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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 MAX W. GAVRON 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

ELECTRONICALLY FILED

Superior Court of California,

County of Alameda

07/17/2023 at 04:50:14 PM

By: Miya Williams,
Deputy Clerk

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I, Max W. Gavron, 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, Eugenia Dubose, Clara Trotter, and Araya Turner (together, “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. Class Counsel engaged in extensive factual investigation before settling, including reviewing class data, taking and defending depositions, and thoroughly litigating the case.

4. I support the settlement as fair, reasonable, and adequate, and in the best interest of the Class Members as a whole. There were no objections to the amount of attorney's fees or litigation costs that Class Counsel seek in this case and for which Plaintiffs ask the Court for final approval.

5. I have been approved as class counsel in numerous other wage/hour class actions that have been granted class certification and final approval.

6. To date, I have incurred approximately 456.4 hours in connection with the litigation of this lawsuit. Attached hereto as **Exhibit A** is a summary of the hours I have incurred to date.

7. I also anticipate spending an additional 5 hours attending the final approval motion, conferring and reviewing e-mails and other written communications with counsel for

1 Defendant, the Settlement Administrator, and Class Members regarding post final approval
2 matters, including payments and related issues.

3 8. The total lodestar for my hours will be approximately \$276,840.00 based on an
4 hourly rate of \$600.00 per hour, including 5 hours in anticipated time spent after the Court grants
5 final approval (461.4 hours x \$600.00 per hour). I have been approved at \$600.00 per hour in
6 *Weybrew v. BEI Construction*, Solano County Superior Court Case No. FCS055658 (January 14,
7 2022), *In re See's Candies Wage and Hour Cases*, Case No. JCCP5004 (March 30, 2022), Los
8 Angeles Superior Court, *Pevey v. Lumber City Corp*, San Bernardino County Superior Court Case
9 No. CIVDS2010240 (May 2, 2022), *Ross v Stater Bros. Markets*, San Bernardino County
10 Superior Court Case No. CIVDS1902518 (September 8, 2022), and *Schneider v. Amazon Retail*
11 *LLC*, Los Angeles County Superior Court Case No. 21STCV26226 (December 1, 2022). Prior to
12 that throughout 2020 and 2021, I was approved at an hourly rate of at \$550.00 per hour in *James v*
13 *RADC Enterprises, Inc.*, San Bernardino County Superior Court, Case No. CIV-DS1933035
14 (September 29, 2020), *Hector Luna v. Triple Canopy, Inc.*, Santa Clara County Superior Court,
15 Case No. 19CV345169 (October 22, 2020), *Melbert Magpugay v. Harbor Electronics, Inc.*, Santa
16 Clara County Superior Court Case No. 19CV352547 (January 27, 2021), *Foster v. Schindler*
17 *Elevator Corp.*, Alameda County Superior Court Case no. RG19029640 (March 2, 2021), *Martin*
18 *v. Streetplus Company, LLC, et al*, Los Angeles Superior Court Case No. 19STCV15522 (July 13,
19 2021), *Morris v. Blue Mountain Enterprises, LLC*, Solano County Superior Court, Case No.
20 FCS05858 (August 4, 2021).

21 9. I am one of the primary attorneys on this matter. My qualifications are as follows:
22 I received a full-tuition scholarship, and graduated from Southwestern Law School in 2013,
23 magna cum laude. I was in the top 5% of my class. During my time at Southwestern, I was a
24 Notes and Comments Editor on the Southwestern Law Review. I also received awards for
25 achieving the highest grade in my class in several courses. In 2012, I was a full-time extern, at the
26 United States District Court for the Central District. Immediately after law school, I taught several
27 courses at Southwestern, including Principles of Legal Analysis and Legal Methods. I taught
28 those courses for approximately four years.

1 10. I practiced civil litigation at Haight Brown & Bonesteel LLP from approximately
2 September 2013, through January 2016. I was third-chair in a federal court jury trial that resulted
3 in a defense verdict in our client's favor on a \$21 million commercial breach of contract dispute. I
4 also regularly litigated cases across the civil litigation spectrum, including employment matters.

5 11. From February 2016, through Fall 2017, I practiced at the international law firm of
6 Arnold & Porter, which had recently merged with Kaye Scholer, LLP. I defended Fortune 50
7 companies in Multi-District Litigation primarily in the product liability sphere. I also successfully
8 drafted an appellate brief in the Ninth Circuit resulting in the reversal of a summary judgment
9 decision regarding trade secret issues, in addition to working in several other practice groups.

10 12. From September 2017, through September 2018, I served as a law clerk to a Judge
11 sitting on the United States District Court, Central District of California. I regularly prepared
12 bench memoranda, on cases involving all types of civil litigation, including regularly working on
13 wage and hour class actions.

14 13. I am currently an attorney at the law firm Diversity Law Group, P.C., an
15 employment law firm that has handled numerous wage and hour class and individual actions, on
16 both plaintiff and defense sides. My current practice focuses on employment matters involving
17 both class actions, and single plaintiffs. The firm currently has cases in the Los Angeles Superior
18 Courts, the Orange County Superior Courts, the San Diego County Superior Courts, and the
19 United States District Courts for the Central, Northern, and Eastern Districts of California. I am
20 currently handling, or have handled, numerous wage and hour class action lawsuits with the firm,
21 including, but not limited to: *Agar v. Sensient Natural Ingredients, LLC* (Case No. CV-19-
22 001906, Stanislaus County Superior Court); *Heredia v. Eddie Bauer LLC* (Case No.
23 16CV300475, United States District Court, Northern District of California); *Parsons v. Estenson*
24 *Logistics, LLC* (Case No. 34-2019-00252929, Sacramento County Superior Court); and *Rodas v.*
25 *Goodyear Tire* (Case No. 21-cv-07526, United States District Court, Central District of
26 California), among many others.

27 14. On June 14, 2019, I argued two related cases in front of the Ninth Circuit Court of
28 Appeals. One of them was *Rodriguez v Nike Retail Service Inc.*, Case No. 17-16866. On June 28,

1 2019, the Ninth Circuit issued a published decision, reversing and remanding in favor of our
2 clients. *Rodriguez v. Nike Retail Servs., Inc.*, 928 F.3d 810 (9th Cir. 2019).

3 15. I have also assisted the firm in numerous wage and hour class action mediations.

4 16. In conjunction with the filing of this Motion, I caused the Motion to be uploaded to
5 the LWDA's website. Attached hereto as **Exhibit B** is the confirmation of submission.

6 17. I do not have any conflicts of interest with the proposed cy pres recipient.

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

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

10
11 
Max W. Gavron

EXHIBIT A

Mendoza v. Prime Now LLC
Max W. Gavron Time and Task Chart

Hours	Description of Work
50.6	Initial research and review of background facts and interviews with clients in preparation for filing of class action claims; draft PAGA letter; confer with co-counsel re theories of liability and conduct research re same considering California Supreme Court's grant of review in <i>Ferra v Loews</i> .
21.6	Conduct research re previously filed cases/prior releases of claims to be alleged; review dockets and complaints and other pleadings of previously filed cases to assess claims and likelihood of stay/whether claims overlap.
5.1	Draft and revise Complaint.
1.1	Analyze and review Court's minute order re complex determination and notice of hearing; conduct research re assignment and determine whether to file peremptory challenge.
.8	Analyze and review Defendants' Answer to Complaint; conduct legal research re same.
1.1	Meet and confer with original defense counsel, Morgan Lewis; discuss anticipated substitution of attorney and confer with new defense counsel, Gibson Dunn; analyze and review substitution of attorney.
2.5	Meet and confer with Defendant's counsel in preparation for case management conference; confer with co-counsel re same; analyze and review requirements for initial case management conference; draft and revise Plaintiff's portion of joint statement.
4.5	Prepare initial set of written discovery; analyze file and confer with clients to prepare same.
2.3	Draft and revise stipulated protective order; meet and confer with defense counsel re same; confer with co-counsel re same.
1.8	Analyze and review notice of related case; meet and confer with defense counsel re same; further review dockets and pleadings in related cases.
.2	Analyze and review Court's tentative re first case management conference.
30.6	Analyze and review discovery propounded by Defendant on Plaintiffs Hyde and Mendoza; confer with clients re information and documents needed to respond to discovery; draft and revise objections and responses; analyze, review, and redact Plaintiffs' document production.
20.3	Analyze and review Defendant's responses to written discovery; meet and confer with defense counsel re deficient responses to Plaintiffs' written discovery; draft and revise meet and confer correspondences; participate in telephonic conferences with defense counsel re same; confer with co-counsel re same.
3.7	Draft and revise Belaire-West notice; confer with defense counsel re same; obtain bids for distribution of Belaire-West notice.

42.6	Analyze and review Defendant's document production spanning over 2,700 pages; draft and revise summary and memorandum re same; confer with co-counsel re strategy in light of production and discovery responses.
25.6	Analyze and review class list following production by Defendant; strategize with co-counsel re information needed to move for class certification; develop, draft, and revise outline to interview putative class members to prepare for class certification and depositions.
17.2	Conduct telephonic interviews of potential class members re theories of liability and payroll practices to prepare for further litigation and class certification; confer with clients re same
7.8	Meet and confer with defense counsel regarding Plaintiffs' responses to written discovery following receipt of meet and confer letter from Defendant; confer with clients regarding further information and documents needed; draft and revise further responses of Plaintiffs.
4.6	Draft and revise notice of deposition of person most qualified ("PMQ") of Defendant; review documents and file to prepare categories for same.
30.3	Draft and revise outline for PMQ deposition; analyze and review document production and discovery responses to identify and select exhibits for deposition; confer with clients re follow up questions; confer with co-counsel re same; depose PMQ.
7.3	Analyze and review deposition transcript of PMQ; draft and revise summary re same.
.5	Analyze and review deposition notice for plaintiff; notify plaintiff re upcoming deposition and obtain dates.
8.3	Meet with client to prepare for deposition; review documents and discovery responses to prepare for same.
9.6	Defend deposition of Plaintiff Hyde; report to and strategize with co-counsel re Hyde's testimony; confer with client following deposition regarding next steps.
6.1	Analyze and review deposition transcript of Plaintiff Hyde; prepare summary re same; confer with client re changes to deposition transcript and address questions re same.
25.4	Interview and confer with potential new clients/class representatives Eugenia Dubose, Araya Turner, and Clara Trotter; analyze and review documents provided considering claims in case; draft and revise supplemental PAGA letters re additional clients.
2.9	Confer with Plaintiff Mendoza re desire to dismiss claims; answer questions re process and potential ramifications; confer with co-counsel re same; strategize re next steps.
6.9	Conduct legal research re relation-back doctrine and implications of adding additional plaintiffs as class representatives; strategize re same.
2.4	Meet and confer with defense counsel re filing of First Amended Complaint to include additional putative class representatives; draft and revise stipulation and proposed order re same; draft and revise FAC.
.9	Draft and revise joint case management statement; confer with defense counsel re same.

6.9	Analysis, strategy, and research re information required from Defendant to participate in mediation; draft and revise data requests for defense counsel in advance of mediation; confer with co-counsel re the same
5.1	Meet and confer with defense counsel re scope of documents requested in advance of mediation; analyze, review, and draft correspondence re same; agree on production of information regarding earnings codes associated with meal/rest period premiums paid during the class period.
6.7	Confer with co-counsel to determine appropriate method to analyze information provided by Defendant in advance of mediation to establish damages analysis; conduct research re other settlements of similar size and similar issues; confer with co-counsel re same; analyze and review additional documents produced by Defendant in advance of mediation.
15.4	Draft and revise mediation brief; conduct legal research for same; review of case law; further analyze and review data provided by Defendant to calculate damages exposure in advance of mediation; confer with co-counsel; analyze and review status of other pending wage and hour cases against Defendant.
11.3	Prepare for and attend mediation; confer with clients and co-counsel re same.
1.6	Draft and revise stipulation for leave to file second amended complaint supplemental PAGA letter; correspond and confer with defense counsel re same.
4.6	Draft and revise memorandum of understanding; confer with co-counsel and defense counsel re same.
8.5	Draft and revise settlement agreement and related documents (i.e., settlement agreement, class notice); conversations with opposing counsel and clients re same; confer with co-counsel re terms of settlement agreement and make revisions considering same
7.9	Draft and revise Motion for Preliminary Approval and Declarations thereto; confer with co-counsel and opposing counsel re same; confer with clients re declarations in support of settlement and approval process
1.7	Analyze and review tentative ruling re Motion for Preliminary Approval; confer with defense counsel re same; appear at hearing on motion for preliminary approval to obtain clarification regarding tentative ruling.
6.1	Draft and revise supplemental briefing, declarations, confer with co-counsel and defense counsel re same; draft and revise amendment to settlement agreement and amended class notice in response to court's tentative ruling re Motion for Preliminary Approval.
1.1	Analyze and review Court's order granting preliminary approval; confer with co-counsel and defense counsel re same; advise clients of approval.
2.2	Confer with settlement administrator and defense counsel re distribution of notice to class members; confer with clients re same.
25.6	Field calls from settlement class members; respond to inquires re status of settlement; confer with co-counsel re same; correspond with settlement administrator re same.
7.1	Draft and revise motion for final approval and supporting documents; confer with co-counsel and clients re the same; conduct legal research re same

456.4	TOTAL HOURS
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EXHIBIT B

Erika Mejia

From: DIR PAGA Unit <lwdadonotreply@dir.ca.gov>
Sent: Monday, July 17, 2023 4:26 PM
To: Erika Mejia
Subject: Thank you for your Proposed Settlement Submission

07/17/2023 04:24:11 PM

Thank you for your submission to the Labor and Workforce Development Agency.

Item submitted: Proposed Settlement

If you have questions or concerns regarding this submission or your case, please send an email to pagainfo@dir.ca.gov.

DIR PAGA Unit on behalf of
Labor and Workforce Development Agency

Website: http://labor.ca.gov/Private_Attorneys_General_Act.htm