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ANNMARIE ALBANEZ

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF ORANGE – CIVIL COMPLEX CENTER

ANNMARIE ALBANEZ, individually, and
on behalf of other members of the general
public similarly situated,

Plaintiff,

v.

OCMBC, INC., a California corporation
d/b/a LOANSTREAM MORTGAGE; and
DOES 1 through 100, inclusive,

Defendants.

CASE NO.: 30-2019-01078636-CU-OE-CXC
[Unlimited Jurisdiction]

*Assigned for all purposes to the
Honorable Glenda Sanders, Dept. CX101*

**AMENDED STIPULATION OF
RESOLUTION**

Complaint Filed: June 24, 2019
Trial Date: None

1 This Amended Stipulation of Resolution (“Stipulation,” “Agreement,” “Settlement” or
2 “Settlement Agreement”) is entered into by Plaintiff ANNMARIE ALBANEZ (“Plaintiff”) and
3 Defendant OCMBC, INC. dba LOANSTREAM MORTGAGE (“Defendant”) (Plaintiff and
4 Defendant collectively are the referred to as the “Parties”).

5 WHEREAS, on June 24, 2019, Plaintiff, a funder for Defendant, filed the instant putative
6 class action complaint in Orange County Superior Court;

7 WHEREAS, in the complaint, Plaintiff alleged the following causes of action:
8 (1) Violation of California Labor Code §§ 510 and 1198 (Unpaid Overtime); (2) Violation of
9 California Labor Code §§ 226.7 and 512(a) (Unpaid Meal Period Premiums); (3) Violation of
10 California Labor Code § 226.7 (Unpaid Rest Period Premiums); (4) Violation of California Labor
11 Code §§ 1194, 1197, and 1197.1 (Unpaid Minimum Wages); (5) Violation of California Labor
12 Code § 201 and 202 (Final Wages Not Timely Paid); (6) Violation of California Labor Code
13 § 226(a) (Non-Compliant Wage Statements); (7) Violation of California Labor Code §§ 2800
14 and 2802 (Unreimbursed Business Expenses); and (8) Violation of California Business &
15 Professions Code §§ 17200, et seq.;

16 WHEREAS, the Parties agreed that, rather than engage in protracted and expensive
17 litigation, it was in their best interest to seek resolution by private mediation;

18 WHEREAS, on August 6, 2020, following an exchange of information, documents and
19 records, through both formal and informal discovery, the Parties engaged in mediation and
20 vigorous negotiation before a private mediator, Marc Feder, Esq., and reached an agreement for
21 a non-reversionary, class-wide settlement, memorialized in a Memorandum of Understanding;

22 WHEREAS, as part of the Parties’ Settlement and pursuant to the Memorandum of
23 Understanding, the Parties agreed for Plaintiff to serve a Private Attorneys General Act of 2004
24 (California Labor Code §§ 2698 et seq.) (“PAGA”) letter to the Labor and Workforce
25 Development Agency (“LWDA”) and further agreed to stipulate to the filing of a First Amended
26 Complaint (“FAC”) that will include a claim for civil penalties pursuant to PAGA;

27 WHEREAS, on November 16, 2020, Plaintiff filed a FAC adding a ninth (9th) cause of
28 action for civil penalties pursuant to PAGA;

1 WHEREAS, Defendant denies liability to Plaintiff upon any claim or cause of action;

2 WHEREAS, the Parties contemplated that the essential terms and conditions set forth in
3 the Memorandum of Understanding would be set forth in this more detailed stipulation; and

4 IT IS HEREBY STIPULATED AND AGREED by and among the undersigned Parties,
5 subject to the approval of the Court, that the Settlement of this Action (defined below) shall be
6 effectuated upon and subject to the following terms and conditions:

7 **A. DEFINITIONS**

8 The following defined terms used in this Agreement shall have the meanings ascribed to them
9 below.

10 1. Action. “Action” or “Lawsuit” shall mean the lawsuit entitled *AnnMarie Albanez v.*
11 *OCMBC, Inc. dba LoanStream Mortgage* initially filed on or about June 24, 2019 in the Superior
12 Court for the State of California, Case number 30-2019-01078636-CU-OE-CXC.

13 2. Agreement. “Agreement” or “Settlement Agreement” means this Amended Stipulation
14 of Resolution.

15 3. Claim Amount. “Claim Amount” shall mean the total, gross amount due to a Class
16 Member, which shall be calculated pursuant to the terms of this Agreement.

17 4. Claims Administrator. “Claims Administrator” means the third-party entity Simpluris,
18 Inc. jointly selected by the Parties to provide notice to the Class and perform other duties relating
19 to the administration of the Settlement, including, but not limited to, payment of the Claim
20 Amount (less lawful taxes and withholdings) to Class Members.

21 5. Claims Administration Costs. “Claims Administration Costs” shall mean the fees and
22 expenses reasonably and necessarily incurred by the Claims Administrator as a result of
23 performing the settlement administration procedures and functions expressly required in this
24 Agreement, including, but not limited to, all tax document preparation, all costs and fees
25 associated with preparing, issuing and mailing any and all notices and other correspondence to
26 Class Members and/or Eligible Class Members; fees associated with computing, processing,
27 reviewing, and paying the Claim Amounts, resolving disputed claims; and any other costs and
28 fees incurred by the Claims Administrator in connection with the execution of its duties under

1 this Agreement.

2 6. Class. “Class,” “Class Members,” or “Settlement Class Members” shall mean all non-
3 exempt employees within the State of California who are or were employed by Defendant in the
4 State of California during the Class Period.

5 7. Class Counsel. “Class Counsel” or “Plaintiff’s Counsel” refers to Douglas Han, Shunt
6 Tatavos-Gharajeh, and Phillip Song, attorneys of Justice Law Corporation, telephone (818) 230-
7 7502, located at 751 N. Fair Oaks Avenue, Suite 101, Pasadena, California 91103.

8 8. Class Period. “Class Period” shall mean the time beginning June 24, 2015, to August 6,
9 2020, inclusively.

10 9. Class Representative Service Fee (Plaintiff Incentive). “Class Representative Service
11 Fee” or “Plaintiff Incentive” shall mean the amount approved by the Court to be paid to Plaintiff
12 in addition to her individual Class Member Claim Amount for her effort in coming forth as class
13 representative and in consideration for her general release of all claims against Defendant arising
14 from the pleaded allegations and her employment.

15 10. Eligible Work Week. “Eligible Work Week” shall mean each week that a Class Member
16 worked in a position as a non-exempt employee in California during the Class Period.

17 11. Complaint. “Complaint” or “Plaintiff’s Complaint” shall mean the FAC filed by
18 Plaintiff encompassing all disputed claims or causes of action alleged by Plaintiff related to her
19 employment, during which time Plaintiff alleges on behalf of herself and the Class the following
20 disputed claims or causes of action: (1) Violation of California Labor Code §§ 510 and 1198
21 (Unpaid Overtime); (2) Violation of California Labor Code §§ 226.7 and 512(a) (Unpaid Meal
22 Period Premiums); (3) Violation of California Labor Code § 226.7 (Unpaid Rest Period
23 Premiums); (4) Violation of California Labor Code §§ 1194, 1197, and 1197.1 (Unpaid
24 Minimum Wages); (5) Violation of California Labor Code § 201 and 202 (Final Wages Not
25 Timely Paid); (6) Violation of California Labor Code § 226(a) (Non-Compliant Wage
26 Statements); (7) Violation of California Labor Code §§ 2800 and 2802 (Unreimbursed Business
27 Expenses); (8) Violation of California Business & Professions Code §§ 17200, et seq.; and (9)
28 Violation of California Labor Code §§ 2698, et seq. (PAGA).

1 12. Court. “Court” shall mean the Superior Court of California for the County of Orange
2 where the Action is currently pending, or such other appropriate forum where this case may be
3 assigned.

4 13. Date of Preliminary Approval. The “Date of Preliminary Approval” shall mean the date
5 on which the Court enters an Order granting Preliminary Approval of this class action settlement.

6 14. Defendant’s Counsel. “Defendant’s Counsel”, “Defense Counsel” or “Counsel for
7 Defendant” shall mean Tyler Rasmussen, Bret Martin, and Lauren Stockunas of Fisher &
8 Phillips, LLP, 2050 Main Street, Suite 100, Irvine, California 92614, telephone (949) 851-2424.

9 15. Eligible Aggrieved Employees. The aggrieved employees eligible to recover the PAGA
10 Payment shall consist of all non-exempt employees who worked for Defendant within the State
11 of California between August 19, 2019 through August 6, 2020 (“PAGA Timeframe”).

12 16. Eligible Class Member. “Eligible Class Member” means a Class Member who has not
13 opted out. Plaintiff agrees not to opt out of the Class or object to the Settlement.

14 17. Effective Date. “Effective Date” shall mean the date on which all of the following have
15 occurred: (a) the date which the Court grants final approval of the Settlement if no Settlement
16 Class members file objections to the Settlement; or (b) if a Settlement Class member files an
17 objection to the Settlement, the Effective Date shall be the date 60 calendar days after the date
18 upon which the Court grants final approval of the Settlement if no appeal is initiated by an
19 objector; or (c) if a timely appeal is initiated by an objector (or by Class Counsel to an order
20 which reduces their requested attorneys’ fees and costs) the Effective Date shall be 60 calendar
21 days following the date of final resolution of that appeal (including any requests for rehearing
22 and/or petitions for certiorari), resulting in final judicial approval of the Settlement. No provision
23 for defining the Effective Date in this section shall be construed to expand any party or Class
24 Member’s substantive or procedural rights of appeal or review beyond the limits imposed by this
25 Settlement.

26 18. Fairness Hearing. “Fairness Hearing” or “Final Approval Hearing” shall mean the
27 hearing on the Motion for Final Approval of Class Action Settlement.

28 19. Gross Settlement Fund. “Gross Settlement Fund” means the total amount that Defendant

1 shall pay under the terms of this Settlement, which is Six-Hundred Thousand Dollars and Zero
2 Cents (\$600,000.00). The Gross Settlement Fund includes, without limitation, the Claims
3 Administration Costs of up to \$15,000.00; the Class Representative Service Award (Plaintiff
4 Incentive) of up to \$10,000; Court-approved attorneys' fees up to \$210,000.00 (35% of the Gross
5 Settlement Fund); litigation costs to Class Counsel up to \$20,000.00; Penalties paid pursuant to
6 PAGA of \$20,000.00; employees' share of taxes, deductions, and withholdings; and the total
7 possible aggregate of the Claim Amounts to be paid to Eligible Class Members, as provided
8 herein.

9 20. Named Plaintiff. "Named Plaintiff" shall mean Plaintiff AnnMarie Albanez.

10 21. Net Settlement Fund / Net Settlement Amount. "Net Settlement Fund" shall mean the
11 Gross Settlement Fund of \$600,000.00, minus (a) Claims Administration Costs of up to
12 \$15,000.00; (b) Court-approved Class Representative Service Fee of up to \$10,000.00; (c) Court-
13 approved attorneys' fees of up to \$210,000.00 (35% of the Gross Settlement Fund); and (d) actual
14 litigation costs to Class Counsel of up to \$20,000.00; and (e) penalties paid pursuant to PAGA
15 in the amount of \$20,000.00. Once these deductions totaling up to approximately \$275,000.00
16 have been made, the remaining \$325,000.00 shall be paid to the Class Members who do not opt
17 out and shall be known as the Net Settlement Amount or Net Settlement Fund. Any of these
18 amounts not awarded shall be included in the Net Settlement Fund.

19 22. Notice. "Notice" or "Class Notice" shall mean the Notice of Proposed Class Action
20 Settlement, substantially in the form attached hereto as Exhibit "1," or as modified by Order of
21 the Court.

22 23. Opt-Out(s). "Opt-Out(s)" or "Request for Exclusion" refers to Class Members who
23 timely submit a valid Opt-Out Request.

24 24. Opt-Out Request. "Opt-Out Request" means a request for exclusion from the Settlement
25 by a Class Member.

26 25. PAGA Payment. "PAGA Payment" means the portion of the PAGA penalties to be
27 distributed to the Eligible Aggrieved Employees. PAGA Payments shall be designated as 100%
28 penalties, for which an IRS Form 1099 will issue.

1 26. QSF. “QSF” shall mean the Qualified Settlement Fund established by the Claims
2 Administrator for the benefit of Claims Administration fees, Class Members’ payments,
3 Plaintiff’s incentive payments, Class Counsel’s attorneys’ fees and costs, the Court’s fees, PAGA
4 penalties, and from which the payments shall be paid.

5 27. Released Claims. If the Court approves the Settlement, each Settlement Class Member
6 who has not submitted a timely and valid Request for Exclusion, will fully release and discharge
7 Company and its respective successors and predecessors in interest, subsidiaries, parents and
8 attorneys (collectively the “Released Parties”) from all claims that were pled in the Operative
9 Complaint or which could have been pled in the Operative Complaint based on the factual
10 allegations therein, that arose during the Class Period, including, but not necessarily limited to,
11 (1) Violation of California Labor Code §§ 510 and 1198 (Unpaid Overtime); (2) Violation of
12 California Labor Code §§ 226.7 and 512(a) (Unpaid Meal Period Premiums); (3) Violation of
13 California Labor Code § 226.7 (Unpaid Rest Period Premiums); (4) Violation of California Labor
14 Code §§ 1194, 1197, and 1197.1 (Unpaid Minimum Wages); (5) Violation of California Labor
15 Code § 201 and 202 (Final Wages Not Timely Paid); (6) Violation of California Labor Code §
16 226(a) (Non-Compliant Wage Statements); (7) Violation of California Labor Code §§ 2800 and
17 2802 (Unreimbursed Business Expenses); (8) Violation of California Business & Professions
18 Code §§ 17200, et seq.; and (9) PAGA penalties (the “Released Claims”). This release shall run
19 from June 24, 2015 and August 6, 2020 and become effective upon the Effective Date.

20 28. Released Parties. “Released Parties” shall mean Defendant, and each of its past or
21 present subsidiaries, parents, affiliates, successors, predecessors, managing agents, owners,
22 employees, servants, consultants, agents, directors, officers, independent contractors,
23 representatives, insurance carriers, reinsurers, and attorneys (and the servants, agents, owners,
24 employees, directors, officers, independent contractors, representatives, consultants, insurance
25 carriers, reinsurers, and attorneys of any such subsidiaries, parents, predecessors or affiliates),
26 and all persons acting by, through, under or in concert with any of them, and each of their
27 respective heirs, successors, and assigns, and any individual or entity which could be jointly
28 liable with Defendant. Upon the final approval of the settlement, the Settlement Class (other

than those who submit a valid request for exclusion) and each member of the Settlement Class, will fully release and discharge the Released Parties.

29. Release of PAGA Representative Claims. Upon Defendant's fulfillment of its payment obligations, this settlement forever bars Plaintiff, the LWDA, and any other representative, proxy, or agent thereof, including, but not limited to, any and all Eligible Aggrieved Employees from pursuing any action for civil penalties alleged in the LWDA letter submitted on August 19, 2020 against the Released Parties for the period of August 19, 2019 through August 6, 2020.

30. Settlement. The settlement as set forth in this Amended Stipulation of Resolution.

31. Tax Responsibility. As further set forth herein, the Class Members are responsible for their share of the payroll taxes, which shall be deducted from their individual Claim Amount. Defendant is responsible for its share of the payroll taxes, and these taxes will not be deducted from the Gross Settlement Fund.

32. Work Week Rate. "Work Week Rate" shall mean the calculated amount due for each week of work during the Class Period.

B. TERMS AND CONDITIONS OF SETTLEMENT

In addition to the definitional elements set forth above, the terms and conditions of the class settlement shall be as follows:

1. Certification for Settlement Purposes Only. This class will be certified for settlement purposes only, and consummates settlement of all claims that have been or could have been reasonably asserted based upon the facts alleged in the above-referenced Complaint, which means that Defendant has, but will not raise, their defenses to any class action certification. If, for any reason, the Court does not grant final approval of the Settlement, the stipulation of class certification for settlement purposes shall be void *ab initio* and shall have no bearing on, nor be admissible in connection with, the issue of whether a class should be certified in a non-settlement context in this Action. Defendant expressly reserves the right to oppose class certification should this Settlement be modified or reversed on appeal or otherwise not become final.

2. Contentions and Defenses: Compromise. Plaintiff contends that Defendant is in violation of the California *Labor Code* and is liable for all violations alleged in the Plaintiff's Complaint.

1 Defendant does not admit liability and specifically denies that it has violated any provision of the
2 California *Labor Code*. Indeed, nothing herein shall constitute an admission by Defendant of
3 wrongdoing or liability or of the truth of any allegations in the Action, or an admission by
4 Defendant that the Action is properly brought on a class or representative basis other than for
5 settlement purposes. To this end, the Settlement of the Action, the negotiation and execution of
6 this Agreement, and all acts performed or documents executed pursuant to or in furtherance of
7 the Settlement are not, shall not be deemed to be, and may not be used as, an admission or
8 evidence of any wrongdoing or liability on the part of Defendant or of the truth of any of the
9 factual allegations in the Lawsuit. This Agreement and the Settlement it contains are a
10 compromise of disputed claims, as Defendant has concluded that further litigation would be
11 protracted and expensive, and would also divert management and employee time. Defendant has
12 taken into account the uncertainty and risks inherent in litigation. Defendant has, therefore,
13 concluded that it is desirable that the Action be fully and finally settled in the manner and upon
14 the terms and conditions set forth in this Agreement. Settlement therefore is a compromise of
15 disputed claims and must receive preliminary and final approval by the Court. Otherwise, there
16 is no settlement. Defendant reserves all rights to raise procedural and substantive challenges to
17 Plaintiff's claims if conditions of settlement fail, or if Defendant exercises its rights to void the
18 Settlement as provided by this Agreement. In short, Plaintiff stands by the veracity of her claims
19 on behalf of herself and all putative Class Members, and Defendant admits no liability
20 whatsoever for the alleged violations.

21 3. Confidentiality. Plaintiff and Plaintiff's Counsel agree that they have not and will not
22 publish the terms of settlement other than seeking approval with the Court and carrying out their
23 duties as Class Counsel. In response to any inquiries, Plaintiff will state that "the case was
24 resolved and it was resolved confidentially." Plaintiff's Counsel shall not report the settlement
25 in any medium or in any publications, shall not post or report anything regarding the claims of
26 Plaintiff or the Class Members or the settlement on their website, and shall not contact any
27 reporters or media regarding the settlement. However, Plaintiff's Counsel are authorized to make
28 a limited disclosure to the Court and the LWDA for the purposes of obtaining the approval of the

1 Settlement and may discuss the settlement with the Class Members. This disclosure is limited to
2 court filings, submission to, and communications with, the LWDA, and responding to inquiries
3 by Class Members. Neither Named Plaintiff nor her counsel or representatives are permitted to
4 disseminate or publish, distribute or discuss the information provided to the Court in those filings
5 outside the filings themselves and any hearing held on those filings, unless ordered otherwise by
6 the Court.

7 4. Eligible Work Week Totals. In the event of any dispute over a Class Member's weeks
8 worked, the Claims Administrator shall decide the dispute. The Claims Administrator will
9 evaluate Defendant's records and any evidence submitted by the Class Member and/or Class
10 Counsel, and make the final decision as to which dates should be applied.

11 5. Gross Settlement Fund. The Gross Settlement Fund is \$600,000.00. This is the total
12 amount to be paid by Defendant in settlement of the class and PAGA claims, including all claims
13 paid by the Claims Administrator, Class Members' portions of withholdings and taxes due to
14 governmental taxing agencies on such amounts, the settlement administration costs and expenses
15 (including the costs of the Claims Administrator), Class Counsel's fees and costs approved by
16 the Court; the Class Representative Service Award (as approved by the Court), penalties paid
17 pursuant to PAGA, and any other payments required under this Settlement. Defendant will
18 separately pay its share of the employer payroll taxes which are due with respect to the portion
19 of the Settlement designated as wages. The Settlement Fund will include:

20 (a) The Class Representative Service Award of up to \$10,000.00. In consideration for
21 this enhancement payment, Named Plaintiff agrees to release any and all known and
22 unknown claims against the Released Parties, through Preliminary Approval with a
23 *Civil Code* § 1542 waiver. This broader general release shall be separate from and in
24 addition to the more limited release applicable to Class Members who do not opt out.
25 Plaintiff will be also eligible to receive her respective share of the settlement as
26 provided in this Stipulation.

27 (b) Non-opposition to Class Counsel attorney's fees of up to 35% (\$210,000.00) of the
28 Gross Settlement Fund.

1 (c) Actual costs incurred by Class Counsel of up to \$20,000.00.

2 (d) The costs of class administration of up to \$15,000.00 (including Claims Administrator
3 selected by mutual agreement of the Parties), which will include the administrative
4 costs associated with preparing and mailing the Class Notice, and administering the
5 claims process, and which will be paid from the Settlement Fund. The Parties agree
6 that Simpluris, Inc. will be the Claims Administrator to be selected.

7 (e) Penalties paid pursuant to PAGA in the amount of \$20,000.00.

8 (f) Plaintiff's receipt of less than the above maximum ("up to") amounts from the Court
9 for any cost, incentive, or attorney's fee provision allocated in this agreement is no
10 basis for Plaintiff backing out of her participation in assistance with the case,
11 invalidating her individual settlement and release, or voiding this Settlement. With
12 the exception of remaining funds due to non-cashed checks (See Paragraph 7(e)
13 below), any difference between the amounts allocated under this Settlement and those
14 approved by the Court shall be distributed to Class Members who have not opted out
15 in proportion to the number of weeks of their tenure during the Class Period and the
16 total number of work weeks among Class Members who have not opted out.

17 6. Net Settlement Fund. The Net Settlement Fund shall be the Gross Settlement Fund, less
18 the following quantities:

19 (a) Attorneys' fees up to thirty-five percent of the Gross Settlement Fund
20 (\$210,000.00);

21 (b) Actual costs incurred by Class Counsel up to \$20,000.00;

22 (c) Class Representative Service Award of up to \$10,000.00;

23 (d) Costs of Claims Administration up to \$15,000.00; and

24 (e) Penalties paid pursuant to PAGA in the amount of \$20,000.00.

25 Any reduction of the amounts specified in subsections a, b, c, d, or e, above, shall be
26 redistributed to Class Members who have not opted out, which distribution shall be pro rata
27 according to such Class Members' work weeks during the Class Period.

28 7. Taxation and Withholding; Settlement Checks.

- 1 (a) *Allocation.* The settlement payout to the settlement class will be computed as 80%
2 as penalties, reimbursement, and interest and 20% as wages. This allocation is
3 for purposes of settlement only. The Claims Administrator will pay from the Net
4 Settlement Fund provided at Paragraph 6 the employees' portion for statutory
5 withholding amounts. The payment of taxes and withholdings shall be calculated
6 based upon Defendant's payroll records for each Class Member, including W-4
7 forms. The Claims Administrator shall provide, as appropriate, an IRS Form 1099
8 to each Class Member, Named Plaintiff, and Class Counsel.
- 9 (b) In order to implement the terms of this Agreement and to settle claims alleged
10 under PAGA, the Parties agree to allocate Twenty Thousand Dollars and Zero
11 Cents (\$20,000.00) of the penalties portion of the Settlement Amount as PAGA
12 civil penalties. In accordance with Labor Code § 2699(i), seventy-five percent
13 (75%) of such penalties, or Fifteen Thousand Dollars and Zero Cents (\$15,000.00)
14 will be paid to the LWDA, and the remaining twenty-five percent (25%), or Five
15 Thousand Dollars and Zero Cents (\$5,000.00), will be payable to the Eligible
16 Aggrieved Employees. The Five Thousand Dollars and Zero Cents (\$5,000.00)
17 shall be paid to the Eligible Aggrieved Employees in proportion to the number of
18 workweeks that he or she worked during the PAGA Timeframe. Within eighteen
19 (18) calendar days following the date on which the settlement is fully funded in
20 accordance with paragraph 9, the Settlement Administrator shall disburse the
21 portion of the PAGA Settlement to the LWDA.
- 22 (c) *Circular 230 Disclaimer.* Each of the Parties acknowledges and agrees that (1) no
23 provision of this Agreement, and no written communication or disclosure between
24 or among the Parties or their counsel and other advisers is or was intended to be,
25 nor shall any such communication or disclosure constitute or be construed or be
26 relied upon as, tax advice within the meaning of United States Treasury Circular
27 230 (31 CFR part 10, as amended); (2) each party (a) has relied exclusively upon
28 his, her or its own, independent legal and tax advisors for advice (including tax

advice) in connection with this Agreement, (b) has not entered into this Agreement based upon the recommendation of any other party or any Counsel or advisor to any other party, and (c) is not entitled to rely upon any communication or disclosure by any other counsel or advisor to any other party to avoid any tax penalty that may be imposed on that party; and (3) no attorney or advisor to any other party has imposed any limitation that protects the confidentiality of any such attorney's or advisor's tax strategies (regardless of whether such limitation is legally binding) upon disclosure by the party of the tax treatment or tax structure of any transaction, including any transaction contemplated by this Agreement. Neither Class Counsel nor Defendant will provide tax or financial advice and Class Members are advised to seek independent professional advice as to the tax or financial consequences of any recovery obtained on behalf of the Class.

(d) *No Effect of Employee Benefits.* The Claim Amounts paid to Class Members shall be deemed not to be pensionable earnings and shall not have any effect on the eligibility for, or calculation of, any employee benefits (e.g., vacations, holiday pay, retirement plans, etc.) of the Class Members. The Parties agree that any monetary settlement payments to Class Members do not represent any modification of Class Members' previously credited hours of service or other eligibility criteria under any employee pension benefit plan or employee welfare benefit plan sponsored by the Released Parties. Any amounts paid, pursuant to this Agreement, shall not be considered "compensation" in any year for purposes of determining eligibility for, or benefit accrual within, an employee pension benefit plan or employee welfare benefit plan sponsored by the Released Parties.

(e) *Check Expiration / Refunds.* The expiration date of the settlement checks will be one hundred eighty (180) days from the date the settlement checks are mailed. The amount of any settlement checks that are not cashed by Eligible Class Members within one hundred eighty (180) calendar days of the date of mailing of the settlement checks, shall be sent to the California State Controller to be

1 deposited in the Unclaimed Property Fund for the benefit of the Class Member
2 whose check was not cashed. This shall include amounts from the Net Settlement
3 Fund attributable to any and all Eligible Class Members who have not
4 successfully cashed a settlement check within the 180-day deadline for any
5 reason, including but not limited to the situation where settlement checks have
6 been mailed by the Claims Administrator to the last known address of such
7 Eligible Class Members, but the settlement checks have been returned as
8 undeliverable, or any subsequent mailing of such settlement checks by the Claims
9 Administrator, as provided herein, that likewise have been returned as
10 undeliverable. Within thirty days (30) days after the expiration date of the
11 settlement checks, the Claims Administrator shall provide to Class Counsel and
12 Defendant's Counsel a verification/declaration signed under penalty of perjury
13 that it has mailed the settlement checks to Class Members, and if uncashed, that
14 such amounts have been sent to the California State Controller.

15 8. Defendant's Obligation to Pay. Defendant's obligation to make any payments into the
16 QSF as provided herein does not vest until the "Effective Date" of this Settlement. The number
17 of weeks reflected in Defendant's records for each Class Member will be listed by the Claims
18 Administrator on each Class Member's Claim Form.

19 9. Funding. The Claims Administrator shall advise Defendant of the amounts required to
20 fund the QSF as set forth herein. The Gross Settlement shall be funded by Defendant in two
21 installments. If no objection to the settlement is made, the first one-half of the Gross Settlement
22 (\$300,000) shall be tendered to the Claims Administrator in an interest-bearing trust account
23 within fifteen (15) days after the final approval order. If an objection to the settlement is made
24 but no appeal is filed, the first one-half of the Gross Settlement shall be tendered to the Claims
25 Administrator within fifteen (15) days of the end of the period in which an appeal could be filed.
26 If an appeal is filed, the first one-half of the Gross Settlement shall be tendered to the Claims
27 Administrator within fifteen (15) days of the date the judgment is final and no longer subject to
28 appeal. The second one-half of the Gross Settlement Fund shall be tendered to the Claims

1 Administrator on February 14, 2022, which is five hundred forty-nine (549) days after the date
2 the Parties executed the Memorandum of Understanding, assuming the judgment is final and no
3 longer subject to appeal. At no time prior to final approval of the Settlement shall Defendant be
4 required to escrow any portion of the Settlement Amount. Conditions precedent to Defendant's
5 obligation to make the Settlement payments as set forth herein include the following:

- 6 (a) The Parties agree to waive appeals.
- 7 (b) Execution and filing by the Court of the order of preliminary.
- 8 (c) Mailing of the Class Notice to Class Members in accordance with the
9 Court's order of preliminary or final approval.
- 10 (d) The Court setting and conducting a Fairness Hearing.
- 11 (e) Executing and filing by the Court of the order of final approval of the
12 settlement and entry by the Court of the final judgment.
- 13 (f) If the number of Class Members who opt out is more than 10% of the total
14 number of Class Members, then Defendant has the absolute right, but not
15 an obligation, to rescind or void this entire Settlement by giving notice of
16 such rescission to the Plaintiff no later than five (5) court days prior to the
17 date of the Final Approval Hearing. Defendant will be responsible for
18 paying claims administration costs if it exercises its right to rescind or void
19 the Settlement under this provision.
- 20 (g) Payout Provisions. The Claims Administrator shall make payments to
21 Class Members only after Defendant has made payment of the entire
22 Settlement Fund pursuant to this Agreement. The Claims Administrator
23 shall make the payment eighteen (18) calendar days following the date on
24 which the settlement is fully funded. After subtracting the attorneys' fees,
25 costs, incentive, and Claims Administrator's costs, and penalties paid
26 pursuant to PAGA penalties, the Claims Administrator shall take the
27 balance (Net Settlement Fund) and divide that amount into the total
28 eligible work weeks in the Class Period to determine the value of each

1 class-member workweek. The award for each Class Member shall be
2 determined by multiplying the value of each class workweek by the
3 number of workweeks worked by the Class Member in the Class Period.
4 That is, each Class Member's share will be determined by dividing the Net
5 Settlement Fund by the total number of weeks worked by the Class
6 Members during the Class Period, multiplied by the total number of weeks
7 individually worked by the claiming Class Member during the Class
8 Period.

9 (h) Plaintiff's Counsel can make the following representations to the Court
10 and to Class Members who inquire regarding the settlement by
11 communicating words to the effect that Class Counsel has concluded that
12 this Settlement is in the best interest of Class Members because of the
13 uncertainty of proceeding with protracted and costly litigation.

14 10. Cooperation. The Parties and their counsel will cooperate expeditiously and in good faith
15 for the purpose of achieving occurrence of the conditions set forth above, including without
16 limitation, timely filing of all motions, papers, and evidence necessary to do so, and refraining
17 from causing or encouraging, directly or indirectly, any objection to this Settlement, any claim
18 or exclusion from filing a claim for benefits ("opt out"), or any appeal or petition for writ
19 proceedings seeking review of any Order or the Final Judgment contemplated by the settlement
20 stipulation.

21 11. Warranty of Authority. The undersigned counsel each represent and warrant that each
22 has authority to enter into this Settlement, and that by doing so they are not in breach or violation
23 of any agreement with any third parties. The Parties further agree that the case shall be stayed in
24 all respects until the final payment called for by this Stipulation is made pending the occurrence
25 or failure of the effective settlement date, except for the purpose of filing motions for Preliminary
26 Approval and Final Approval.

27 12. Class List. Within twenty (20) days of the Court's signing of the order of Preliminary
28 Approval, Defendant shall cause to be delivered by email or otherwise to the Claims

1 Administrator a list of the Class Members that includes their names, last known addresses, social
2 security numbers, and number of workweeks during the Class Period, all of which information
3 shall be based upon Defendant's employment records.

4 13. Mailing of Class Notice. Within ten (10) days after delivery of the information at
5 paragraph 12 above, the Claims Administrator will mail the Class Notice to each Class Member
6 in accordance with the Court's order of Preliminary Approval, with written verification to be
7 provided to all counsel of record and to the Court at least twenty (20) days prior to the date of
8 the Fairness Hearing. If mailed notices are returned as undeliverable, then the Claims
9 Administrator shall take steps to ensure that the Notice Packet is received by all Settlement Class
10 Members by performing one skip trace and utilizing the National Change of Address Database
11 maintained by the United States Postal Service to review the accuracy of and, if possible, update
12 a mailing address. Following each search that results in a corrected address, the Claims
13 Administrator shall promptly re-send the Notice Packet to the Class Member via First Class
14 postage-prepaid United States mail. If the process set forth in this paragraph is followed, notice
15 required by state and federal constitutional safeguards shall be deemed to be adequately provided
16 to all Class Members. In the event the procedures in the Agreement are followed and a Class
17 Member, nonetheless, does not receive the Notice Packet, the intended recipient shall remain a
18 Class Member and will be bound by all the terms of this Agreement, including the Release of
19 Claims and any orders of the Court.

20 14. Pending Similar Actions. The Parties represent that they are not aware of any other
21 pending litigation or California or federal civil action against Defendant pertaining, or related, to
22 the subject matter of the instant class claim other than the subject action.

23 15. Deadlines for Objections and Opt-Outs.

- 24 (a) *Objections and Opt-Outs:* Any member of the settlement class who
25 wishes to file objections to the Settlement must serve the Claims
26 Administrator at the address that will be set forth in the notice a signed
27 objection stating the reasons for objection to the Settlement, and
28 postmarked no later than forty-five (45) days after the date of mailing of

1 the Class Notice. The Claims Administrator shall then forward the
2 objection to Class Counsel and Counsel for Defendant who shall have 21
3 days to provide a response to the objection. To opt out, the Class
4 Member must submit the "Request for Exclusion" Form to the Claims
5 Administrator postmarked no later than forty-five (45) days after the date
6 of mailing of the Class Notice. The Plaintiff waives any right to opt out
7 of the settlement class. The Claims Administrator or Class Counsel will
8 not have the unilateral authority to extend the opt-out deadline. The
9 Claims Administrator shall give counsel of record no less than weekly
10 notice of the number of Class Members who timely opt out or file a valid
11 claim. Eligible Aggrieved Employees will not be able to exclude
12 themselves from receiving their PAGA portion of the Settlement, and
13 that they will not be permitted to pursue any action under PAGA against
14 the Released Parties for any claim that arose during the PAGA
15 timeframe, even if they elect to Opt-Out.

- 16 (b) *Work Week Disputes:* Defendant's records will be presumed
17 determinative with respect to whether an individual is a Class Member.
18 Defendant's records will also be presumed determinative with respect to
19 the number of Eligible Work Weeks worked by each Class Member during
20 the Class Period. If for any reason a Class Member disagrees with
21 Defendant's determination of Class Member membership or calculation
22 of his or her number of Eligible Work Weeks, the Class Member shall be
23 provided the opportunity to raise such disagreement and present any
24 supporting evidence to the Claims Administrator. The Claims
25 Administrator, shall have the authority, based upon the information from
26 Defendant and any information provided by the Class Member or Class
27 Counsel, to issue a final non-appealable decision with regard to the
28

number of Eligible Work Weeks worked by the Class Member during the Class Period.

(c) *Notice of Intention to Appear:* Class Members who have not excluded themselves from the Settlement may appear at the Final Approval Hearing and, if permitted, address the Court either on their own behalf or through an attorney that they hire themselves.

16. Costs of Settlement Administration. All costs of settlement administration, including but not limited to preparing and mailing class notice, retaining a Claims Administrator, preparing and mailing checks to Class Members, and all efforts to locate Class Members whose mail addressed to the last known address found in the respective Defendant's employment records is returned as undeliverable, shall come from the portion of the Gross Settlement Fund allocated to settlement administration as provided herein.

17. Enforcement. This Agreement is binding, admissible and enforceable pursuant to California *Code of Civil Procedure* section 664.6 and *Evidence Code* section 1123(b).

18. Preliminary Approval. As soon as possible following execution of this Agreement, Class Counsel shall move the Court for an order granting Preliminary Approval of this Agreement; conditionally certifying the Class for settlement purposes only; certifying Plaintiff AnnMarie Albanez as Class Representative; approving Douglas Han, Shunt Tatavos-Gharajeh, and Phillip Song as Class Counsel; approving the Class Notice to be provided to Class Members; establishing a procedure for Class Members to request exclusion (opt-out) from the Settlement; and scheduling a hearing for Final Approval of the Settlement. Plaintiff will request that the Court's Preliminary Approval of this Agreement be embodied in a Preliminary Approval Order, substantially in the proposed form of which is attached hereto as Exhibit "2."

19. Other Actions Enjoined. Defendant shall have the right to request, and Plaintiff will not oppose, that the Court enter an order that pending final approval, Class Members who do not opt-out of the Settlement are barred from instituting or prosecuting any claims or actions against the Released Parties which fall within the definition of the Released Claims and that any pending actions against the Released Parties, whether in court or arbitration, are stayed on an interim basis

only as to any claims which fall within the definition of the Released Claims.

20. Notices to Counsel. All notices, requests, demands and other communications required or permitted to be given pursuant to this Agreement shall be in writing and shall be delivered personally or mailed, postage prepaid, by first-class United States mail, to the undersigned persons at their respective addresses as set forth herein:

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Counsel for Plaintiff:	Counsel for Defendant:
DOUGLAS HAN, SBN 232858 SHUNT TATAVOS-GHARAJEH, SBN 272164 PHILLIP SONG, SBN 326572 JUSTICE LAW CORPORATION 751 N. Fair Oaks Avenue, Suite 101 Pasadena, California 91103 Telephone: (818) 230-7502 Facsimile: (818) 230-7259	TYLER T. RASMUSSEN, SBN 271987 BRET MARTIN, SBN 304658 LAUREN STOCKUNAS, SBN 316800 FISHER & PHILLIPS LLP 2050 Main Street, Suite 1000 Irvine, California 92614 Telephone: (949) 851-2424 Facsimile: (949) 851-0152

21. Automatic Increase: Defendant represents that there are approximately 16,874 workweeks worked by Class Members in the Class Period. Should the number of workweeks increase by more than 5% this will increase the Gross Settlement Fund proportionally over the 5% increase. For example, if the number of class weeks increases by 6% the Gross Settlement Fund will increase by 1%. Likewise, if the settlement increases by 7% the settlement amount will increase by 2%.

22. This Settlement Is Fair, Adequate and Reasonable. The Parties believe this Settlement is a fair, adequate and reasonable settlement of this Action and have arrived at this Settlement after extensive arms-length negotiations, taking into account all relevant factors, present and potential.

23. Entire Agreement. This Agreement embodies the entire agreement of all the Parties hereto who have executed it and supersedes any and all other agreements, understandings, negotiations, or discussions, either oral or in writing, express or implied, between the Parties to this Agreement. The Parties to this Agreement each acknowledge that no representations, inducements, promises, agreements or warranties, oral or otherwise, have been made by them, or anyone acting on their behalf, which are not embodied in this Agreement; that they have not executed this Agreement in reliance on any representation, inducement, promise, agreements, warranty, fact or circumstances, not expressly set forth in this Agreement; and that no representation, inducement, promise, agreement or warranty not contained in this Agreement including, but not limited to, any purported settlements, modifications, waivers or terminations

1 of this Agreement, shall be valid or binding, unless executed in writing by all of the Parties to
2 this Agreement. This Agreement may be amended, and any provision herein waived, but only
3 in writing, signed by the party against whom such an amendment or waiver is sought to be
4 enforced.

5 10/06/2021
DATE: October ____, 2021

PLAINTIFF

6
7 By: 
8 ANNMARIE ALBANEZ

9 DATE: October ____, 2021

DEFENDANT

10
11 By: _____
12 SERENE VERNON, President
13 on behalf of Defendant OCMBC, INC.,
14 D/B/A LOANSTREAM MORTGAGE

15 **APPROVED AS TO FORM:**

16 DATE: October __, 2021

FISHER & PHILLIPS LLP

17
18 By: _____
19 TYLER T. RASMUSSEN
20 BRET MARTIN
21 LAUREN STOCKUNAS
Attorneys for Defendant OCMBC, INC.,
D/B/A LOANSTREAM MORTGAGE

22 DATE: October 7, 2021

JUSTICE LAW CORPORATION

23
24 By: 
25 DOUGLAS HAN
26 SHUNT TATAVOS-GHARAJEH
27 PHILLIP SONG
Attorneys for Plaintiff
28 ANNMARIE ALBANEZ

1 of this Agreement, shall be valid or binding, unless executed in writing by all of the Parties to
2 this Agreement. This Agreement may be amended, and any provision herein waived, but only
3 in writing, signed by the party against whom such an amendment or waiver is sought to be
4 enforced.

5 DATE: October ____, 2021

PLAINTIFF

6
7 By: _____

8 ANNMARIE ALBANEZ

9 DATE: October 8th, 2021

DEFENDANT

10
11 By:  _____

12 MADELINA L. COLON, CAO
13 on behalf of Defendant OCMBC, INC.,
D/B/A LOANSTREAM MORTGAGE

14
15 **APPROVED AS TO FORM:**

16 DATE: October 8, 2021

FISHER & PHILLIPS LLP

17
18 By:  _____

19 TYLER T. RASMUSSEN
20 BRET MARTIN
21 LAUREN STOCKUNAS
Attorneys for Defendant OCMBC, INC.,
D/B/A LOANSTREAM MORTGAGE

22 DATE: October __, 2021

JUSTICE LAW CORPORATION

23
24 By: _____

25 DOUGLAS HAN
26 SHUNT TATAVOS-GHARAJEH
27 PHILLIP SONG
Attorneys for Plaintiff
28 ANNMARIE ALBANEZ

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PROOF OF SERVICE
1013A(3) CCP

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

I am employed in the County of Los Angeles, State of California. I am over the age of 18 and not a party to the within action. My business address is 751 N. Fair Oaks Avenue, Suite 101, Pasadena, CA 91103 and my electronic service address is mking@justicelawcorp.com

On October 11, 2021, I served the foregoing document described as

AMENDED STIPULATION OF RESOLUTION

for the following case: **Albanez v. OCMBC, Inc.**
LWDA/Court Case No.: **LWDA Case No.: CM-803181-20**
Court Case No.: 30-2019-01078636-CU-OE-CXC
Orange County Superior Court

on interested parties in this action by electronically submitting as follows:

State of California
Labor & Workforce Development Agency
800 Capitol Mall, MIC-55
Sacramento, California 95814

[X] BY ELECTRONIC SUBMISSION

Pursuant to California Senate Bill No. 836, I caused the documents described above to be electronically submitted by and through the procedure stated on the website of the State of California Labor and Workforce Development Agency.

[X] STATE

I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

Executed on October 11, 2021, at Pasadena, California.



Madeline King