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**FILED**  
**November 7, 2023**  
Clerk of the Court  
Superior Court of CA  
County of Santa Clara

21CV382938  
By: rwalker

9 Attorneys for Plaintiff Sima Adami

10 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**

11 **COUNTY OF SANTA CLARA**

12 SIMA ADAMI, in her representative capacity  
on behalf of the State of California, the general  
13 public, and all aggrieved employees,

14 Plaintiff,

15 v.

16 PRIME NOW LLC, a Delaware limited liability  
company authorized to do business in  
17 California; and DOES 1 through 50, inclusive,

18 Defendants.

Case No.: 21CV382938

**REPRESENTATIVE ACTION**

**REVISED [~~PROPOSED~~] ORDER GRANTING  
MOTION FOR PRELIMINARY APPROVAL  
OF CLASS AND PAGA ACTION  
SETTLEMENT**

Date: November 1, 2023  
Time: 1:30 p.m.  
Dept: 19  
Judge: Hon. Theodore C. Zayner

Complaint Filed: June 11, 2021  
Trial Date: None set

21  
22 Plaintiff Sima Adami’s (“Plaintiff”) Motion for Preliminary Approval of Class and PAGA Action  
23 Settlement with Defendant Prime Now LLC (“Defendant”) (collectively, the “Parties”) came before this  
24 Court on November 1, 2023. The Court, having considered the Parties’ proposed Class Action Settlement  
25 Agreement and Release of Claims (“Settlement Agreement”), Plaintiff’s Motion for Preliminary  
26 Approval, and all papers filed in support thereof

27 **NOW, THEREFORE, IT IS HEREBY ORDERED:**

28 1. This Order Granting Motion for Preliminary Approval of Class and PAGA Action

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3555 FIFTH AVENUE SUITE 200  
SAN DIEGO, CALIFORNIA 92103

1 Settlement (“Order”) incorporates by reference all defined terms set forth in the Settlement Agreement,  
2 which is attached as Exhibit 1 to the Declaration of Graham S.P. Hollis in Support of Plaintiff’s Motion  
3 for Preliminary Approval of Class and PAGA Action Settlement, filed on August 11, 2023. To the extent  
4 the terms used in this Order are defined in the Settlement Agreement, the defined terms shall have the  
5 same meaning as set forth in the Settlement Agreement.

6 2. The Court has jurisdiction over the claims asserted in this Action and has personal  
7 jurisdiction over Plaintiff, Defendant, and the Settlement Class.

8 3. The Court preliminarily approves the definition and disposition of the Gross Settlement  
9 Fund in the amount of \$4,300,000, which is inclusive of (1) all settlement payments to Class Members;  
10 (2) Class Counsel’s attorneys’ fees of one-third of the Gross Settlement Amount, or \$1,433,333.33, and  
11 costs in an amount not to exceed \$25,000; (3) the Settlement Administration Costs, currently projected  
12 not to exceed \$130,000; (4) the PAGA Settlement Amount of \$215,000, seventy five percent (75%) of  
13 which will be paid to the Labor and Workforce Development Agency (\$161,250) and twenty five percent  
14 (25%) will be paid to PAGA Settlement Members (\$53,750); and (5) the Class Representative  
15 Enhancement Payment to Plaintiff in the amount of \$2,500.

16 4. The Court finds, for settlement purposes only, that the Settlement Class and Waiting Time  
17 Sub-Class meet the requirements for certification under California Code of Civil Procedure section 382.  
18 The Court provisionally certifies, for settlement purposes only, the Settlement Class and Subclass, defined  
19 as follows:

20 **Settlement Class:** all current and former non-exempt employees of Prime  
21 Now in California during the Class Period who underwent one or more  
22 COVID-19 temperature screenings.

22 **Waiting Time Sub-Class:** former non-exempt employees of Prime Now in  
23 California during the Class Period who underwent one or more COVID-19  
24 temperature screenings.

24 5. Should whatever reason the Settlement not become final, the fact that the Parties were  
25 willing to stipulate to class certification as part of the Settlement shall have no bearing on, nor be  
26 admissible in connection with, the issue of whether a class should be certified in a non-settlement context.

27 6. Plaintiff Sima Adami is hereby appointed and designated, for all purposes, as the  
28 representative of the Settlement Class, and the following attorneys are hereby appointed and designated

1 as counsel for Plaintiff and the Settlement Class: Graham S.P. Hollis and Dawn M. Berry of GrahamHollis  
2 APC (“Class Counsel”). Class Counsel is authorized to act on behalf of Settlement Class Members with  
3 respect to all acts or consents required by, or which may be given pursuant to, the Settlement, and such  
4 other acts reasonably necessary to consummate the Settlement. Any Settlement Class Member may enter  
5 an appearance through counsel of such Settlement Class Member’s own choosing and at such Settlement  
6 Class Member’s own expense. Any Settlement Class Member who does not enter an appearance or appear  
7 on his or her own will be represented by Class Counsel.

8 7. The Court finds on a preliminary basis that the Settlement appears to be fair, reasonable,  
9 and adequate, and one that would merit, ultimately, final approval by this Court. The Court has reviewed  
10 the Settlement and recognizes the value thereof to the Settlement Class Members. The Court finds, on a  
11 preliminary basis, that the Settlement is fair, adequate, and reasonable as to all Settlement Class Members  
12 when balanced against the potential outcomes of further litigation relating to liability and damages issues.  
13 The Court further finds that the Settlement has been reached as the result of serious and non-collusive,  
14 arms-length negotiations by Defendant and Plaintiff (the “Settling Parties”).

15 8. A Final Approval Hearing shall be held before this Court, located at 191 N. First Street,  
16 San Jose, California 95113, on May 8, 2024 at 1:30 p.m. in Department 19, to determine all necessary  
17 matters concerning the Settlement, including: whether the proposed settlement of the Action should be  
18 finally approved by the Court; whether a Judgment, as provided in the Settlement Agreement, should be  
19 entered herein; whether the plan of allocation contained in the Settlement Agreement should be approved  
20 as fair, adequate, and reasonable to the Settlement Class Members; and to finally approve the Class  
21 Counsel Award, the Class Representative Enhancement Payment, the PAGA Settlement Amount, and the  
22 Settlement Administration Costs;

23 9. Prior to the Final Approval Hearing, the Settling Parties shall identify a new *cy pres* in  
24 compliance with Code of Civil Procedure section 384.

25 10. Plaintiff shall file her motion for final approval of the Settlement, including a request for  
26 approval for the Class Representative Enhancement Payment, Class Counsel Award, the PAGA  
27 Settlement Amount, and Settlement Administration Costs no later than 16 court days prior to the Final  
28 Approval Hearing.

1 11. Within 30 calendar days of this Order, Defendant shall provide the Settlement  
2 Administrator with a list of Settlement Class Members, containing the names, last known addresses, and  
3 telephone numbers, Social Security numbers, the dates of hire, and if applicable, termination date for each  
4 Class Member, and the number of workweeks worked during the Settlement Class Period and the  
5 Settlement PAGA Period, as applicable.

6 12. The Court hereby approves, as to form and content, the Notice of Class Action Settlement  
7 and Release of Claims (“Notice Packet”), attached hereto as Exhibit A. The Court finds that distribution  
8 of the Notice Packet, substantially in the manner and form set forth in the Settlement Agreement and this  
9 Order, meets the requirements of due process, is the best notice practicable under the circumstances, and  
10 will constitute due and sufficient notice to all persons entitled thereto.

11 13. The Court hereby appoints CPT Group, Inc. as the Settlement Administrator. The  
12 Settlement Administrator shall administer the Settlement in accordance with the Settlement Agreement  
13 and this Order.

14 14. The Court orders the Settlement Administrator to simultaneously mail or cause to be mailed  
15 to Settlement Class Members the Notice Packet (in the form attached hereto as Exhibit A) by first class  
16 mail at their last known address within 15 calendar days of receiving Settlement Class Member  
17 information from Defendant. The Settlement Administrator shall use the procedures and methods outlined  
18 in the Settlement Agreement.

19 15. Any Settlement Class Member may challenge the number of qualified workweeks worked  
20 as provided in the Notice Packet. Settlement Class Members shall have 60 calendar days from the date of  
21 mailing of the Notice Packet in which to challenge the number of qualifying workweeks worked. The  
22 Court may review and approve or disprove any resolution of the challenge.

23 16. Any Settlement Class Member may elect to be excluded from the class action portion of  
24 the Settlement as provided in the Settlement Agreement and Notice Packet. All requests for exclusion  
25 must be post marked on or before the end of the Response Deadline. Settlement Class Members who do  
26 not submit a timely request for exclusion to the Settlement Administrator shall be bound by the Settlement  
27 Agreement, all determinations of this Court, and final judgment. PAGA Settlement Members are bound  
28 by and cannot request to be excluded from the PAGA Settlement.

1           17. Any Settlement Class Member who did not request exclusion from the Settlement may  
2 object to the Settlement or express his or her views regarding the Settlement and may present evidence,  
3 and file briefs or other papers that may be proper and relevant to the issues to be heard and determined by  
4 the Court, as provided in the Settlement Agreement and Notice Packet. All objections must be post marked  
5 on or before the end of the Response Deadline. Any Settlement Class Member who does not make their  
6 objection at or before the final approval hearing shall be deemed to have waived any such objection and  
7 shall be foreclosed from objecting to the Settlement at a later date.

8           18. The Settlement is not a concession or admission and shall not be used against Defendant  
9 or any of the Released Parties as an admission or indication with respect to any claim of any fault or  
10 omission by Defendant or any of the Released Parties. Whether or not the Settlement is finally approved,  
11 neither the Settlement, nor any document, statement, proceeding, or conduct related to the Settlement, nor  
12 any reports or accounts thereof, shall in any event be:

13           A. Construed as, offered or admitted in evidence as, received as or deemed to be  
14 evidence for any purpose adverse to the Released Parties, including, but not limited  
15 to, evidence of a presumption, concession, indication, or admission by any of the  
16 Released Parties of any liability, fault, wrongdoing, omission, concession, or  
17 damage; or

18           B. Disclosed, referred to, or offered or received in evidence against any of the  
19 Released Parties in any further proceeding in the Action, or in any other civil,  
20 criminal, or administrative action or proceeding, except for purposes of settling the  
21 Action pursuant to the Settlement Agreement.

22           19. As of the date this Order is signed, all dates and deadlines associated with the Action shall  
23 be stayed, other than those pertaining to the administration of the Settlement of the Action.

24           20. In the event the Settlement does not become effective in accordance with the terms of the  
25 Settlement Agreement, or the Settlement is not finally approved, or is terminated, canceled, or fails to  
26 become effective for any reason, this Order shall be rendered null and void and shall be vacated and the  
27 Parties shall revert to their respective positions as of before entering into the Settlement Agreement.

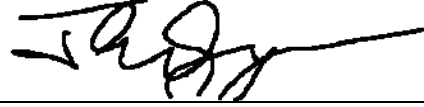
28           21. The Court reserves the right to adjourn or continue the date of the Final Approval Hearing

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1 and all dates provided for in the Settlement Agreement without further notice to Settlement Class  
2 Members, and retains jurisdiction to consider all further applications arising out of or connected with the  
3 proposed Settlement.

4 **IT IS SO ORDERED.**

5 Dated: November 7, 2023



\_\_\_\_\_  
Hon. Theodore C. Zayner  
Judge of the Superior Court

# **EXHIBIT A**

**NOTICE OF CLASS ACTION SETTLEMENT AND RELEASE OF CLAIMS**

*You are not being sued. This notice affects your rights. Please read it carefully.*

To: All current and former non-exempt employees of Prime Now LLC (“Prime Now” or “Defendant”) who performed work for Defendant in the state of California at any time during the period of March 18, 2020 and July 5, 2021.

You have received this Notice of Class Action Settlement and Release of Claims (“Notice”) because Prime Now’s records identify you as a non-exempt employee of Prime Now who performed work for Defendant in the state of California at any time from March 18, 2020 through July 5, 2021 who underwent one or more COVID-19 temperature screenings. The purpose of this Notice is to explain the lawsuit, the Settlement, your legal rights, what benefits are available, who is eligible for the benefits, and how to receive them.

- **READ THIS NOTICE CAREFULLY. YOUR RIGHTS AND OPTIONS – AND THE DEADLINES TO EXERCISE THEM – ARE EXPLAINED IN THIS NOTICE**
- **THE COURT HAS NOT DETERMINED THAT DEFENDANT VIOLATED THE LAW. DEFENDANT DENIES THAT IT VIOLATED ANY LAWS OR THAT IT HARMED WORKERS IN ANY WAY. IT IS SETTling THIS LAWSUIT TO AVOID THE EXPENSE AND BURDEN OF FURTHER LITIGATION.**
- **NO SETTLEMENT CLASS MEMBER WILL BE SUBJECT TO RETALIATION IN ANY MANNER RELATED TO THIS LAWSUIT**

<b>SUMMARY OF YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT</b>	
<b>RECEIVE YOUR INDIVIDUAL SETTLEMENT PAYMENT(S)</b>	<p>You do not have to do anything to receive your Individual Settlement Payments other than ensuring that the Settlement Administrator has your current mailing address on file if it changes from the address to which this Notice was mailed. Payments will be mailed to you after the Court grants final approval of the Settlement. (See Pages ## for more information.)</p> <p>If you are a Participating Settlement Class Member, you will be mailed your Individual Settlement Payment in exchange for the release of the Released Class Claims.</p> <p>If you are a PAGA Settlement Member, you will be mailed your Individual PAGA Payment for the release of the Released PAGA claims regardless of whether you request exclusion from the Settlement.</p>
<b>EXCLUDE YOURSELF FROM THE SETTLEMENT</b>	<p>Decline your Individual Settlement Payment. Send a letter to the Settlement Administrator by [date] stating that you do not want to participate in the Settlement and do not want to receive your Individual Settlement Payment. (See Page # for more information.) This is the only option that will allow you to bring your own lawsuit against Defendant for the same wrongs settled by this lawsuit. By submitting a request for exclusion, you can only exclude yourself from the Class Settlement and will still be bound by the PAGA Settlement and receive an Individual PAGA Payment.</p>
<b>OBJECT TO THE SETTLEMENT</b>	<p>Write to the Court by [date] if you think the Settlement is not fair. You may also ask to speak in Court about why you think the Settlement is not fair. (See Page # for more information.)</p> <p><b>NOTE:</b> You cannot object to the Class Settlement if you ask to exclude yourself from the Settlement Class.</p>
<b>DISPUTE THE NUMBER OF WORKWEEKS</b>	<p>If you believe that the number of Workweeks you were credited with working is incorrect, you must notify the Settlement Administrator of your belief and provide any supporting documentation by [date]. (See page # for more information.)</p>
<b>CHANGE/UPDATE YOUR CONTACT INFORMATION</b>	<p>Update your personal information to ensure that your Individual Settlement Payment is mailed to the correct address by contacting the Settlement Administrator at (###) ###-####.</p>



## Introduction

The Honorable Theodore C. Zayner of the Superior Court for the State of California, County of Santa Clara, has granted preliminary approval of a proposed settlement (“Settlement”) of this class and representative action (“Action”).

The purpose of this Notice is to provide a brief description of the claims alleged in the Action, the key terms of the Settlement, and your rights and options with respect to the Settlement. **You have received this Notice because Prime Now’s records indicate that you are a Settlement Class Member (defined below) and you may be entitled to a settlement payment.**

**Unless you choose to be excluded from the Settlement by following the procedures described below, you will be deemed a Participating Settlement Class Member and, if the Court grants final approval of the Settlement, you will be mailed a check for your share of the settlement fund.** However, all PAGA Settlement Members (as defined below) will receive a pro rata portion of the PAGA Settlement regardless of whether they opt out of the Settlement Class. The Final Approval Hearing on the adequacy, reasonableness, and fairness of the Settlement will be held at **10:00 a.m. on [REDACTED], 2023** in Department 19 of the Superior Court for the State of California, County of Santa Clara, located at 161 North First Street San Jose, California 95113. You are not required to attend the Final Approval Hearing, but you are welcome to do so. The Court may change the Final Approval Hearing date or time without notice.

## Summary of the Litigation

Plaintiff Sima Adami (“Plaintiff”), on behalf of herself and on behalf of other non-exempt employees of Prime Now who performed work for Defendant in the state of California at any time from March 18, 2020 through July 5, 2021 and underwent one or more COVID-19 temperature screenings, claims that Defendant violated California state labor laws by: (1) failing to timely compensate for all hours worked, including minimum, regular, and/or overtime wages; (2) failing to pay all wages due and owing upon separation of employment and/or the mandatory waiting time penalties; (3) failing to furnish accurate itemized wage statements; (4) failing to maintain accurate records; (5) violating Business and Professions Code § 17200 et seq.; and (6) violating the Private Attorneys General Act of 2004, Labor Code § 2698 et seq. (“PAGA”).

After the exchange of relevant information and evidence, the Parties agreed to enter into settlement negotiations in an attempt to informally resolve the claims in the case. On April 27, 2023, the Parties participated in a mediation with Lisa Klerman, Esq., an experienced and well-respected class action mediator. With Ms. Klerman’s guidance, the Parties were able to negotiate a complete settlement of the claims described above.

Counsel for Plaintiff, and the attorneys approved by the Court to represent the Settlement Class, Graham S.P. Hollis, Vilmarie Cordero, Hali M. Anderson, and Dawn M. Berry of GrahamHollis APC (“Class Counsel”), have investigated and researched the facts and circumstances underlying the issues raised in the case and the applicable law. While Class Counsel believes that the claims alleged in this lawsuit have merit, Class Counsel also recognizes that the risk and expense of continued litigation justify settlement. Based on the foregoing, Class Counsel believes the proposed settlement is fair, adequate, reasonable, and in the best interests of Settlement Class Members and PAGA Settlement Members.

Defendant denies that it violated the law in any way. Defendant has denied, and continues to deny, the factual and legal allegations in the case and believe that it has valid defenses to the asserted claims. By agreeing to settle the Action, Defendant is not admitting liability on any of the factual allegations or claims in the case or that the case can or should proceed as a class or representative action. Defendant has agreed to settle the case as part of a compromise with Plaintiff.

## Summary of the Proposed Settlement Terms

Plaintiff and Defendant have agreed to settle the Action in exchange for a Gross Settlement Fund of \$4,300,000. This amount is inclusive of: (1) Individual Settlement Payments to all Participating Settlement Class Members; (2) a Class Representative Enhancement Payment in an amount up to \$2,500 to Plaintiff; (3) a Class Counsel Award in an amount up to \$1,458,333.33 (\$1,433,333.33 in attorneys’ fees and \$25,000 in litigation costs); (4) the PAGA Settlement Amount of \$215,000, and (5) Settlement Administration Costs not to exceed \$130,000. After deducting the Class Representative Enhancement Payment, the Class Counsel Award, the PAGA Settlement Amount,

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and the Settlement Administration Costs, a Net Settlement Amount of approximately \$2,540,416.67 will be allocated to Settlement Class Members who do not opt out of the Settlement Class (“Participating Settlement Class Members”).

Each Participating Settlement Class Member’s settlement payment (“Individual Settlement Payment”) will be based on the number of workweeks the Participating Settlement Class Member worked as a non-exempt employee of Prime Now who performed work for Defendant in the state of California at any time from March 18, 2020 through July 5, 2021 and underwent one or more COVID-19 temperature screenings (“Class Period”). The Net Settlement Amount will be distributed on a pro rata basis according to the number of workweeks worked during the Class Period. Any Participating Class Member whose employment with Prime Now terminated after March 18, 2020 will be credited with an additional six workweeks toward the calculation of their total workweeks worked.

Individual Settlement Payments will be calculated as follows: the number of the Participating Settlement Class Member’s credited workweeks during the Class Period, divided by the total number of credited workweeks worked by all Participating Settlement Class Members during the Class Period, multiplied by the Net Settlement Amount. The Settlement Administrator will calculate the respective number of workweeks worked by each Participating Settlement Class Member, based on information provided by Prime Now. Individual Settlement Payments will be treated as 50% interest and penalties and 50% wages. Participating Settlement Class Members will be responsible for taxes associated with the wages portion of the Individual Settlement Payments. The six additional workweeks credited to those whose employment with Prime Now terminated after March 18, 2020 will be allocated 100% as penalties.

The Parties also will seek approval for a PAGA Settlement from the Gross Settlement Amount in the amount of \$215,000, 75% of which will go to the Labor & Workforce Development Agency (“LWDA”), which enforces the Private Attorneys General Act of 2004, and 25% of which will be paid to all non-exempt employees of Prime Now who performed work for Defendant in the state of California at any time from April 7, 2020 through July 5, 2021 and underwent one or more COVID-19 temperature screenings (“PAGA Settlement Members”). Each PAGA Settlement Member is entitled to a pro rata share of the 25% portion of the PAGA Settlement available for distribution to PAGA Settlement Members based on the number of workweeks he or she worked during the PAGA Period (April 7, 2020 through July 5, 2021). The Individual PAGA Payment is to be calculated as follows: the number of the PAGA Settlement Member’s credited workweeks worked during the PAGA Period, divided by the total number of credited workweeks worked by all PAGA Settlement Members during the PAGA Period, multiplied by 25% of the PAGA Settlement. The full amount will be allocated as penalties. The PAGA Settlement Payment will be paid to all PAGA Settlement Members regardless of whether a Settlement Class Member requests exclusion from the settlement.

Each settlement payment will be reduced by any required legal deductions.

All checks will be voided 180 days after issuance. After the 180-day period, the associated funds from all uncashed or undeliverable Individual Settlement Payment and Individual PAGA Payment (collectively, “Individual Settlement Payment”) checks will be directed to a *cy pres* beneficiary, which the Parties will identify for the Court prior to the Final Approval Hearing.

According to Prime Now’s records, you were a non-exempt employee in California during the Class Period and performed work for a total of [REDACTED] workweeks. According to Prime Now’s records, you were a non-exempt employee in California during the PAGA Period and performed work for a total of [REDACTED] workweeks.

Accordingly, if the Settlement is finally approved, your estimated payment would be approximately \$ [REDACTED], which includes a \$ [REDACTED] Individual Settlement Payment and a \$ [REDACTED] Individual PAGA Payment. If you believe the information provided above is incorrect, please promptly contact the Settlement Administrator at [REDACTED]. If you dispute the information stated above, Prime Now’s records will control unless you are able to provide documentation that establishes otherwise.

IRS Forms W-2 and 1099 will be distributed to Participating Settlement Class Members and PAGA Settlement Members, and the appropriate taxing authorities, reflecting the payments they receive under the Settlement.

### **Why is This Being Referred to as a “Class and Representative Action”**

The settlement that you are receiving notice about involves a case that was filed as a class action and a representative action. The case and settlement you are being notified about include class action claims under California law for: (1) failure to pay minimum, regular

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and overtime wages, (2) failure to timely pay wages due upon separation of employment, (3) failure to provide accurate itemized wage statements, (4) failure to maintain accurate records, and (5) violation of Business & Professions Code § 17200 et seq. Further, this case includes claims involving the Private Attorneys General Act of 2004 for civil penalties, which is referred to as a “representative action.”

The key distinctions between a “class action” and a “representative action” are their requirements for how you participate in and how or if you can exclude yourself from the settlement.

**If you wish to participate in the class action settlement, which is explained in this Notice and the Settlement Agreement, you do not have to do anything. You will receive money under the class action settlement by doing nothing.** If you want to request to be excluded from and not be bound by, the class action settlement, then you must submit your intention to be excluded from the settlement in the manner and timeframe described in this Notice and in the Settlement Agreement. If you request exclusion from the Settlement, you still will receive a PAGA Settlement Payment and will be bound by the Released PAGA Claims that are part of the settlement.

**If the Court approves the PAGA Settlement you will receive a PAGA Settlement Payment and do not have the option to exclude yourself and you will be bound by the Released PAGA Claims.**

### Your Options Under the Settlement

#### **Option 1 – Automatically Receive a Payment from the Settlement**

If you want to receive your Individual Settlement Payment from the settlement, then no further action is required on your part. You will automatically receive your Individual Settlement Payment and Individual PAGA Payment checks from the Settlement Administrator if and when the Settlement receives final approval by the Court.

#### **Option 2 – Opt Out of the Settlement Class**

If you do not wish to participate in the settlement, you may exclude yourself from participating in the Class Action Settlement by submitting a written request to the Settlement Administrator expressly and clearly indicating that you have received this Notice, decided not to participate in the Class Settlement, and wish to be excluded from the Settlement Class. The written request for exclusion must include: (1) your full name and current mailing address; (2) your signature; and (3) a statement which substantially reads as follows: “I wish to exclude myself from the settlement in *Sima Adami v. Prime Now LLC*, Santa Clara County Superior Court, Case No. 21CV382938, and I understand that by requesting to be excluded from the Settlement Class I will not receive any money from the settlement other than the PAGA Settlement Payment I will receive if I am an eligible PAGA Settlement Member.”

The written request for exclusion must be sent to:

[Settlement Administrator]

c/o \_\_\_\_\_

The written request to be excluded must be postmarked by \_\_\_\_\_, 2023. If you submit a request for exclusion that is not postmarked by \_\_\_\_\_, 2023, your request for exclusion will be rejected, and you will be included in the Settlement Class.

If you do not request exclusion from the settlement but then later do not cash your settlement checks, you will still be bound by the Released Class Claims. If you request exclusion from the settlement, you will still receive an Individual PAGA Payment and will be bound by the Released PAGA Claims that are part of the settlement.

#### **Option 3 – Object to the Settlement**

If you decide to object to the settlement because you find any portion of it unfair or unreasonable, you may submit a written objection stating why you object to the settlement. The objection must be signed by the Class Member or his or her counsel and state: (1) the full name, address, and signature of the Settlement Class Member; (2) the case name and case number; (3) the basis for

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the objection; and (4) whether the Settlement Class Member intends to appear at the Final Approval Hearing. The objection must be mailed or faxed to the Settlement Administrator at [administrator's address and fax number].

All objections must be postmarked by [redacted] 2023. By submitting an objection, you are not excluding yourself from the settlement. To exclude yourself from the settlement, you must follow the directions described above. Please note that you cannot both object to the settlement and exclude yourself. You must choose one option only.

You may also, if you wish, appear at the Final Approval Hearing set for [redacted] at [redacted] a.m./p.m. in Department 19 of the Superior Court for the State of California, County of Santa Clara, located at 161 North First Street San Jose, California 95113, and discuss your objection with the Court and the Parties at your own expense. You may appear at the Final Approval Hearing to make an oral objection even if you do not file a written objection. You may also retain an attorney to represent you at the hearing. The Court may change the hearing date or time without notice.

Settlement Class Members may appear at the Final Approval Hearing in person or remotely using the Microsoft Teams link for Department 19 (Afternoon Session). Instructions for appearing remotely are provided at [https://www.sccourt.org/general\\_info/ra\\_teams/video\\_hearings\\_teams.shtml](https://www.sccourt.org/general_info/ra_teams/video_hearings_teams.shtml) and should be reviewed in advance. Class members who wish to appear remotely are encouraged to contact class counsel at least three days before the hearing if possible, so that potential technology or audibility issues can be avoided or minimized.

If you choose **Option 1 and do nothing**, and if the Court grants final approval of the Settlement, then you will be mailed a check for your Individual Settlement Payment. In addition, you will be deemed to have released or waived the following claims ("Released Class Claims"):

Upon the Effective Date, and except as to the right to enforce the terms and conditions of the Agreement, each Participating Settlement Class Member will release the Released Parties of all claims, actions, demands, causes of action, suits, debts, obligations, demands, rights, liabilities, or legal theories of relief, that are based on the facts and legal theories asserted in the operative complaint, or which relate to the primary rights asserted in the operative complaint, including without limitation claims for (1) failure to timely pay all minimum, regular, and /or overtime wages in violation of Labor Code §§ 204, 210, 510, 558, 1194, 1197, and 1198; (2) failure to pay all wages due and owing upon separation of employment and/or the mandatory waiting time penalties in violation of Labor Code §§ 201-203, and 210; (3) failing to furnish accurate itemized wage statements in violation of Labor Code § 226; (4) failure to maintain accurate records in violation of Labor Code §§ 226 and 1174; and (5) engaging in unlawful, unfair and/or fraudulent business practices in violation of Business & Professions Code § 17200 et seq. ("Released Class Claims"). The period of the Released Class Claims shall extend to the limits of the Class Period. The res judicata effect of the Judgment will be the same as that of the Released Class Claims.

Further, upon approval of the settlement, you will be bound by the Released PAGA Claims, which includes a release of the following:

Upon the Effective Date, and except as to the right to enforce the terms and conditions of the Agreement, each PAGA Settlement Member will release the Released Parties of all claims pursuant to the Private Attorneys General Act (codified in Labor Code §§ 2698 et seq.) based on the facts, legal theories, and primary rights asserted in the operative complaint in the Action, including PAGA claims for (1) failure to timely compensate for all hours worked, including minimum, regular, and /or overtime wages in violation of Labor Code §§ 204, 210, 510, 558, 1194, 1197, and 1198; (2) failure to pay all wages due and owing upon separation of employment and/or the mandatory waiting time penalties in violation of Labor Code §§ 201-203, and 210; (3) failure to furnish accurate itemized wage statements in violation of Labor Code § 226; (4) failure to maintain accurate records in violation of Labor Code §§ 226 and 1174; and (5) retaliation for use of sick leave in violation of Labor Code §§ 98, 246, 248, and 1198 ("Released PAGA Claims"). The period of the Released PAGA Claims shall extend to the limits of the PAGA Period. The res judicata effect of the Judgment will be the same as that of the Release.

**Questions? Contact the Settlement Administrator toll free at 1-\*\*\*-\*\*\*-\*\*\*\* or visit [www.\[redacted\].com](http://www.[redacted].com)**

Please be advised that if you later decide to bring a claim against any of the Released Parties for any of the claims you released (outlined above), you may be responsible for paying the attorneys' fees and costs of the Released Parties for violating the release provisions of this settlement.

If you choose **Option 2 and request exclusion** then you will no longer be a Settlement Class Member, and you will (1) be barred from participating in the settlement, but you will not be deemed to have released the Released Class Claims, (2) be barred from filing an objection to the settlement, and (3) not receive an Individual PAGA Payment. You will, however, receive a PAGA Settlement Payment and will be bound by the Released PAGA Claims.

If you choose **Option 3 and object**, then you will still be entitled to your Individual Settlement Payment and Individual PAGA Payment. If the Court overrules your objection, you will be deemed to have released the Released Class Claims.

### **Additional Information**

“The above is a summary of the basic terms of the Settlement. For the precise terms and conditions of the Settlement, you are referred to the detailed Settlement Agreement, which is on file with the Clerk of the Court. The pleadings and other records in this litigation, including the Settlement Agreement, may be examined (a) online on the Superior Court of California, County of Santa Clara’s Electronic Filing and Service Website at [www.sceffiling.org](http://www.sceffiling.org), or (b) in person at Records, Superior Court of California, County of Santa Clara, 191 North First Street, San Jose, California 95113, between the hours of 8:30 a.m. and 4:00 p.m., Monday through Friday, excluding Court holidays and closures. Alternatively, you may contact the Settlement Administrator or Class Counsel. All inquiries by Settlement Class Members regarding this Notice or the Settlement should be directed to the Settlement Administrator or Class Counsel, whose information is below.

#### **Settlement Administrator:**

[Settlement Administrator]  
[Address]  
[Phone Number]

#### **Class Counsel:**

Graham S.P. Hollis  
Dawn M. Berry  
GrahamHollis APC  
3555 Fifth Avenue, Suite 200  
San Diego, California 92103  
Phone: (619) 546-4373 (English)  
(619) 798-4528 (Spanish)

PLEASE DO NOT CONTACT THE CLERK OF THE COURT, THE JUDGE, DEFENDANT, OR DEFENDANT’S ATTORNEYS WITH INQUIRIES.

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Questions? Contact the Settlement Administrator toll free at **1-\*\*\*-\*\*\*-\*\*\*\*** or visit **www.\_\_\_\_\_.com**