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Attorneys for Plaintiffs and the Class

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF ALAMEDA**

CINTHIA MENDOZA and DELISHIA
HYDE, as individuals and on behalf of all
others similarly situated,

Plaintiffs,

vs.

PRIME NOW LLC, a Delaware limited
liability company; and DOES 1 through 50,
inclusive,

Defendants.

Case No.: RG20068286

(Assigned to the Hon. Evelio Grillo, Dept. 21)

**DECLARATION OF NICHOLAS
ROSENTHAL IN SUPPORT OF
PLAINTIFFS' MOTION FOR FINAL
APPROVAL OF CLASS AND
REPRESENTATIVE ACTION
SETTLEMENT**

Date: August 8, 2023

Time: 10:00 A.M.

Dept.: 21

Reservation No.: 138916486157

Complaint Filed: July 21, 2020

FAC Filed: April 5, 2022

SAC Filed: November 4, 2022

Trial Date: None Set

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I, Nicholas Rosenthal, declare as follows:

1. I am an attorney at law, duly licensed to practice before all Courts in the State of California, and am with the law firm Diversity Law Group, counsel of record for Plaintiffs Delishia Hyde, Clara Trotter, Eugenia Dubose, and Araya Turner (collectively, “Plaintiffs”). I have personal knowledge of the facts set forth below and if called to testify I could and would do so competently.

2. The Class Action Settlement Agreement and Release (“Settlement Agreement” or “Agreement”) was the product of negotiation between highly able and experienced attorneys on both sides who possessed the relevant data and extensive legal research which they had carefully analyzed.

3. The settlement in the case at bar warrants approval and carries a presumption of fairness. As previously noted in the application for Preliminary Approval, this current settlement was negotiated at arm's length. I support the settlement as fair, reasonable, and adequate, and in the best interest of the Class Members as a whole.

4. I am one of the primary attorneys on this matter. My qualifications are as follows: I received my *Juris Doctorate* degree from USC Gould Law School in 2009. Upon graduation, I was employed as an associate for approximately 4 years at Seyfarth Shaw LLP, a national employment defense law firm. While at Seyfarth my practice was exclusively labor & employment defense and I represented numerous corporations in large employment class actions.

5. I have been certified as class counsel in a number of cases, including *Pittman v. Martinez Steel Corporation*, San Bernardino County Superior Court Case No. CIVDS1823132, *Della Maggiora v. Watsonville Community Hospital*, Santa Cruz County Superior Court Case No. 18CV00191, *Randolph v. Pacific Racing Association*, Alameda County Superior Court Case No. RG18908139, *Morones v. Bimbo Bakeries USA, Inc.*, Sacramento County Superior Court Case No. 34-2018-00245481-CU-OE-GDS *Foaad Hanna v. Equinix, LLC*, Santa Clara County Superior Court Case No. 18CV339365; *Alicia Harris v. 24 Seven LLC*, Los Angeles County Superior Court Case No. BC720144; *Markham v. Quik Stop Markets, Inc.*, Santa Clara Superior

1 Court Case No.19CV341582; *Siron v. Raypak, Inc.*, Ventura Superior Court Case No. 56-2019-
2 005279959-CU-OE-VTA; *Carter v. Kline Services, Inc.*, San Bernardino Superior Court Case No.
3 CIVDS1828867, *Pascual v. Satellite Healthcare, Inc.*, Santa Clara County Superior Court Case
4 No. 19CV345211; *Carrillo v. New Balance Athletics, Inc.*, Santa Clara County Superior Court
5 Case No. 19CV352469; *Vogel v. Veolia North America, LLC*, Monterey County Superior Court
6 Case No. 19CV001443; *Holman v. American Sugar Refining, Inc.*, Contra Costa County Superior
7 Court Case No. MSC18-00415; and *Chavez v. Converse, Inc.*, United States District Court,
8 Northern District of California Case No. 15-cv-03746-NC.

9 6. To date, I have incurred approximately 75.9 hours in connection with the litigation
10 of this lawsuit. Attached hereto as **Exhibit A** is a summary of the hours I have incurred to date.

11 7. I also anticipate spending an additional 10 hours attending the final approval
12 motion, conferring and reviewing e-mails and other written communications with counsel for
13 Defendant, the Settlement Administrator, and Class Members regarding post final approval
14 matters, including payments and related issues.

15 8. The total lodestar for my hours will be approximately \$60,130.00 based on an
16 hourly rate of \$700.00 per hour (85.9 incurred and anticipated hours x \$700). I have been
17 approved previously at a rate of \$650.00 by various courts, including: *Pittman v. Martinez Steel*
18 *Corporation*, San Bernardino County Superior Court Case No. CIVDS1823132, *Della Maggiora v.*
19 *Watsonville Community Hospital*, Santa Cruz County Superior Court Case No. 18CV00191,
20 *Randolph v. Pacific Racing Association*, Alameda County Superior Court Case No. RG18908139,
21 *Morones v. Bimbo Bakeries USA, Inc.*, Sacramento County Superior Court Case No. 34-2018-
22 00245481-CU-OE-GDS *Foaad Hanna v. Equinix, LLC*, Santa Clara County Superior Court Case
23 No. 18CV339365; *Alicia Harris v. 24 Seven LLC*, Los Angeles County Superior Court Case No.
24 BC720144; *Markham v. Quik Stop Markets, Inc.*, Santa Clara Superior Court Case No.
25 19CV341582; *Siron v. Raypak, Inc.*, Ventura Superior Court Case No. 56-2019-005279959-CU-
26 OE-VTA; *Carter v. Kline Services, Inc.*, San Bernardino Superior Court Case No.
27 CIVDS1828867; *Pascual v. Satellite Healthcare, Inc.*, Santa Clara County Superior Court Case
28 No. 19CV345211; *Carrillo v. New Balance Athletics, Inc.*, Santa Clara County Superior Court

1 Case No. 19CV352469; *Vogel v. Veolia North America, LLC*, Monterey County Superior Court
2 Case No. 19CV001443; *Holman v. American Sugar Refining, Inc.*, Contra Costa County Superior
3 Court Case No. MSC18-00415; and *Chavez v. Converse, Inc.*, United States District Court,
4 Northern District of California Case No. 15-cv-03746-NC.

5 9. As of January 1, 2022, my hourly rate increased to \$700.00. I have been approved
6 at the \$700.00 rate in *Gutierrez v. Spa Havens, LP*, San Diego Superior Court Case No. 37-2019-
7 00057065-CU-OE-NC; *Cruzado v. Ontario T, Inc.*, San Bernardino Superior Court Case No.
8 CIVSB2027249; *Ray v. C&W Facility Services, Inc.*, San Bernardino Superior Court Case No.
9 CIVSB2101321; *Alvarez v. Forterra Building Products*, San Diego Superior Court Case No. 37-
10 2020-00018179-CU-OE-CTL; *Dunn v. Universal Plant Services of California, Inc.*, Solano
11 County Superior Court Case No. FCS056134, *Pulido v. Georgia-Pacific Corrugated III LLC*,
12 Fresno Superior Court Case No. 18CECG00265; and *In re: FPI Management Wage and Hour*
13 *Cases*, Los Angeles Superior Court Case No. JCCP5050.

14 10. I do not have any conflicts of interest with the proposed cy pres recipient.

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

17 Executed on this 17th day of July 2023, at Los Angeles, California.

18
19 
20 Nicholas Rosenthal

EXHIBIT A

Mendoza v. Prime Now LLC
Nicholas Rosenthal Time and Task Chart

Hours	Description of Work
11.9	Evaluation of claims/review of documents from clients; conferences with co-counsel regarding anticipated theories of liability and implications of <i>Ferra v. Loews</i> .
18.1	Conduct further legal research regarding <i>Ferra v Loews</i> ; confer with co-counsel re same; conduct research and analyze/review rulings from trial courts regarding “regular rate of compensation” vs “regular rate of pay” to determine chances of success and inform settlement and litigation position
2.1	Confer with co-counsel following deposition of PMQ and Plaintiff to advise re strategy moving forward; review summaries of deposition transcripts re same
24.1	Conduct interviews of putative class members following receipt of class members’ contact information to develop evidence to move for class certification and prepare for further litigation and address Defendant’s anticipated defenses to liability and class certification
6.8	Analyze and review data produced by Defendant in advance of mediation to further develop damages model and theories of liability, including analysis of strength of class certification arguments given presumption of meal period violation where records demonstrate late/missed breaks considering <i>Donohue v AMN Services</i>
2.3	Further draft and revise mediation brief and confer with counsel re same considering research on <i>Ferra v Loews</i>
3.1	Further draft and revise longform settlement agreement and accompanying documents; confer with co-counsel re same.
5.8	Analysis and strategy regarding Court’s tentative ruling regarding motion for preliminary approval; confer with co-counsel re same; further draft and revise supplemental briefing.
1.7	Draft and revise motion for final approval; and supporting documents; confer with co-counsel re same.
75.9	TOTAL HOURS