Settlement according to the timeline the Court directs, and shall provide to Defendant for review
20 and comment a draft motion for final approval at least five (5) business days before the filing of
21 the motion. Sufficiently in advance of the final approval hearing to meet the statutory notice
22 requirements, Plaintiff shall file with the Court: (i) a noticed motion for final approval which shall
23 include Class Counsel's motion for Attorneys' Fees, Litigation Expenses, and Service
24 Enhancement Payments, (ii) a proposed order granting final approval and entering Judgment
25 thereon, and (iii) any other documents consistent with the Settlement and reasonably necessary to
26 obtain the Court's final approval of the Settlement and entry of Judgment. The Parties will ask
27 the Court to maintain jurisdiction of this matter for the purpose of monitoring compliance with
28 and performance under this Agreement and any and all orders and judgments, including the

1 Judgment entered by the Court.

2 **XIII. RIGHT TO REVOKE**

3 13.1 **Defendant's Right to Revoke:** Defendant has the right in its sole and exclusive
4 discretion to terminate this Agreement and withdraw from the Settlement at any time prior to date
5 the Court enters the Final Approval Order on this Settlement if: (a) the Settlement is construed in
6 such a fashion that Defendant is required to pay more than the Gross Settlement Amount; or (b)
7 the Court denies Plaintiff's motion for preliminary approval of the Settlement with prejudice; or
8 (c) 5% or more of all Settlement Class Members timely and validly request exclusion from the
9 Settlement. In the event that Defendant exercises its right to revoke, Defendant shall be
10 responsible for all settlement administration costs incurred.

11 13.2 **Plaintiff's Right to Revoke:** During negotiations Defendant estimated that the
12 settlement class consisted of approximately 223 employees who worked approximately 34,974
13 Workweeks. If the actual number of Workweeks or Settlement Class Members exceeds this
14 estimate by twelve percent (12%) or more, then, Defendant, at its option, can increase the gross
15 settlement fund by the same percentage in excess of 12% (i.e., an 13% increase shall require an
16 additional 1% added to the gross settlement fund) or the Parties will agree to void the Agreement
17 and/or agree to renegotiate the Gross Settlement Fund regarding those workweeks exceeding
18 12%.

19 13.3 **Termination of Settlement Agreement:** If the conditions of the Settlement set
20 forth in this Agreement are not satisfied, or if Defendant or Plaintiff terminate and withdraw from
21 the Agreement pursuant to Sections 13.1 or 13.2 above, or if the Court does not enter the Final
22 Approval Order as provided for in this Agreement, or if appellate review is sought and on such
23 review the Court's Final Approval Order is materially modified or reversed, or if one or more of the
24 terms of the Settlement is not approved or the Settlement with respect to one or more such terms is
25 materially modified or reversed, then this Settlement shall be canceled, terminated, and shall have
26 no force or effect, and any class certified for settlement purposes will be vacated. In such an
27 event, neither the Agreement, nor the settlement documents, nor the negotiations leading to the
28 Settlement may be used as evidence for any purpose, and Defendant shall retain the right to

1 challenge all claims and allegations in the Lawsuit, to assert all applicable defenses, and to dispute
2 the propriety of class certification on all applicable grounds. If the Effective Date does not occur
3 (due to failure of the Court to grant final approval or otherwise), or if this Settlement is terminated,
4 revoked, or canceled pursuant to its terms, the Parties to this Settlement shall be deemed to have
5 reverted to their respective status as of the date immediately prior to the execution of this
6 Settlement. Notwithstanding this provision, the Parties hereby stipulate that the terms of Section
7 15.12 shall survive and be admissible in evidence even if the Settlement does not become final.

8 **XIV. COOPERATION**

9 14.1 The Parties shall cooperate fully with one another in seeking approval of the Court
10 of this Agreement and to use their respective best efforts to consummate the Settlement and cause
11 the Final Approval Order and Judgment to be entered and to become final. The Parties therefore
12 agree to cooperate in good faith to promptly prepare, execute and finalize all Settlement-related
13 documents, seek all necessary Court approvals, and do all other things necessary to consummate
14 the Settlement. The Parties also agree to mutually seek to stay any pending or subsequently filed
15 class action lawsuits that allege any of the Released Claims set forth in Section 11 of this
16 Agreement.

17 14.2 No Party to this Agreement shall seek to evade his, her, or its good faith
18 obligations to seek approval and implementation of this Settlement by virtue of any ruling, order,
19 governmental report, or other development, whether in the Lawsuit, in any other litigation, or
20 otherwise, that hereafter might occur and might be deemed to alter the relative strengths of the
21 Parties with respect to any claims or defenses or their relative bargaining power with respect to
22 negotiating.

23 14.3 The Parties and their respective counsel of record deem this Settlement to be fair
24 and reasonable and have arrived at this Settlement after arms-length negotiations taking into
25 account all relevant factors, present and potential.

26 14.4 The Class Representative and Class Counsel agree to waive appeals of an order
27 granting final approval of this Settlement or entering Judgment in the Lawsuit as to Defendant so
28 long as such order is consistent with the material terms of this Agreement, with the exception of

1 appeals concerning the Court's award of attorneys' fees or costs in this matter.

2 14.5 Other than as necessary to implement the Settlement, neither Plaintiff nor Class
3 Counsel shall initiate any publicity, disclosure or contact with the media, or respond to any
4 inquiry from the media, regarding the Settlement other than to confirm that this Action has
5 settled. Any confirmation of settlement shall remain confidential until Notice is mailed.

6 **XV. MISCELLANEOUS PROVISIONS**

7 15.1 All of the Parties have been represented by counsel throughout all negotiations that
8 preceded the execution of this Agreement, and this Agreement is made with the consent and
9 advice of counsel.

10 15.2 This Agreement may not be modified or amended, except in a writing that is
11 signed by the respective counsel of record for the Parties and approved by the Court.

12 15.3 This Agreement and its Exhibits attached hereto constitute the entire agreement
13 between the Parties concerning the subject matter hereof, and supersede and replace all prior
14 negotiations, understandings, memoranda of understanding and proposed agreements, written and
15 oral, relating thereto. No extrinsic oral or written representations or terms shall modify, vary, or
16 contradict the terms of the Agreement unless made in writing, signed by duly authorized
17 representatives of all Parties, and approved in writing by a final order of the Court. No waiver of
18 any term, provision, or condition of this Agreement, whether by conduct or otherwise, in any one
19 or more instance shall be deemed to be or construed as a further or continuing waiver of any such
20 term, provision or condition.

21 15.4 This Agreement shall be subject to, governed by, construed, enforced, and
22 administered in accordance with the laws of the State of California, without giving effect to the
23 principles of conflict of laws, both in its procedural and substantive aspects, and shall be subject to
24 the continuing jurisdiction of the Court. This Agreement shall be construed as a whole according to
25 its fair meaning and intent, and not strictly for or against any party, regardless of who drafted (or
26 was principally responsible for drafting) this Agreement or any specific term or condition thereof.
27 In any construction to be made of the Agreement, the Agreement shall not be construed against any
28 party and the canon of contract interpretation set forth in California Civil Code section 1654 shall

1 not be applied.

2 15.5 The Settlement shall be binding upon and inure to the benefit of the Settling
3 Parties' respective successors, assigns, heirs, spouses, marital communities, executors,
4 administrators and legal representatives. The Agreement and Settlement are not designed to and
5 do not create any third-party beneficiaries either express or implied.

6 15.6 The Parties agree they can consult mediator Hon. Amy D. Hogue to advise on
7 disputes that may arise in connection with interpreting the terms of the Settlement. However,
8 Judge Hogue's opinions will be non-binding on the Parties and the Parties agree only the Court
9 shall retain jurisdiction with respect to disputes that may arise in connection with interpreting the
10 terms of the Agreement, and the implementation and enforcement of the terms of the Agreement,
11 and all Parties hereto submit to the jurisdiction of the Court for purposes of implementing and
12 enforcing the terms of the Agreement.

13 15.7 This Agreement may be executed in one or more counterparts, each of which shall
14 be deemed an original and together shall constitute one and the same instrument. When each of
15 the Parties has signed at least one such counterpart, this Agreement shall become effective and
16 binding as to all of the Parties as of the day and year last executed. Fax and/or electronically
17 scanned signatures, including signatures made via DocuSign or a similar service, shall be deemed
18 as effective as originals.

19 15.8 The Parties hereto represent, covenant, and warrant that they have not directly or
20 indirectly, assigned, transferred, encumbered, or purported to assign, transfer, or encumber to any
21 person or entity any portion of any liability, claim, demand, action, cause of action or rights
22 herein released and discharged except as set forth herein.

23 15.9 Each individual signing this Agreement warrants that he or she has the authority
24 and is expressly authorized to enter into this Agreement on behalf of the party (or parties) for
25 which that individual signs.

26 15.10 Any notices or other documents that must or may be transmitted to Class Counsel
27 and/or Defendant's Counsel, pursuant to any section of this Agreement, shall be transmitted to the
28 addresses set forth in the definitions of Class Counsel and Defendant's Counsel, respectively, set

1 forth above.

2 15.11 The Parties and all counsel acknowledge and agree that for the purposes of any
3 claims, actions, and/or proceedings arising out of this Agreement, notice provided to Class
4 Counsel shall be deemed to be notice to the Plaintiff.

5 15.12 The Parties have stipulated to stay any and all deadline(s) to bring the case to trial,
6 including pursuant to Cal. Civ. Code Section 583.130. This stay shall remain in place until such
7 time as the Settlement is either approved or nullified, as set forth herein.

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[signatures on following page]

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IN WITNESS WHEREOF, each of the undersigned has agreed to and accepted the foregoing terms and conditions by executing this Agreement as of the date indicated below.

APPROVED AND AGREED:

Dated: 8/7/2024

DocuSigned by:
Ragini Mal
A9604B2E2E0A492
By: _____
Ragini Mal
Representative Plaintiff

Dated: _____

DEFENDANT BANK OF THE WEST

By: _____
Angela Perez, Executive Vice President,
Head of Employee Relations
Defendant BMO Harris Bank, N.A. (as successor
in interest to Bank of the West)

APPROVED AS TO FORM:

Dated: 08/07/2024

JAMES HAWKINS, APLC

By: *Ava Issary*

JAMES HAWKINS
GREG MAURO
AVA ISSARY
Attorneys for Plaintiff RAGINI MAL and the
Settlement Class

Dated: _____

ORRICK HERRINGTON & SUTCLIFFE LLP

By: _____
ANDREW R. LIVINGSTON
KAYLA D. GRUNDY
Attorneys for Defendant BMO Harris Bank, N.A.,
(as successor in interest to BANK OF THE
WEST)

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IN WITNESS WHEREOF, each of the undersigned has agreed to and accepted the foregoing terms and conditions by executing this Agreement as of the date indicated below.

APPROVED AND AGREED:

Dated: _____

By: _____

Ragini Mal
Representative Plaintiff

Dated: 8/8/2024

DEFENDANT BANK OF THE WEST

By: Angie Perez

Angela Perez, Executive Vice President,
Head of Employee Relations
Defendant BMO Harris Bank, N.A. (as successor
in interest to Bank of the West)

APPROVED AS TO FORM:

Dated: _____

JAMES HAWKINS, APLC

By: _____

JAMES HAWKINS
GREG MAURO
AVA ISSARY
Attorneys for Plaintiff RAGINI MAL and the
Settlement Class

Dated: 8/8/2024

ORRICK HERRINGTON & SUTCLIFFE LLP

By: Andrew Livingston

ANDREW R. LIVINGSTON
KAYLA D. GRUNDY
Attorneys for Defendant BMO Harris Bank, N.A.,
(as successor in interest to BANK OF THE
WEST)

1 JAMES HAWKINS APLC
James R. Hawkins (#192925)
2 Gregory Mauro (#222239)
3 Michael Calvo (#314986)
Lauren Falk (#316893)
4 Ava Issary (#342252)
9880 Research Drive, Suite 200
5 Irvine, CA 92618
Tel.: (949) 387-7200
6 Fax: (949) 387-6676
7 Email: James@jameshawkinsaplc.com
Email: Greg@jameshawkinsaplc.com
8 Email: Michael@jameshawkinsaplc.com
Email: Lauren@jameshawkinsaplc.com
9 Email: Ava@jameshawkinsaplc.com

10 Attorneys for Plaintiff RAGINI MAL,
11 individually and on behalf of all others similarly situated

12 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
13 **FOR THE COUNTY OF ORANGE**

14 RAGINI MAL, individually and on behalf of all
others similarly situated,

15 Plaintiff,

17 v.

18 BANK OF THE WEST and DOES 1-50,
19 inclusive,

20 Defendant

Case No. 30-2022-01251706-CU-OE-CXC
Case No. 30-2022-01262144-CU-OE-CXC

ASSIGNED FOR ALL PURPOSES TO:
Honorable Melissa R. McCormick, Dept. 104

**AMENDMENT NO.1 TO SETTLEMENT
AGREEMENT**

Date: May 15, 2025
Time: 2:00 PM
Dept.: CX104

Reservation number: 74357095

1 **AMENDMENT NO.1 TO SETTLEMENT AGREEMENT**

2 Plaintiff Ragini Mal ("Plaintiff") and Defendant Bank of the West ("Defendant")
3 (together, the "Parties") pursuant to Paragraph 15.2 of the Amended Class and PAGA Action
4 Settlement Agreement entered into on or around August 8, 2024 ("Agreement"), hereby agree to
5 amend the terms of the Agreement, as stated herein. Other than as expressly set forth herein, the
6 terms and conditions of the Agreement shall remain in full force and effect.

7 **Agreement Revisions**

8 The following paragraphs of the Agreement are replaced or otherwise modified as
9 follows:

10 1. All references to "Class Action Settlement Agreement" are revised to state "Class
11 Action and PAGA Settlement Agreement."

12 2. Paragraph 3.1 is replaced with the following:

13 "Aggrieved Employees" means all current and former non-exempt employees of
14 Defendant who worked within the CESS Division of Defendant in California between
15 August 11, 2021 and December 5, 2024 (120 days following the execution of the
16 Agreement) (the "PAGA Period").

17 3. Paragraph 3.6 is replaced with the following:

18 "Class Period" means the period from March 23, 2018 through December 5, 2024 (120
19 days following the execution of this Agreement).

20 4. Paragraph 3.22 is revised to include the Objection Form as Exhibit D to the Agreement,
21 which is attached hereto. The Notice (Exhibit A) and Exclusion Form (Exhibit B) have been
22 modified and are replaced with the exhibits attached hereto.

23 5. The Notice Period defined in Paragraph 3.24 of the Agreement is modified from 45 days
24 to 60 days.

25 6. Reference to "PAGA Work Weeks" in Paragraph 3.28 is replaced with "PAGA Pay
26 Periods."

27 7. Paragraph 3.33 is replaced with the following:

28 "Released Parties" means Defendant and each and all of its respective past and present

1 parents, subsidiaries, affiliated companies and corporations, and each and all of their
2 respective past and present directors, officers, managers, employees, general partners,
3 limited partners, principals, agents, shareholders, predecessors, successors, divisions,
4 joint venturers, and assigns.

5 8. The first sentence of paragraph 8.2 is replaced with the following to account for a
6 reduction in attorney's fees from 35% to 30%:

7 Class Counsel will submit an application for: (a) an award of One Hundred Eighteen
8 Thousand Five Hundred U.S. Dollars and No Cents (\$118,500.00) or no more than 30% of
9 the Gross Settlement Amount; and (b) an award of Class Counsel's actual Litigation
10 Expenses to date plus any expenses incurred between the date this Settlement Agreement is
11 executed and the date of final approval, estimated not to exceed \$16,000 (as documented on
12 an itemized cost sheet with appropriate support), both of which would be paid out of the
13 Gross Settlement Amount.

14 9. The references in paragraph 8.4 to "pay periods" are revised to reflect "PAGA Pay
15 Periods" as defined in paragraph 3.28.

16 10. Paragraph 9.5 is replaced with the following:

17 **Disputes Regarding Work Weeks:** In calculating each individual Settlement Class
18 Member's share of the settlement, Defendant's reasonably available records regarding the
19 Work Weeks of Class Members shall be presumed to be correct. Settlement Class
20 Members will be provided with the individualized information upon which their
21 respective shares of the Net Settlement Amount will be based. Settlement Class
22 Members who dispute Defendant's records must submit a challenge in writing to the
23 Settlement Administrator and will bear the burden of proof, *i.e.*, a Class Member who
24 fails to provide written documentation supporting a different the number of Work Weeks
25 than that specified in his or her Notice will have his or her dispute denied. All such
26 disputes must be submitted to the Settlement Administrator by the Notice Response
27 Deadline (as evidenced by the date of the postmark of the submission). Defendant will
28 investigate the dispute and cooperate with the Settlement Administrator, as necessary, to

1 resolve any such disputes. The Settlement Administrator shall ultimately determine the
2 number of Work Weeks for the Settlement Class Member raising the dispute based on
3 Defendant’s records and any documentation submitted by the Settlement Class Member.
4 Once the time for disputes has expired, the Parties shall file with the Court all disputes
5 submitted by Settlement Class Members, the evidence submitted, and the resolution of
6 the disputes. Although the Settlement Administrator will make the initial decision
7 regarding such claim disputes, the Court may review any decision made by the Settlement
8 Administrator regarding a claim dispute. In no case will a dispute regarding the number
9 of Work Weeks result in a payment by Defendant in excess of the Gross Settlement
10 Amount.

11 11. Paragraph 11.1 is revised to include the following footnote after the first reference to the
12 First Amended Class Complaint:

13 Plaintiff filed the First Amended Complaint on February 7, 2025. The Parties agreed that
14 the Bank need not file an Answer to the First Amended Complaint and that its prior
15 Answer is deemed responsive to the First Amended Complaint.

16 12. Paragraph 11.2 is replaced as follows:

17 Upon the funding of the Gross Settlement Amount by Defendant following the Effective
18 Date (i.e., 75 days following the Effective Date), Aggrieved Employees shall release any
19 and all Private Attorneys General Act (PAGA) claims under Labor Code section 2698 *et*.
20 *seq.* or causes of action arising from the factual allegations in the Operative Complaint
21 and Amended LWDA Letter, including California Labor Code sections 201, 202, 203,
22 226, 226.7, 227.3, 246, 510, 512, 1174, 1174.5, 1175, 1194, 1197, 1197.1, 2698, and
23 2802, *See LaCour v. Marshalls of California, LLC*, 94 Cal. App. 5th 1172, 1194 (2023)
24 (explaining how plaintiff’s notice letter to the LWDA, in addition to the operative
25 complaint, shapes the scope of an effective release). (the “PAGA Release”). It is
26 understood and acknowledged that the PAGA Release is binding upon Representative
27 Plaintiff and all Aggrieved Employees during the PAGA Period from August 11, 2021
28 through December 5, 2024. Aggrieved Employees, including those Class Members who

1 have opted out of the Settlement, are not able to opt out of the PAGA Penalty Payment,
2 including the release of PAGA Claims, defined herein.

3 13. The approximate number of class members identified in paragraph 13.2 is revised to
4 state 230.

5
6 Dated: May 2, 2025

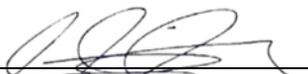
JAMES HAWKINS, APLC

7
8 By:  _____

9 JAMES HAWKINS
10 GREG MAURO
11 AVA ISSARY
12 Attorneys for Plaintiff RAGINI MAL and the
13 Settlement Class

14
15 Dated: May 2, 2025

ORRICK HERRINGTON & SUTCLIFFE LLP

16
17 By:  _____

18 ANDREW R. LIVINGSTON
19 KAYLA D. GRUNDY
20 Attorneys for Defendant BMO Harris Bank,
21 N.A.,
22 (as successor in interest to BANK OF THE
23 WEST)

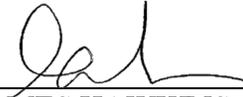
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have opted out of the Settlement, are not able to opt out of the PAGA Penalty Payment, including the release of PAGA Claims, defined herein.

13. The approximate number of class members identified in paragraph 13.2 is revised to state 230.

Dated: 05/05/2025

JAMES HAWKINS, APLC

By: 
JAMES HAWKINS
GREG MAURO
AVA ISSARY
Attorneys for Plaintiff RAGINI MAL and the Settlement Class

Dated: _____

ORRICK HERRINGTON & SUTCLIFFE LLP

By: _____
ANDREW R. LIVINGSTON
KAYLA D. GRUNDY
Attorneys for Defendant BMO Harris Bank, N.A.,
(as successor in interest to BANK OF THE WEST)

Dated: 5/2/2025

By: 
Ragini Mal
Representative Plaintiff

Dated: 8/28/2025

DEFENDANT BANK OF THE WEST

By: 
Angela Perez, Executive Vice President,
Head of Employee Relations
Defendant BMO Harris Bank, N.A. (as successor in interest to Bank of the West)

1 JAMES HAWKINS APLC
 James R. Hawkins (#192925)
 2 Gregory Mauro (#222239)
 3 Michael Calvo (#314986)
 Lauren Falk (#316893)
 4 Ava Issary (#342252)
 9880 Research Drive, Suite 200
 5 Irvine, CA 92618
 Tel.: (949) 387-7200
 6 Fax: (949) 387-6676
 7 Email: James@jameshawkinsaplc.com
 Email: Greg@jameshawkinsaplc.com
 8 Email: Michael@jameshawkinsaplc.com
 Email: Lauren@jameshawkinsaplc.com
 9 Email: Ava@jameshawkinsaplc.com

10 Attorneys for Plaintiff RAGINI MAL,
 11 individually and on behalf of all others similarly situated

12 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
 13 **FOR THE COUNTY OF ORANGE**

14 RAGINI MAL, individually and on behalf of all
 others similarly situated,

15 Plaintiff,

17 v.

18 BANK OF THE WEST and DOES 1-50,
 19 inclusive,

20 Defendant

Case No. 30-2022-01251706-CU-OE-CXC
 Case No. 30-2022-01262144-CU-OE-CXC

ASSIGNED FOR ALL PURPOSES TO:
 Honorable Melissa R. McCormick, Dept. 104

**AMENDMENT NO.2 TO SETTLEMENT
 AGREEMENT**

Date: August 28, 2025
 Time: 2:00 PM
 Dept.: CX104

Reservation number: 74357095

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AMENDMENT NO.2 TO SETTLEMENT AGREEMENT

Plaintiff Ragini Mal ("Plaintiff") and Defendant BMO Bank, N.A. (as successor in interest to Bank of the West and formerly known as BMO Harris Bank, N.A.) ("Defendant") (together, the "Parties") pursuant to Paragraph 15.2 of the Amended Class and PAGA Action Settlement Agreement entered into on or around August 8, 2024 ("Agreement"), hereby agree to amend the terms of the Agreement and/or Amendment No. 1 to the Settlement Agreement dated May 2, 2025, as stated herein. Other than as expressly set forth herein, the terms and conditions of the Agreement as modified by Amendment No. 1 shall remain in full force and effect.

Agreement Revisions

The following paragraphs of the Agreement are replaced or otherwise modified as follows:

1. Paragraph 3.28 is replaced with the following:
"PAGA Pay Periods" means the total number of pay periods worked by an Aggrieved Employee during the PAGA Period. As of the date of mediation, March 20, 2024, there are approximately 7,100 PAGA Pay Periods.
2. Paragraph 3.33 is replaced with the following:
"Released Parties" means Defendant, its corporate parent Bank of Montreal and its affiliate BMO Financial Corporation, and each and all of their respective past and present parents and subsidiaries, and each and all of their respective past and present directors, officers, managers, employees, principals, shareholders, predecessors, successors, divisions, and assigns.
3. Paragraph 8.5 is revised to reflect that Plaintiff seeks approval for a Service Enhancement Payment of \$5,000.
4. Paragraph 11.2 is replaced as follows:
Upon the funding of the Gross Settlement Amount by Defendant following the Effective Date (i.e., 75 days following the Effective Date), Aggrieved Employees shall release any and all Private Attorneys General Act (PAGA) claims for civil penalties under Labor Code section 2698 *et. seq.* arising from the factual allegations in the Operative Complaint

1 and Amended LWDA Letter, including California Labor Code sections 201, 202, 203,
2 226, 226.7, 227.3, 246, 510, 512, 1174, 1174.5, 1175, 1194, 1197, 1197.1, 2698, and
3 2802(the "PAGA Release"). It is understood and acknowledged that the PAGA Release
4 is binding upon Representative Plaintiff and all Aggrieved Employees during the PAGA
5 Period from August 11, 2021 through December 5, 2024. Aggrieved Employees,
6 including those Class Members who have opted out of the Settlement, are not able to opt
7 out of the PAGA Penalty Payment, including the release of PAGA Claims, defined
8 herein.

9
10
11 Dated: 8/11/2025 _____

DocuSigned by:
Ragini Mal
By: _____
Ragini Mal
Representative Plaintiff

12
13 Dated: 8/12/2025 _____

DEFENDANT BANK OF THE WEST

14
15 By: *Angie Perez*
16 _____
17 Angela Perez, Executive Vice President,
18 Head of Employee Relations
19 Defendant BMO Bank, N.A. (as successor in
20 interest to Bank of the West and formerly BMO
21 Harris Bank, N.A.)

22 Dated: 08/11/2025 _____

JAMES HAWKINS, APLC

23 By: *[Signature]*
24 _____
25 JAMES HAWKINS
26 GREG MAURO
27 AVA ISSARY
28 Attorneys for Plaintiff RAGINI MAL and the
Settlement Class

26 Dated: 8/12/2025 _____

ORRICK HERRINGTON & SUTCLIFFE LLP

27 By: *Andrew Livingston*
28 _____
ANDREW R. LIVINGSTON
KAYLA D. GRUNDY

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Attorneys for Defendant BMO Bank, N.A.,
(as successor in interest to BANK OF THE
WEST)