

FILED
KERN COUNTY SUPERIOR COURT
12/1/2022

BY Dickey, Leslie
DEPUTY

THIERMAN BUCK LLP
MARK R. THIERMAN, SB# 72913
mark@thiermanbuck.com
JOSHUA D. BUCK, SB# 258325
josh@thiermanbuck.com
LEAH L. JONES, SB# 276448
leah@thiermanbuck.com
JOSHUA R. HENDRICKSON, SB# 282180
joshh@thiermanbuck.com
7287 Lakeside Drive
Reno, NV 89511
Tel: 775.284.1500
Fax: 775.703.5027

Attorneys for Plaintiff and Punitive Class

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF KERN

CHARLOTTE LEE, on behalf of herself
and all other similarly situated individuals,

Plaintiff,

vs.

BANK OF AMERICA CORPORATION, a
Delaware Corporation doing business in
California; BANK OF AMERICA,
NATIONAL ASSOCIATION, a national
association bank doing business in
California; and DOES 1 through 50,
inclusive,

Defendant(s).

Case No. BCV-21-100770

**STIPULATION RE ~~[PROPOSED]~~ FINAL
APPROVAL ORDER AND JUDGMENT**

THIERMAN BUCK LLP
7287 Lakeside Drive
Reno, NV 89511
(775) 284-1500 Fax (775) 703-5027
Email info@thiermanbuck.com www.thiermanbuck.com

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

Pursuant to Court order during the November 2, 2022, hearing on Plaintiff’s Motion for Final Approval of Class Action and PAGA Settlement (“Motion for Final Approval”), Plaintiff Charlotte Lee (“Plaintiff”) and Defendant Bank of American, N.A. (“Defendant”) hereby stipulate and agree to the form and content of the proposed Final Approval Order and Judgment for this Court’s signature, attached hereto as Exhibit A.

Dated: November 10, 2022

Respectfully Submitted,
THIERMAN BUCK, LLP
By: /s/ Joshua D. Buck
Joshua D. Buck
Mark R. Thierman
Leah L. Jones
Joshua R. Hendrickson

Attorneys for Plaintiff and Punitive Class

Dated: November 10, 2022

Respectfully Submitted,
O’MELVENY & MEYERS, LLP
By: /s/ Adam P. KohSweeny
Adam P. KohSweeny
Racquel B. Martin

Attorneys for Defendant Bank of America Corporation and Bank of America, National Association

EXHIBIT A

~~[Proposed]~~ Final Approval
Order and Judgment

EXHIBIT A

THIERMAN BUCK LLP
7287 Lakeside Drive
Reno, NV 89511
(775) 284-1500 Fax (775) 703-5027
Email info@thiermanbuck.com www.thiermanbuck.com

1 **THIERMAN BUCK LLP**
MARK R. THIERMAN, SB# 72913
mark@thiermanbuck.com
2 JOSHUA D. BUCK, SB# 258325
josh@thiermanbuck.com
3 LEAH L. JONES, SB# 276448
leah@thiermanbuck.com
4 JOSHUA R. HENDRICKSON, SB# 282180
joshh@thiermanbuck.com
5 7287 Lakeside Drive
6 Reno, NV 89511
7 Tel: 775.284.1500
Fax: 775.703.5027

8 *Attorneys for Plaintiff and Punitive Class*

9 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
10 **FOR THE COUNTY OF KERN**

11 CHARLOTTE LEE, on behalf of herself
12 and all other similarly situated individuals,

13 Plaintiff,

14 vs.

15 BANK OF AMERICA CORPORATION, a
16 Delaware Corporation doing business in
17 California; BANK OF AMERICA,
18 NATIONAL ASSOCIATION, a national
19 association bank doing business in
California; and DOES 1 through 50,
inclusive,

20 Defendant(s).

Case No. BCV-21-100770

~~PROPOSED~~ **FINAL APPROVAL
ORDER AND JUDGMENT**

21
22 This matter has come before the Honorable Thomas S. Clark in Department 17 of the
23 above-entitled Court, located at Metro Division, 1415 Truxton Avenue, Bakersfield, California
24 93301, on November 2, 2022, Plaintiff’s Motion for Final Approval of Class Action and PAGA
25 Settlement (“Motion for Final Approval”). Joshua D. Buck with Thierman Buck, LLP, appeared
26 on behalf of Plaintiff, and Racquel B. Martin with O’Melveny & Myers, LLP, appeared on behalf
27 of Bank of American, N.A. (“Defendant”).
28

1 On February 14, 2022, the Court entered an Order Granting Preliminary Approval of
2 Class Action Settlement (“Preliminary Approval Order”), thereby preliminarily approving the
3 settlement, of the above-entitled action (“Action”) in accordance with the Joint Stipulation of
4 Class Action and PAGA Settlement (“*Lee Settlement.*”)), which, together with the exhibits
5 annexed thereto, set forth the terms and conditions for settlement of the Action.

6 Having reviewed the *Lee Settlement* and duly considered the parties’ papers and oral
7 argument, and good cause appearing.

8 **THE COURT HEREBY ORDERS ADJUDGES, AND DECREES AS FOLLOWS:**

9 1. All terms used herein shall have the same meaning as defined in the Settlement
10 Agreement and the Preliminary Approval Order.

11 2. This Court has jurisdiction over the claims of the Class Members asserted in this
12 proceeding and over all parties to the Action.

13 3. The Court finds that the applicable requirement of California Code of Civil
14 Procedure section 382 and California Rules of Court 3.769, *et seq.* have been satisfied with
15 respect to the Class and the Settlement. The Court hereby makes final its earlier provisional
16 certification of the Class for settlement purposes, as set forth in the Preliminary Approval Order.

17 The Class is hereby defined to include:

18 All non-exempt Loan Officers of BofA who held a job title of
19 Lending Associate (SM171), FC Lending Officer (SM61 1), FC
20 Lending Consultant (SM612), and Senior FCLO (SM614), and who
21 were employed by BofA at any time from February 1, 2019, through
22 February 14, 2022. the Settlement.

23 4. The Notice of Class Action and PAGA Settlement (“Class Notice” or “Notice
24 Packet”) that was provided to the Class Members fully and accurately informed the Class
25 Members of all material elements of the Settlement and of their opportunity to participate in,
26 object to or comment thereon, or to seek exclusion from, the Settlement; were the best notice
27 practicable under the circumstances; were valid, due, and sufficient notice to all Class Members;
28 and complied fully with the laws of the State of California, the United States Constitution, due
process and other applicable law. The Notice Packet fairly and adequately described the

1 Settlement and provided the Class Members with adequate instructions and a variety of means
2 to obtain additional information.

3 5. Pursuant to California law, the Court hereby grants final approval of the
4 Settlement and finds it reasonable, adequate, and in the best interests of the Class as a whole.
5 More specifically, the Court finds that the Settlement was reached following meaningful
6 discovery and investigation conducted by Class Counsel; that the Settlement is the result of
7 serious, informed, adversarial, and arms-length negotiations between the parties; and that the
8 terms of the Settlement are in all respects fair, adequate, and reasonable. In so finding, the Court
9 has considered all of the evidence presented, including evidence regarding the strength of the
10 Plaintiff’s case; the risk expense and complexity of the claims presented; the likely duration of
11 further litigation; the amount offered in the Settlement; the extent of investigation and discovery
12 completed; and the experience and views of Class Counsel. The Court has further considered
13 the absence of remaining objections to the Settlement and that there were only five (5) valid and
14 timely requests to be excluded from the Settlement submitted by Class Members. Accordingly,
15 the Court hereby directs that the Settlement be affected in accordance with the Settlement
16 Agreement and the following terms and conditions.

17 6. A full opportunity has been afforded to the Class Members to participate in the
18 Final Approval Hearing, and all Class Members and other persons wishing to be heard have been
19 heard. The Class Members also have had a full and fair opportunity to exclude themselves from
20 the Settlement. Accordingly, the Court determines that all Class Members who did not submit a
21 timely and valid request for exclusion to the Settlement Administrator (“Settlement Class
22 Members”) are bound by this Final Approval Order and Judgment.

23 7. The Court finds that payment of Settlement Administration Costs in the amount
24 of \$12,500.00 is appropriate for the services performed and costs incurred and to be incurred for
25 the notice and settlement administration process. It is hereby ordered that the Settlement
26 Administration, ILYM Group, Inc., shall issue payment to itself in the amount of \$12,500.00 in
27 accordance with the *Lee* Settlement.
28

1 8. The Court finds that the Service Payment sought for the Class Representative is
2 fair and reasonable for the work performed by the Plaintiff on behalf of the Class and in
3 consideration for the fact that Plaintiff has executed a general release of all known and unknown
4 claims against Defendant as further consideration. It is hereby ordered that the Settlement
5 Administrator issue payment to Plaintiff Charlotte Lee as Class Representative in the amount of
6 \$25,000.00 for her Class Representative Service Payment, according to the *Lee* Settlement.

7 9. The Court finds that the allocation of \$50,000.00 toward penalties under the
8 California Private Attorneys General Act of 2004 (“PAGA”), is fair, reasonable, and appropriate,
9 and hereby approved. The Settlement Administrator shall distribute PAGA penalties as follows:
10 the amount of \$37,500.00 to the California Labor and Workforce Development Agency, and the
11 amount of \$12,500.00 to be included in the Net Settlement Amount for distribution to
12 Participating Class Members, according to the terms set forth in the *Lee* Settlement.

13 10. The Court finds that the request for attorneys’ fees in the amount of \$663,333.33
14 falls within the range of reasonableness, and the results achieved justify the award sought. The
15 requested attorneys’ fees are fair, reasonable, and appropriate and are hereby approved. It is
16 hereby ordered that the Settlement Administrator issue payment in the amount of \$663,333.33 to
17 Thierman Buck, LLP as Class Counsel for attorneys’ fees in accordance with the *Lee* Settlement.

18 11. The Court finds that reimbursement of litigation costs and expenses in the amount
19 of \$15,221.99 to Class Counsel is reasonable, and hereby approved. It is hereby ordered that the
20 Settlement Administrator issue payment in the amount of \$15,221.99 to Thierman Buck, LLP for
21 reimbursement of litigation costs and expenses, in accordance with the *Lee* Settlement..

22 12. The Court hereby enters Judgment by which Settlement Class Members shall be
23 conclusively determined to have given a release of any and all Release Claims against the
24 Released Parties, as set forth in the *Lee* Settlement and Notice Packet.

25 13. It is hereby ordered that the Settlement Administrator shall distribute Settlement
26 Payments to each Class Member who did not submit a timely and valid request to be excluded
27 (“Participating Class Member”) within five (5) calendar days after the Effective Date, according
28

1 to the methodology and terms set forth in the Settlement Agreement.

2 14. It is hereby ordered that funds associated with any and all Settlement payment
3 checks issued to Participating Class Members that are not cashed or deposited within one hundred
4 eighty (180) calendar days after they are issued shall be paid to the State of California as
5 unclaimed wages under the name of the Settling Class Member pursuant to the escheat
6 procedures set forth in the California Code of Civil Procedure section 1300, *et seq.*


7 15. After entry of this Final Approval Order and Judgment, pursuant to California
8 Rules of Court, Rule 3.769(h), the Court shall retain jurisdiction to construe, interpret,
9 implement, and enforce the Settlement Agreement and this Final Approval Order and Judgment
10 to be heard and resolve any contested challenge to a claim for settlement benefits, and to
11 supervise and adjudicate any dispute arising from or in connection with the distribution of
12 settlement benefits.

13 16. It is hereby ordered that a status check regarding the status of settlement fund
14 distribution is set for April 12, 2023, at 8:30 a.m. in Department 17.

15 17. It is further ordered that within five (5) days after entry of this order, a copy of
16 this order shall be posted on the Settlement Administrator website for a minimum of sixty (60)
17 days.

Signed: 12/1/2022 12:58 PM

18
19 Dated: 12/01/2022



HONORABLE THOMAS S. CLARK
JUDGE OF THE SUPERIOR COURT

20
21 BCV-21-100770