

HAINES LAW GROUP, APC
Paul K. Haines (SBN 248226)
phaines@haineslawgroup.com
Sean M. Blakely (SBN 264384)
sblakely@haineslawgroup.com
Alexandra R. McIntosh (SBN 320904)
amcintosh@haineslawgoup.com
2155 Campus Drive, Suite 180
El Segundo, California 90245
Tel: (424) 292-2350
Fax: (424) 292-2355

Attorneys for Plaintiff

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF ORANGE

ALEXANDRO MORA, as an individual and
on behalf of all others similarly situated,

Plaintiff,

vs.

PRIME TECH CABINETS, INC., a
California corporation; and DOES 1 through
100, inclusive,

Defendants.

Case No. 30-2022-01289157-CU-OE-CXC

*[Assigned for all purposes to the Hon. Melissa
R. McCormick, Dept. CX104]*

**PLAINTIFF'S SUPPLEMENTAL BRIEF IN
SUPPORT OF PRELIMINARY
APPROVAL OF CLASS ACTION AND
PAGA SETTLEMENT**

Date: September 12, 2024

Time: 2:00 p.m.

Dept.: CX104

Complaint Filed: October 31, 2022

Trial Date: None Set

TO THE COURT, ALL PARTIES, AND THEIR COUNSEL OF RECORD:

Plaintiff Alexandro Mora (“Plaintiff”) hereby submits the following supplemental brief in response to the Court’s June 20, 2024 tentative ruling regarding Plaintiff’s Motion for Preliminary Approval of Class Action Settlement (the “Order”). After reviewing the Court’s Order, Plaintiff and Defendant Prime Tech Cabinets, Inc. (“Defendant”) (Plaintiff and Defendant are collectively referred to as the “Parties”) amended the Stipulation of Settlement (“Settlement Agreement”) and the Notice of Pendency of Class and PAGA Action and Proposed Settlement (“Class Notice”) in accordance with the issues identified by the Court.

Plaintiff addresses each issue raised in the Court’s Order. The Amendment to the Stipulation of Settlement is attached to the Declaration of Sean M. Blakely as Exhibit 1, filed concurrently herewith. The final Class Notice and certified translation is attached as Exhibit 2 to the Declaration of Sean M. Blakely. A red-line version of the Class Notice showing all changes is attached as Exhibit 3 to the Declaration of Sean M. Blakely (“Blakely Decl.”).

1. Service on LWDA

The Court’s Order asks “*Were the proposed order (ROA 68) and the Haines (ROA 74), Lawrence (ROA 82) and Mora (ROA 76) Declarations served on the LWDA? The March 7, 2024 proof of service (ROA 84) reflects service of the settlement agreement, the memorandum and the Blakely Declaration on the LWDA. Plaintiff must file with the court a proof of service identifying the specific documents served on the LWDA, when plaintiff served the documents, and how services was effectuated.*”

On March 7, 2024, Plaintiff served the LWDA with the Stipulation of Settlement, Plaintiff’s Motion for Preliminary Approval of Class Action Settlement, and the Declaration of Sean M. Blakely In Support of Plaintiff’s Motion for Preliminary Approval of Class Action Settlement (ROA 84). *See* Blakely Decl., ¶ 4, Exhibit 9. On August 16, 2024, Plaintiff served the LWDA with all documents submitted in connection with Plaintiff’s Motion for Preliminary Approval of Class Action Settlement and filed the Proof of Service to the Labor and Workforce Development Agency with the Court (ROA 98). *See* Blakely Decl., ¶ 4, Exhibit 10. Plaintiff is concurrently serving this supplemental brief and all supporting documents on the LWDA.

1 **As to the Settlement:**

2 **2. Funding of Gross Settlement Amount**

3 The Court's Order states, "*The settlement agreement states defendant will pay the Gross*
4 *Settlement Amount in three installments. Settlement Agreement ¶ 3.D. Why is a payment plan*
5 *necessary? If defendant's financial condition is at issue, admissible evidence of defendant's*
6 *financial situation should be provided, including appropriate financial documents such as*
7 *balance sheets, cash flow statements, and profit and loss statements.*"

8 The Parties revised the Settlement so that the Gross Settlement Amount will be deposited
9 with the Settlement Administrator within fifteen (15) calendar days of the Effective Date. See
10 Exhibit 1 to Blakely Decl. (Amendment to Stipulation of Settlement), at Section 3(C).

11 **3. PAGA Payments**

12 The Court's Order asks, "*Why are the PAGA payments calculated based on workweeks*
13 *when the PAGA statute assesses penalties based on pay periods? See, e.g., Settlement Agreement*
14 *¶ 4.C.*"

15 The Parties revised the Settlement so that PAGA payments are calculated based on the
16 proportionate number of pay periods worked during the PAGA Period. See Exhibit 1 to Blakely
17 Decl. (Amendment to Stipulation of Settlement), at Section 4(C).

18 **4. Plaintiff's Release**

19 The Court's Order states, "*The settlement agreement (¶ 2.C) states plaintiff's release is*
20 *conditioned on receipt of the Class Representative Service Award. This provision is inconsistent*
21 *with paragraphs 3.D.3 and 6 of the settlement agreement and inconsistent with the description of*
22 *the Class Representative Enhancement Payment in the notice. In addition, an enhancement*
23 *award is not intended to serve as consideration for the release of additional claims, but rather to*
24 *compensate a class representative for work done on behalf of the class, to make up for financial*
25 *or reputational risk undertaken in bringing the action, and, in some circumstances, to recognize a*
26 *class representative's willingness to act as a private attorney general. The court is unlikely to*
27 *approve a settlement that provides an enhancement award in exchange for a release.*"

28 The Parties revised the Settlement to address the Court's concerns. Specifically, the

Parties deleted the phrase, “As a condition of receiving the Class Representative Service Award.” See Exhibit 1 to Blakely Decl. (Amendment to Stipulation of Settlement), at Section 2(C).

5. Disputes

The Court’s Order states: “*Paragraph 9.E. should be revised to state (i) the parties shall file with the court all disputes submitted by class members, the evidence submitted, and the resolution of the disputes, and (ii) although the settlement administrator may make the initial decision regarding claim disputes, the court may review any decision made by the settlement administrator regarding a claim dispute.*”

The Parties revised the Settlement to address the Court’s concerns. See Exhibit 1 to Blakely Decl. (Amendment to Stipulation of Settlement), at Section 9(E).

6. Plaintiff’s Estimated Payments

The Court’s Order states, “*The parties should provide plaintiff’s anticipated total amount to be received (including for any individual claims and excluding any enhancement payment).*”

Plaintiff’s estimated payment from the Net Settlement Amount is estimated to be approximately \$5,195.09. Plaintiff’s estimated payment from the PAGA Amount is estimated to be approximately \$34.79. Other than his Settlement Award from the Net Settlement Amount and payment from the PAGA Amount, and any Enhancement Payment approved by the Court, Plaintiff is not receiving any other payment from the Settlement of this Action.

7. Estimated High and Low Payments

The Court’s Order states, “*The parties should provide the estimated high and low class payments, and the estimated high and low PAGA payments.*”

The highest estimated payment from the Net Settlement Amount is approximately \$6,095.59. The lowest estimated payment from the Net Settlement Amount is approximately \$372.22. The highest payment from the PAGA Amount is estimated to be approximately \$77.30. The lowest payment from the PAGA Amount is estimated to be approximately \$3.87.

8. Related Litigation

The Court’s Order states, “*Defendant should advise, in a declaration filed with the court, whether, after making reasonable inquiry, defendant is aware of any class, representative or*

1 *other collective action in any court that asserts claims similar to those asserted in this action. If*
2 *any such actions are known to exist, the declaration shall also state the name and case number*
3 *of any such case and the procedural status of that case, and describe the impact of the settlement*
4 *on that case.”*

5 Defendant is concurrently filing a declaration attesting to any related litigation.

6 **9. Objection Procedure**

7 The Court’s Order states, “*The settlement agreement states class members may object to*
8 *the settlement by “filing a written objection with the Settlement Administrator.” Settlement*
9 *Agreement ¶ 9.D. How do the parties anticipate class members will “file” objections? The notice*
10 *appears to contemplate that class members will mail objections to the settlement administrator.*
11 *See Notice at 5. Paragraph 9.D should also include the deadline for objections to be submitted.”*

12 The Parties revised the Settlement to address the Court’s concerns. *See Exhibit 1 to*
13 *Blakely Decl. (Amendment to Stipulation of Settlement), at Section 9(D). Specifically, the Parties*
14 *revised the Settlement to require Settlement Class members to mail written objections to the*
15 *Settlement Administrator by the Response Deadline. Id.*

16 **10. Settlement Administration Costs**

17 The Court’s Order states, “*The settlement agreement states the settlement administrator’s*
18 *costs will not exceed \$12,000. Settlement Agreement ¶ 3.D.2. The Lawrence Declaration states*
19 *the settlement administrator’s costs will not exceed \$10,000. Lawrence Decl., ¶ 16. The*
20 *settlement agreement, the notice and the proposed order should include the settlement*
21 *administrator’s not-to-exceed amount as stated in the settlement administrator’s declaration.”*

22 There was a typographical error in the Declaration of Jodey Lawrence filed on March 7,
23 2024 (ROA 82). While Mr. Lawrence indicated that settlement administration costs would be
24 \$10,000.00 in paragraph 16 of his declaration, the bid attached as Exhibit B to the Lawrence
25 Declaration indicated that settlement administration costs will be \$11,000.00 for this matter. See
26 ROA 82. Filed concurrently herewith is the Supplemental Declaration of Jodey Lawrence in
27 which he attests that settlement administration costs will be \$11,000.00 for this matter. The Parties
28 revised the Class Notice accordingly.

1 **11. Skip Trace**

2 The Court's Order states, "*The settlement agreement should provide that the settlement*
3 *administrator will conduct a skip trace not only on returned mail, but also on returned checks.*"

4 The Parties revised the Settlement to address the Court's concerns. *See* Exhibit 1 to
5 Blakely Decl. (Amendment to Stipulation of Settlement), at Section 9(F). Specifically, the Parties
6 revised the Settlement and added the following language: "The Settlement Administrator shall
7 conduct a skip trace on returned settlement checks as well. If an updated mailing address is
8 identified through a skip trace, the Settlement Administrator shall resend the settlement check to
9 the Settlement Class member immediately." *Id.*

10 **As to the Notice**

11 **12.** The Parties revised the Class Notice to be consistent with the Court's Order.

12 **13.** The Parties revised the dispute procedure to be consistent with the Court's Order.
13 *See* Exhibit 2 to Blakely Decl., at page 2.

14 **14.** Attached to the Blakely Decl. as Exhibit 4 is the proposed Objection Form.

15 **15.** The Parties revised the objection procedure in accordance with the Court's Order.
16 *See* Exhibit 2 to Blakely Decl., at page 5.

17 **16.** The Parties revised the Notice to include the deadline for cashing settlement
18 checks. *See* Exhibit 2 to Blakely Decl., at page 3.

19 **17.** The Parties revised the Notice to include the deadline for remailed notices. *See*
20 Exhibit 2 to Blakely Decl., at page 6.

21 **18.** The Parties revised the Notice to state that "Aggrieved Employees will be bound
22 by the PAGA Released Claims even if they do not cash their PAGA settlement check." *See*
23 Exhibit 2 to Blakely Decl., at page 4.

24 **19.** The Parties contend that the Notice should be provided in English and Spanish
25 only. Certified translations of the Notice, Request for Exclusion Form, and Objection Form are
26 attached to the Blakely Decl. as Exhibits 5-7, respectively.

27 **20.** The Parties revised the Notice to state that the settlement administrator will post
28 key documents from the case. *See* Exhibit 2 to Blakely Decl., at page 1.

1 **21.** The Parties propose January 30, 2025 at 2:00 p.m. for the hearing on Plaintiff's
2 Motion for Final Approval of Class Action Settlement.

3 **As to the Proposed Order:**

4 **22.** Plaintiff revised the proposed order consistent with the Court's Order.

5 **23.** Plaintiff revised the proposed order to refer to the PAGA settlement.

6 **24.** Plaintiff removed counsel's name and contact information from the caption page
7 of the proposed order.

8 **25.** Plaintiff added the Gross Settlement Amount and the not-to-exceed amounts for
9 attorneys' fees, litigation costs, enhancement payment, settlement administration costs, and
10 PAGA civil penalties.

11 **26.** Plaintiff revised the proposed order to address the Aggrieved Employees and the
12 PAGA Period.

13 **27.** Plaintiff revised the proposed order to add "preliminarily" as directed by the Court.

14 **28.** Plaintiff added the following language as directed by the Court: "The settlement
15 administrator is ordered to carry out its administration functions as set forth in the settlement
16 agreement."

17 **29.** Plaintiff revised the proposed order to include the procedures for objections,
18 exclusion, and disputes.

19 **30.** Plaintiff removed paragraphs 7 and 15 from the proposed order.

20 **31.** Plaintiff revised the proposed order and attached the settlement agreement, the
21 amendment, and the notice documents (and their certified translations) as exhibits to the proposed
22 order.

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