

Bank of the West Settlement  
Settlement Administrator  
c/o A.B. Data, Ltd.  
P.O. Box 173132  
Milwaukee, WI 53217

## **CALIFORNIA NOTICE OF PENDING CLASS ACTION SETTLEMENT**

<<NoticeID>>  
<<Barcode>>

<<NAME1>>  
<<STREET1>>  
<<CITY>>, <<STATE>> <<ZIP>>

*This notice is being sent pursuant to court order. This is not a solicitation from a lawyer.*

### **CALIFORNIA NOTICE OF PENDING CLASS ACTION SETTLEMENT**

*Gonzalez, et al. v. Bank of the West*  
California court, Case No. 23CV001422

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**If you were employed by Bank of the West as a non-exempt classified Mortgage Banker, Mortgage Banker HC NonNetwork, Mortgage Banker Private, and/or Mortgage Banker Std NonNetwork (“Covered Position”) in California at any time from March 24, 2018, through January 27, 2023, you could be a Class Member and receive a payment from a proposed class action settlement.**

*You are not being sued. Read this notice carefully, as your legal rights could be affected whether you act or not.*

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The Superior Court of California for the County of Sacramento (the “Court”) has preliminarily approved a class action settlement that may affect your legal rights. The proposed settlement resolves a class action lawsuit filed by Jose Gonzalez, David Lu, Requiba Herndon-Allen, David Daniel, and Martin Bermudez (collectively, “Plaintiffs”) against Bank of the West (“BOTW”) - *Gonzalez, et al. v. Bank of the West*, Sup. Ct. Sacramento Co., Case No. 23CV001422 (the “Lawsuit”).

- This Lawsuit is based on various allegations pursuant to California law, including but not limited to, Plaintiffs’ claims that BOTW failed to reimburse Class Members for necessary business expenses. The lawsuit also asserts violations of the California Private Attorneys General Act of 2004 (“PAGA”). Depending on your dates of employment, you may qualify for recovery under those claims as part of this settlement to the extent the Court grants final approval of this settlement.
- The settlement provides cash payments to Class Members who worked for BOTW in California in a Covered Position at any time from March 24, 2018, through January 27, 2023 (the “Class Period”), based on the number of months each Class Member worked during the Class Period. As an individual eligible to participate in the settlement, to the extent the Court grants final approval of the settlement, you are estimated to receive a gross settlement payment related to the class claims of approximately \$<<EstimatedAward>>.
- To the extent the Court grants final approval of the settlement, the settlement also provides for additional cash payments to Class Members who worked for BOTW in California at any time from March 24, 2021, through January 27, 2023 (the “PAGA Period”), based on the number of months each eligible Class Member worked during the PAGA Period.
- BMO Harris Bank N.A. as successor in interest to Bank of the West (“BMO”) denies Plaintiffs’ contentions and maintains it has fully complied with the law. By entering into this settlement, BMO in no way admits any violation of law or any liability whatsoever to Plaintiffs or Class Members, individually or collectively, and expressly denies all such liability.
- Plaintiffs and BMO have reached this settlement in light of all known facts and circumstances—including the risks of significant delay and uncertainty associated with litigation, various defenses asserted by BMO, and numerous potential appellate issues—with the assistance of an experienced mediator knowledgeable of both the wage and hour laws and class, collective, and representative claims at issue.

### **CALIFORNIA NOTICE OF PENDING CLASS ACTION SETTLEMENT**

*Questions? Please contact the Claims Administrator at (877) 777-9249 or visit [www.BankoftheWestSettlement.com](http://www.BankoftheWestSettlement.com)*

**THIS NOTICE IS NOT TO BE UNDERSTOOD OR VIEWED AS AN EXPRESSION OF ANY OPINION FROM THE COURT AS TO THE MERITS OF ANY OF THE CLAIMS ASSERTED BY PLAINTIFFS OR DEFENSES ASSERTED BY BMO.**

<b>YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT:</b>	
<b>DO NOTHING</b>	You do not have to do anything in response to this notice. If you do nothing, you will remain eligible to automatically receive a Settlement Payment if the Court grants final approval of the settlement and be bound by the release provisions in the Settlement Agreement.
<b>OPT OUT</b>	You may opt out of the settlement by submitting a request for exclusion in the manner discussed below. If you opt out, you may not object to the settlement, you shall not receive a Settlement Payment, and you shall not be bound by the release provisions in the Settlement Agreement. However, regardless if you choose to opt out, to the extent the Court grants final approval of the settlement and you worked within the PAGA Period identified above, you will still be sent a settlement check associated with those claims, as more fully described herein.
<b>OBJECT</b>	You may object to the settlement by submitting a written objection. If the Court grants final approval of the settlement despite your objection, you still will remain eligible to automatically receive a Settlement Payment if the Court grants final approval of the settlement and will be bound by the release provisions in the Settlement Agreement. However, you can only file an objection if you do not opt out of the settlement.

**1. Why Did I Receive This Notice?**

You are receiving this California Notice of Pending Class Action Settlement (“California Notice”) because BMO’s records show that you are a person who is or was employed by BOTW in a Covered Position in California at any time since March 24, 2018, through January 27, 2023 (“Class Member”). As a Class Member, you may be entitled to share in the funds to be made available for settlement of the Lawsuit.

Because the settlement preliminarily approved by the Court would affect Class Members’ legal rights, the Court ordered that this California Notice be sent to you. This California Notice provides a brief description of the Lawsuit, informs you of the settlement terms preliminarily approved by the Court, and advises you of your legal rights with respect to the settlement. If finally approved by the Court, the settlement will fully resolve the Lawsuit and your legal rights may be affected by the settlement.

The terms of the settlement are set forth in detail in the Class Action and PAGA Settlement Agreement (“Settlement Agreement”). You may obtain a copy of the Settlement Agreement from the neutral third-party appointed by the Court to administer the settlement (the “Settlement Administrator”). Details about how to get additional information about the Settlement Agreement are provided at the end of this California Notice.

**2. What Is the Lawsuit About?**

On May 9, 2023, Plaintiff, on behalf of himself and all others similarly situated, filed the initial complaint in this Lawsuit in the Superior Court of California for the County of Sacramento. The operative complaint alleges the following claims under California and federal law: (1) failure to reimburse for necessary business expenses and (2) violations under the PAGA.

BMO denied and continues to deny (i) all of the allegations made by Plaintiffs, (ii) that it violated any applicable laws, (iii) that it is liable or owes damages, penalties, or other compensation or remedies to anyone with respect to the alleged facts or claims asserted in the Lawsuit, and (iv) that class certification or representative treatment of the Lawsuit or any of Plaintiffs’ alleged claims is proper. Nonetheless, without admitting or conceding any liability or wrongdoing whatsoever and without admitting or conceding that class certification or representative treatment is appropriate for any purpose other than settlement purposes alone, BMO has agreed to settle the Lawsuit on the terms and conditions set forth in this Settlement Agreement, to avoid the burden, expense, and uncertainty of continuing the Lawsuit.

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The Court has preliminarily approved Plaintiffs' counsel Justin M. Swartz and Kaelyn Mahar of Outten & Golden LLP, and Camar R. Jones of Shavitz Law Group, P.A., as Class Counsel. Based on their investigation and evaluation, Class Counsel is of the opinion that the terms set forth in the Settlement Agreement are fair, reasonable, adequate, and in the best interests of Class Members.

### **3. What Are the Payments Under the Settlement?**

#### **a. Overall Summary of Settlement Payments**

BMO agrees to pay a maximum potential settlement amount of **Four Hundred Sixty-Three Thousand Sixty-Six Dollars and Zero Cents** (\$463,066.00) (the "Gross Settlement Amount"). The \$463,066.00 Gross Settlement Amount is inclusive of (i) any award by the Court to Class Counsel for attorneys' fees and costs associated with the litigation ("Attorneys' Fees and Litigation Expenses"), (ii) any award by the Court to Plaintiffs in recognition of their efforts and work in prosecuting the Lawsuit and specifically in exchange for their general release of claims ("Enhancement Payments"), (iii) any costs of settlement administration, A.B. Data, Ltd. approved by the Court for administering the settlement ("Claims Administration Costs"), and (iv) the PAGA Penalty Payment in the amount of \$9,000.00, of which \$6,750.00 will be paid to the Labor & Workforce Development Agency (the "LWDA Payment") and of which \$2,250.00 will be distributed to PAGA Aggrieved Employees ("PAGA Settlement Fund").

The remaining portion of the Gross Settlement Amount available for distribution to Class Members is the "Net Settlement Amount," to be allocated based on the number of months each individual worked in a Covered Position during the Class Period, on a *pro rata* basis. Likewise, all non-exempt employees who worked in a Covered Position in California during the PAGA Period ("Aggrieved Employees") will receive a *pro rata* portion of the PAGA Settlement Fund based on the number of months each individual worked during the PAGA Period. Partial months will be counted as full months.

#### **b. Individual Settlement Payments**

Each Class Member who does not timely and properly opt out of the Settlement ("Settlement Class Members") will be entitled to receive a portion of the Net Settlement Amount based on the Settlement Formula above ("Settlement Payments"). The Claim Administrator will calculate Settlement Payments for all Settlement Class Members.

##### **1. Applicable Tax Withholding and Responsibility for Taxes**

Each Class Member's Settlement Payment from the Net Settlement Amount will be characterized as 100% 1099 income. The Claims Administrator shall issue any necessary IRS Form 1099 to Settlement Class Members for their respective Settlement Payments. Settlement Class Members shall be solely and legally responsible for paying all other applicable taxes on their respective Settlement Payments.

##### **2. Undeliverable or Uncashed Checks**

Any settlement check returned to the Claims Administrator as undeliverable shall be remailed. Settlement checks left uncashed 180 calendar days after the initial distribution will be paid to Center for Workers' Rights as the *cy pres* recipient.

#### **c. Attorneys' Fees and Litigation Expenses**

You do not need to pay individually any portion of Class Counsel's attorneys' fees and litigation expenses. Any payments for those attorneys' fees and expenses will be deducted from the Gross Settlement Amount. Class Counsel intends to request that the Court approve an Attorneys' Fees award in the amount of up to one-third of the Settlement Amount (or \$154,355.33) ("Attorneys' Fee") and litigation expenses in the amount of up to \$15,401.88 ("Litigation Expenses").

The Court's approval of Attorneys' Fees and Litigation Expenses is not a material term of the settlement.

#### **d. Class Representative Enhancement Payments**

Class Counsel intends to request that the Court approve Enhancement Payments for the five Plaintiffs in the total amount of up to \$5,000. Plaintiff's Enhancement Payment is in addition to Plaintiff's Individual Settlement Payment.

The Court's approval of Plaintiff's Enhancement Payment is not a material term of the settlement.

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**e. Claims Administration Costs**

Class Counsel intends to request that the Court approve Claims Administration Costs of up to \$25,000.00, payable to the Claims Administrator for administering the settlement, including, but not limited to, printing, distributing, or tracking Class Notices, providing any required tax forms, processing any required tax payments or reporting, and calculating and distributing Settlement Payments. Any amount of Claims Administration Costs requested by Class Counsel but unapproved by the Court shall be allocated to the Net Settlement Fund.

**f. LWDA Payment**

Class Counsel intends to request that the Court allocate \$9,000.00 to PAGA penalties and approve an LWDA Payment of \$6,750.00 (or 75% of the PAGA penalties) to the State of California Labor and Workforce Development Agency. Any amount of the LWDA Payment requested by Plaintiffs but not approved by the Court shall be allocated to the Net Settlement Fund.

**g. All Payments Subject to Court Approval**

All of the payments listed above will be made if and only if the Court grants final approval of the settlement and concludes it is reasonable, fair, and adequate for the Class. The Court may adjust the amounts of certain payments.

**4. What Do I Release Under the Settlement?**

In exchange for your Settlement Payments, you and each of your heirs, representatives, successors, assigns, and attorneys will release certain claims against BMO and its respective past and present parents, subsidiaries, affiliated companies and corporations, and each and all of their respective past and present directors, officers, managers, employees, general partners, limited partners, principals, agents, insurers, reinsurers, shareholders, attorneys, advisors, representatives, predecessors, successors, divisions, joint venturers, assigns, or related entities, and each and all of their respective executors, successors, assigns, and legal representatives (collectively, “Released Parties”).

Your release will include any and all wage and hour class claims that are or could have been alleged in the Complaint related to unreimbursed business expenses associated with their employment with BOTW as (1) Mortgage Banker, (2) Mortgage Banker HC NonNetwork, (3) Mortgage Banker Private, and/or (4) Mortgage Banker Std NonNetwork, in California. These released claims include but are not limited to: claims for Labor Code Sections 218.5, 2699, and 2802; violation of Wage Order No. 4, and claims related to any and all damages, penalties, interest, punitive damages, liquidated damages, attorneys’ fees, costs, injunctive relief, declaratory relief, or accounting based on or related to the above claims (“Settlement Class Release”).

Should the Court grant final approval of the settlement and you worked in a Covered Position in California during the PAGA Period, you will receive a check associated with the PAGA claims being resolved and you will release all claims under PAGA alleged in the operative complaint or claims that could have been alleged based on the facts therein, arising during the PAGA Period. This includes all wage and hour claims that are or could have been alleged in the Complaint related to unreimbursed business expenses incurred by the Aggrieved Employees, including claims for violation of Labor Code sections 218.5, 2699, 2802; violation of Private Attorneys General Act (PAGA) (Lab. Code § 2698, *et seq.*); and violation of Wage Order No. 4. Alleged Claims also means any and all claims asserted by the Class Representatives for interest and attorneys’ fees and costs incurred in this Litigation (“PAGA Release”).

**5. How Do I Object to the Settlement?**

If you want to participate in the settlement as a Class Member, you do not have to do anything and do not have to appear at the final approval hearing before the Court. You will receive your Settlement Payment automatically if the Court grants final approval of the settlement.

However, if you want to object to the settlement, you must take the steps below. Failure to do so will be deemed a waiver of any objections, and you will not be permitted to appear at the final approval hearing before the Court:

- (1) You must mail a written statement to the Claims Administrator listed below.
- (2) The written statement MUST include: your name, address, telephone number, last four digits of your Social Security Number, the basis for your objection, the case name and number, and the date of your submission.

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- (3) If you intend to use any document(s) to support the objection, you must include a copy of the document(s) with your submission.
- (4) If you object, you may but are not required to appear at the final approval hearing either in person or through counsel, paid for at your own expense.
- (5) The written statement must be postmarked by July 8<sup>th</sup>, 2024.

If you fail to make an objection in the manner specified above, you shall be deemed to have waived any objections and shall be foreclosed from making any objection, whether by appeal or otherwise, to this settlement. The Claims Administrator will send a copy of your objection to all Parties involved in the Lawsuit who will file all objections with the Court within 10 calendar days after the above postmark deadline to submit objections.

If you submit an objection, you will remain bound by the settlement if finally approved. If you do not want to be bound by the settlement if finally approved, you must opt out of the settlement. However, you may not assert an objection if you opt out of the settlement.

## **6. How Do I Opt Out of the Settlement?**

If you do not want to participate in the settlement, you may opt out of the settlement. If you opt out of the settlement, you may not object to the settlement, shall not receive any Settlement Payments, and shall not be bound by the release provisions in the Settlement Agreement. However, notwithstanding your decision to opt out, if the Court grants final approval of the settlement and you otherwise qualify to participate in the settlement as it pertains to the PAGA claims, you will still receive a settlement check in the mail associated with those claims, and you may not opt out of an approved PAGA settlement.

In order to opt out, you must take the steps below. Failure to do so will be deemed a waiver of your request to opt out of the settlement, and you will be bound by the Released Class Claims:

- (1) You must mail the enclosed Request for Exclusion to the Settlement Administrator listed below.
- (2) The Request for Exclusion MUST include: your name, address, telephone number, the last four digits of your Social Security Number, and the case name and number.
- (3) The written statement must be postmarked by July 8<sup>th</sup>, 2024.

Any request for exclusion that does not include all required information or that is not submitted on a timely basis will be deemed null, void, and ineffective. A request for exclusion shall be deemed to be submitted as of the postmarked date. If you submit both a request for exclusion and an objection, your objection will be deemed invalid and your request for exclusion will be granted.

If you validly request to be excluded from the Settlement, you will not be able to participate in the settlement and you will not receive an Individual Settlement Payment for the release of the Released Class Claims. Notwithstanding, should the Court grant final approval of the settlement and you worked in a Covered Position in California during the PAGA Period, you will still receive a Settlement Payment associated with the resolution of the PAGA claims in this lawsuit and you will be bound by the PAGA Release.

**7. Where Can I Get Additional Information?**

This notice summarizes the Lawsuit, settlement, and related matters. For more information, you may contact the Claims Administrator or Class Counsel:

**Claims Administrator:**

**BANK OF THE WEST SETTLEMENT**

Settlement Administrator  
c/o A.B. Data, Ltd.  
P.O. Box 173132  
Milwaukee, WI 53217  
[www.BankoftheWestSettlement.com](http://www.BankoftheWestSettlement.com)

**Class Counsel:**

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Kaelyn Mahar  
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**SHAVITZ LAW GROUP, P.A.**

Camar R. Jones  
951 Yamato Road, Suite 285  
Boca Raton, FL 33431  
Telephone: (561) 447-8888  
[info@shavitzlaw.com](mailto:info@shavitzlaw.com)

You also may view the Settlement Agreement, complaint, and other documents from the Lawsuit by using "PACER" at the Court's website (<http://www.cacd.uscourts.gov/home>) or visiting the Court Clerk's office during normal working hours.

**PLEASE DO NOT CALL THE COURT FOR INFORMATION REGARDING THE SETTLEMENT.**

# REQUEST FOR EXCLUSION

*Gonzalez, et al. v. Bank of the West*  
California court, Case No. 23CV001422

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<<NoticeID>>  
<<Barcode>>

<<NAME1>>  
<<STREET1>>  
<<CITY>>, <<STATE>> <<ZIP>>

I, \_\_\_\_\_, hereby request to be excluded from the settlement in the lawsuit *Gonzalez,*  
[print name]  
*et al. v. Bank of the West,* Case No. 23CV001422.

\_\_\_\_\_  
[Signature]

\_\_\_\_\_  
[Address]

\_\_\_\_\_  
[City/State/Zip]

\_\_\_\_\_  
[Telephone Number]

\_\_\_\_\_  
[Last Four Digits of Social Security Number]

**\*Note, to be accepted, this Request for Exclusion must be fully completed and mailed to the Claims Administrator at Section 7 of the Notice of Pending Class Action Settlement, to which this Form is attached, postmarked by no later than July 8, 2024.**

**CHANGE OF ADDRESS**

*Gonzalez, et al. v. Bank of the West*  
California court, Case No. 23CV001422

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<<NoticeID>>  
<<Barcode>>

<<NAME1>>  
<<STREET1>>  
<<CITY>>, <<STATE>> <<ZIP>>

I, \_\_\_\_\_, in connection with the above referenced matter, submit the below updated contact information.

\_\_\_\_\_  
[Signature]

\_\_\_\_\_  
[Address]

\_\_\_\_\_  
[City/State/Zip]

\_\_\_\_\_  
[Telephone Number]

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