

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION**

**RUSSELL PFEFFER, ET AL. V. BANK OF AMERICA CORPORATION AND
BANK OF AMERICA N.A.,
CIVIL ACTION NO. 3:23-CV-00813-KDB-DCK**

**COURT-AUTHORIZED NOTICE OF A COLLECTIVE ACTION
LAWSUIT AGAINST BANK OF AMERICA**

**RE: YOUR RIGHT TO JOIN A LAWSUIT SEEKING UNPAID OVERTIME PAY
AND MINIMUM WAGE UNDER THE FAIR LABOR STANDARDS ACT**

RESPONSE DATE: NOVEMBER 11, 2024

This is a Court-authorized notice. This is not a solicitation from a lawyer. You are not being sued. This notice is to inform you of your right to participate in a lawsuit.

This notice is being sent to you as a current or former employee of Bank of America, N.A. (“Bank of America”) who worked as an Enterprise Lending Officer/Sr. Lending Officer (job code SM172), Sr. Wealth Management Lending Officer - Reg. (job code SM603), Sr. Wealth Management Lending Officer (job code SM604), WM Lending Officer (job code SM605), Sr. Financial Center Lending Officer – E (job code SM610), and/or Sr. PB Wealth Management Lending Officer (job code SM618) (collectively “Loan Officers”) on or after July 26, 2021.

A lawsuit alleging that Bank of America misclassified Loan Officers as exempt from overtime and minimum wage requirements of the Fair Labor Standards Act (“FLSA”) has been filed in the United States District Court for the Western District of North Carolina (the “FLSA Collective Action” or “Lawsuit”). Bank of America denies the allegations in the Lawsuit and maintains that it properly classified and compensated Loan Officers. The Court has authorized this Notice of your right to opt into the FLSA Collective Action by completing and returning the enclosed Consent to Join. Though the Court has authorized the distribution of this Notice, the Court has not made any rulings on the merits of the Plaintiffs’ claims in the Lawsuit and remains neutral.

Please carefully review this Notice for information regarding the FLSA Collective Action and the opt-in process.

YOU MUST SIGN AND RETURN THE ENCLOSED CONSENT TO JOIN NO LATER THAN NOVEMBER 11, 2024 IN ORDER TO PARTICIPATE IN THE FLSA COLLECTIVE ACTION AGAINST BANK OF AMERICA

1. WHY DID I RECEIVE THIS NOTICE?

In an FLSA collective action, one or more people referred to as “Named Plaintiffs” sue on behalf of similarly situated current or former employees, in this case the Loan Officers defined above. With Court approval, similarly situated employees are notified of the lawsuit and their right to opt into the lawsuit by signing and returning a Consent to Join Form (“Opt-in Plaintiffs”). The Opt-In Plaintiffs are then represented by Plaintiffs’ counsel and bound by the outcome of the lawsuit, as explained below.

This Notice is authorized by the United States District Court for the Western District of North Carolina. The purpose of this Notice is: (1) to inform you of the existence of a collective action lawsuit filed against Bank of America; (2) advise you of how your rights may be affected by this lawsuit; and (3) instruct you on the procedure for joining this lawsuit if you choose to do so.

You have been sent this Notice because Bank of America’s employment records show that you were a Loan Officer on or after July 26, 2021.

2. DESCRIPTION OF THE LAWSUIT

The lawsuit alleges that Bank of America misclassified its Loan Officers as exempt from overtime and failed to pay compensation for hours worked in excess of 40 hours per workweek. The lawsuit alleges that Bank of America’s failure to pay overtime violated the FLSA. Plaintiffs have sued to recover overtime for work weeks in which they performed work in excess of 40 hours per week, unpaid minimum wage, interest, and attorneys’ fees.

Defendants deny the allegations of the lawsuit. The Court has not made any determination as to the merits of these allegations.

The lawsuit was filed on November 30, 2023, under the caption *Pfeffer et al. v. Bank of America Corporation et al.*, Case No. 3:23-cv-813, and is pending before U.S. District Judge Kenneth D. Bell in the United States District Court for the Western District of North Carolina, Charlotte Division.

3. YOUR LEGAL RIGHTS AND OPTIONS IN THIS LAWSUIT

RETURN THE “CONSENT TO JOIN” FORM	If you are a Loan Officer as defined on page 1, you may choose to join this suit (that is, you may “opt in”). To opt in, you must submit a “Consent to Join” form. The Consent to Join form is enclosed with this notice. You may mail, fax, or e-mail the form to Plaintiffs’ counsel (whose information is available in Section 4, below).
DO NOTHING	If you choose not to join this lawsuit, you will not be affected by any judgment in this lawsuit on this FLSA claim, whether favorable or unfavorable. If you choose not to join this lawsuit, you may file your own lawsuit and select the attorney of your choice. However, if you do not join this lawsuit, you will not be able to receive any money recovered in this lawsuit.

4. HOW TO JOIN THIS LAWSUIT

Enclosed is a form called a “Consent to Join.” **If you choose to join this lawsuit, it is extremely important that you read, sign, and promptly return the Consent to Join form** by mailing it to Plaintiffs’ counsel at:

Lax & Neville LLP
350 Fifth Ave.
Suite 4640
New York, NY 10118

You may also join the lawsuit by completing the Consent Form and faxing it to 212-566-4531 or emailing it to Plaintiff’s counsel’s firm administrator at: jgraf@laxneville.com.

The signed Consent to Join form must be postmarked by, or otherwise received by e-mail or fax, by NOVEMBER 11, 2024.

5. EFFECTS OF JOINING THE LAWSUIT

If you file a Consent to Join form by following the instructions, you will be bound by the judgment (the final result of the lawsuit), whether favorable or unfavorable (that is, whether the Plaintiffs win the case against Bank of America or not).

Plaintiffs' attorneys will **not** charge you directly for their work in this case. If there is no recovery (*i.e.*, if the Plaintiffs recover no money from Bank of America), you will not have to pay the attorneys for any of their work. If there is a recovery, Plaintiffs' attorneys will receive whatever attorneys' fees the Court orders. Those fees may be subtracted from the recovery obtained from Bank of America, or they may be paid separately by Bank of America, or they may be a combination of the two.

If you join this lawsuit, you are choosing to be represented by Plaintiffs' counsel and the Named Plaintiffs who brought this case to make decisions and agreements on your behalf concerning the lawsuit. These decisions and agreements will then be binding on you. If you opt-in to this lawsuit, you may or may not be asked to participate in the case by providing information, sending copies of documents in your possession to your lawyers, or testifying in a deposition or if there is a trial. Many plaintiffs will have no or a very limited role in the case and others will be required to do more. If you opt-in, Plaintiffs' counsel will communicate with you about your role, if any, in the case.

You may be aware, or become aware, that there is another case named *Weinstein, et. al., v. Bank of America, N.A.*, Index No. 607185/2024 which has been filed in New York State Court in Nassau County that brings similar claims to those that the Plaintiffs have brought in this Lawsuit. The parties in the *Weinstein* case have asked that court to issue notice informing the same proposed class of current and former employees receiving notice here of their right to participate in that case. The Court that authorized the Notice in this case is not involved in that separate case and does not know when or even if a notice will be issued. However, if you are given the opportunity to participate in a different case, you may choose only one case in which you participate (or decide to participate in neither of them). You are encouraged to carefully evaluate all your options, and the Court that authorized this Notice expresses no opinion and has no view as to whether or not you participate in this case, another case or no case at all.

6. EFFECTS OF NOT JOINING THE LAWSUIT (DOING NOTHING)

If you do nothing, you will not be entitled to share in any amounts recovered by the Plaintiffs, whether by judgment or settlement, for the FLSA claims in this case. You will not be affected by any decision regarding those claims, whether favorable or unfavorable, and will be free to hire your own lawyer and file your own FLSA lawsuit, should you so desire. Please be advised that the statute of limitations (time by which you must bring claims) is running and that, if you decide to bring claims on your own, you should consult an attorney.

7. NO RETALIATION PERMITTED

Federal law prohibits Bank of America from retaliating against you in any way (for example, firing you, giving you unfair reviews, cutting your pay, failing to promote you, etc.) for exercising your rights under the FLSA (for example, by joining this lawsuit or by providing evidence in support of the Plaintiffs).

8. YOUR LEGAL REPRESENTATION IF YOU JOIN

If you choose to join this Lawsuit you will be represented by Named Plaintiffs' attorneys. They are:

Lax & Neville LLP
350 Fifth Ave.
Suite 4640
New York, NY 10118
Telephone: 212-696-1999
Facsimile: 212-566-4531
Firm administrator email: jgraf@laxneville.com

9. NO OPINIONS EXPRESSED AS TO THE MERITS OF THE CASE

This Notice is for the sole purpose of determining the identity of those persons who may be entitled to and wish to participate in this lawsuit. The Court has expressed no opinion regarding the merits of the Plaintiffs' claims or Bank of America's defenses, and your claims may be subject to later dismissal, such as if the Court ultimately finds that the claims lack merit or that they cannot be litigated on a collective basis.

10. THIS NOTICE HAS BEEN AUTHORIZED BY THE COURT

This notice and its contents have been authorized by the United States District Court for the Western District of North Carolina, the Honorable District Judge Kenneth D. Bell presiding. You are under no obligation to respond to this Notice.

11. QUESTIONS

If you have any questions, you may write, e-mail or call Plaintiffs' Counsel at the contact information provided in Section 8, above. You should not contact the Court with questions.

DATED: August 13, 2024.

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION
CIVIL ACTION NO. 3:23-CV-00813-KDB-DCK**

**RUSSELL PFEFFER, FRANK
CRONIN, ROGER ROJAS,
MUHAMED VRLAKU, JASON
AUERBACH, DAVID DESSNER,
ADAM SHERMAN, AND GRACE
BOZICK,**

Plaintiffs,

v.

**BANK OF AMERICA
CORPORATION AND BANK OF
AMERICA N.A.,**

Defendants.

CONSENT TO JOIN SUIT

I, the undersigned, work or worked for Bank of America Corporation or Bank of America N.A. (“Bank of America”) as an Enterprise Lending Officer/Sr. Lending Officer (job code SM172), Sr. Wealth Management Lending Officer - Reg. (job code SM603), Sr. Wealth Management Lending Officer (job code SM604), WM Lending Officer (job code SM605), Sr. Financial Center Lending Officer – E (job code SM610), and/or Sr. PB Wealth Management lending Officer (job code SM618) (collectively “Loan Officers”) on or after July 26, 2021.

I choose to join the above-captioned lawsuit as a plaintiff seeking unpaid overtime and minimum wage under the Fair Labor standards Act (“FLSA”), 29 U.S.C. § 216(b).

I choose to be represented by Lax & Neville LLP (“Plaintiffs’ Counsel”), and other attorneys they may choose to associate with. I authorize Plaintiffs’ Counsel to take any steps necessary to pursue my claims, and I agree to be bound by my attorneys’ decisions concerning the litigation and settlement. I agree to be bound by any adjudication of this action by the Court, whether it is favorable or unfavorable. I understand that reasonable costs expended by Plaintiffs’ Counsel on my behalf will be deducted from any settlement or judgment amount on a pro-rata basis among all other plaintiffs. I hereby agree to legal representation in this action by Plaintiffs’ Counsel at a 33.33% contingency fee rate and understand and agree that they will receive the attorneys’ fees the court approves as payment for their services.

Date: _____

Signature: _____

Print Name: _____

Further Information Regarding Consent to Join Form

The information on this page will not be filed in the public record. This information will be used solely for Plaintiffs' Counsel to communicate with you and provide you with important, periodic case status and updates.

Print Name: _____

Print Address: _____

City, State, and ZIP: _____

Telephone Number(s): Home: _____

Work (Optional): _____

Cell: _____

E-mail Address: _____

*To be valid, please return via email, facsimile, or mailed and postmarked by **NOVEMBER 11, 2024** to:*

Jessica Graf, Office Manager
Lax & Neville LLP
350 Fifth Ave.
Suite 4640
New York, NY 10118
Telephone: 212-696-1999
Facsimile: 212-566-4531
Email: Jgraf@laxneville.com