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10 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
11 **FOR THE COUNTY OF SAN JOAQUIN**

12 THERESA ATKINS, on behalf of herself and
13 all others similarly situated;

14 Plaintiffs,

15 v.

16 BARBOSA CABINETS, INC., a California
17 Corporation; and DOES 1 through 50, inclusive;

18 Defendants.

CASE NO.: STK-CV-UOE-2021-2842

Assigned to the Hon. George J. Abdallah

~~[PROPOSED]~~ ORDER GRANTING
PRELIMINARY APPROVAL OF CLASS
ACTION SETTLEMENT

Hearing

Date: July 2, 2024

Time: 9:00 a.m.

Dept.: 10A

1 Having considered Plaintiffs Theresa Atkins, Leonardo Robaina, Khol Rafael, and Ernesto
2 Lainez's ("Plaintiffs") Motion for Preliminary Approval of Class Action Settlement ("Plaintiffs'
3 Motion"), the Declarations of Mehrdad Bokhour, Joshua Falakassa, in Support of Plaintiffs' Motion,
4 the Class Action and PAGA Settlement Agreement ("Settlement Agreement" and/or "Settlement"),
5 and the Notice of Proposed Class Action and PAGA Settlement ("Notice Packet") and any other
6 documents submitted in support of Plaintiffs' Motion.

7 Having considered Plaintiffs' Motion, the accompanying declarations in support thereof, and
8 all supporting legal authorities and documents, the Court ordered as follows:

9 **IT IS HEREBY ORDERED THAT:**

10 1. This Order incorporates by reference the definitions in the Settlement Agreement,
11 attached as Exhibit "I" to the Declaration of Mehrdad Bokhour, and all terms defined therein shall
12 have the same meaning in this Order as set forth in the Settlement Agreement.

13 2. For settlement purposes only, the Court conditionally certifies the following
14 Settlement Class: all individuals who were employed by Defendant as a non-exempt, hourly
15 employee in California at any time during the Class Period (*i.e.*, April 2, 2017, through June 13, 2024).
16 The Aggrieved Employees include all individuals who were employed by Defendant as a non-exempt,
17 hourly employee in California at any time during the PAGA Period (*i.e.*, April 1, 2020, through June
18 13, 2024.).

19 3. The Court preliminarily appoints the named Plaintiffs, Theresa Atkins, Leonardo
20 Robaina, Khol Rafael, and Ernesto Lainez, as the Class Representative, and Mehrdad Bokhour, Esq.
21 of Bokhour Law Group, P.C. and Joshua S. Falakassa, Esq. of Falakassa Law, P.C. as Class Counsel.

22 4. The Court hereby preliminarily approves the proposed Settlement upon the terms and
23 conditions set forth in the Settlement Agreement. The Court finds that on a preliminary basis, the
24 Settlement appears to be within the range of reasonableness of a settlement that could ultimately be
25 given final approval by the Court. It appears to the Court on a preliminary basis that the Maximum
26 Settlement Amount is fair, adequate, and reasonable to all potential Class Members when balanced
27 against the probable outcome of further litigation relating to liability and damages issues. Extensive
28 and costly investigations and research have been conducted such that counsel for the parties at this

1 time are reasonably able to evaluate their respective positions. It further appears to the Court that the
2 Settlement at this time will avoid substantial additional costs by all parties, as well as the delay and
3 risks that the further prosecution of the Action would present. It further appears that the Settlement
4 has been reached as the result of intensive, non-collusive, arms-length negotiations utilizing an
5 experienced mediator.

6 5. The Court approves, as to form and content, the proposed Notice Packet attached as
7 Exhibit "A" to the Settlement Agreement.

8 6. The Court directs the mailing of the Notice Packet by first-class mail to the Class
9 Members pursuant to the terms of the Settlement Agreement. The Court finds that disseminating the
10 Notice Packet set forth in the Settlement Agreement complies with the requirements of due process
11 of law and appears to be the best notice practicable under the circumstances.

12 7. The Court hereby preliminarily approves the definition and disposition of the not-to-
13 exceed Gross Settlement Amount of \$3,450,000, which is inclusive of the payment of attorneys' fees
14 not to exceed \$1,150,000, costs not to exceed \$75,000, a Service Award not to exceed \$10,000 to
15 Plaintiff Atkins and \$5,000 each to Plaintiffs Robaina, Rafael, and Lainez, a PAGA Payment of
16 \$50,000 (of which 75% or \$37,500 will be paid to the California Labor and Workforce Development
17 Agency ("LWDA") and 25% or \$12,500 will be paid to Settlement Class Members); Settlement
18 Administration Costs not to exceed \$12,500; and payroll taxes on the portion of the Individual
19 Settlement Amounts to Participating Class Members that are allocated as wages subject to
20 withholdings.

21 8. The Court confirms ILYM Group, Inc. as the Settlement Administrator, and payment
22 of Settlement Administration Costs, not to exceed \$12,500 out of the Settlement Amount for services
23 to be rendered on behalf of the Class Members. The Settlement Administrator shall prepare and
24 submit to Class Counsel and Defendant's Counsel a declaration attesting to the completion of the
25 notice process as set forth in the Settlement Agreement, including an explanation of efforts to resend
26 any Notice Packet returned as undeliverable and the total number of opt-outs and objections received
27 before and after the deadline.

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1 9. The Court directs Defendant to work diligently and in good faith to compile from its
2 records and provide the Settlement Administrator with the "Class Data" – as defined in paragraph 1.4
3 of the Settlement Agreement – for Settlement Class Members, in a format to be provided by the
4 Settlement Administrator, which will consist of the following information: (1) the Class Members'
5 names; (2) last known addresses; (3) the number of workweeks worked by the Class Members as
6 non-exempt employees of Defendant in California during the Class Period, and (4) the number of pay
7 periods worked by each PAGA Member during the PAGA Period. Defendant shall provide the "Class
8 Data" as referenced herein to the Settlement Administrator within 21 days after entry of the
9 Preliminary Approval Order.

10 10. The Settlement Administrator shall use the National Change of Address database (U.S.
11 Postal Service) to check for updated addresses for Class Members and shall then mail, via first class
12 U.S. mail, the Notice Packet to Settlement Class Members as approved in paragraph 5 herein.

13 11. The deadline by which Class Members may dispute the number of Workweeks
14 Worked, opt-out or object shall be thirty (30) calendar days from the date of mailing the Notice
15 Packet. Any Class Member who desires to be excluded from the Settlement must mail, fax, or email
16 his or her written Request for Exclusion in accordance with the Notice Packet in a timely manner.
17 Requests for Exclusion must include the full name, address, telephone number, and signature of the
18 Settlement Class Member requesting exclusion. All such persons who properly and timely exclude
19 themselves from the Settlement shall not be Settlement Class Members and shall have no rights to
20 participate in the Settlement, except that if they are PAGA Members, they will release their Released
21 PAGA Claims regardless of whether they opt out of the Settlement and will receive a PAGA Member
22 Payment. Class Members that opt out of the Settlement shall also have no standing to object to the
23 proposed Settlement.

24 12. The deadline for filing objections to any of the terms of the Settlement shall be thirty
25 (30) calendar days from the date of mailing the Notice Packet. Any Class Member who wishes to
26 object to the Settlement must mail a timely written objection signed by the Class Member to the
27 Settlement Administrator, who will email a copy of the objection to Class Counsel and counsel for
28 Defendant. Class Counsel will submit a copy of the objection to the Court. Any such objection shall

1 include the case name and number, the Class Member's name, current address, telephone number,
2 and dates of employment with Defendant and set forth in clear and concise terms a statement of the
3 reasons why the objection believes that the Court should find that the settlement is not in the best
4 interests of the Class Members and the reasons why the Settlement should not be approved, including
5 legal and factual arguments supporting the objection. Any Class Member who fails to make his or
6 her objection in the manner provided for in this Order shall be deemed to have waived such objection
7 and shall forever be foreclosed from making any objection to or appeal of the fairness, reasonableness
8 or adequacy of the Settlement as incorporated in the Settlement Agreement, or to the award of
9 Attorneys' Fees and Costs, or Service Award to the Class Representative.

10 13. Any Settlement Class Member who does not submit a timely and valid Request for
11 Exclusion will be deemed a Participating Class Member and will be entitled to receive an Individual
12 Settlement Amount based upon the allocation formula described in the Settlement Agreement.
13 However, Settlement Class Members may not object to or opt-out of the Settlement with respect to
14 the Release of the PAGA Claims and Settlement Class Members who opt out of the Release of Class
15 Claims will still be paid their allocation of the PAGA Payment and will be bound by the Release of
16 PAGA Claims regardless of whether they submit a timely and valid Request for exclusion from the
17 Release of Class Claims.

18 14. The Court approves the handling of unclaimed funds set forth in the Settlement
19 Agreement, specifically that any unclaimed funds in the Settlement Administrator's account as a
20 result of a Participating Class Member's failure to timely cash a settlement check shall be handled by
21 the Settlement Administrator and be issued to the State of California Unclaimed Property Fund, as
22 set forth in the Settlement Agreement.

23 15. The following dates shall govern for purposes of this settlement:

24 July 2, 2024	Preliminary Approval (PA) hearing
25 <i>(within 21 days after notice of entry of</i> 26 <i>Order Granting Preliminary</i> <i>Approval)</i>	Deadline for Defendant to send Class Data to Settlement Administrator
27 <i>(within 14 days after receipt of Class</i> 28 <i>Data)</i>	Deadline for Settlement Administrator to complete first mailing of the Notice Packet to all Class Members.

(30 calendar days after mailing Notice Packet)	Deadline for Class Members to submit Requests for Exclusion and Objections to the Settlement.
16 court days before Final Approval hearing	Deadline for Plaintiffs to file and serve Motion for Final Approval of Settlement and application for an award of attorney's fees, costs, and Service Payment.
9 court days before Final Approval hearing	Deadline for filing any written opposition to Plaintiffs' Motion for Final Approval of Settlement or any response to an objection to the Settlement.
5 court days before final approval hearing	Deadline for filing of any written reply to opposition to Motion for Final Approval of Settlement.
TBD	Final Approval Hearing

16. A final approval hearing shall be held in this Court on December 10, 2024 at 9:00 am/pm to determine (1) whether the proposed settlement is fair, reasonable, and adequate and should be finally approved by the Court; (2) the amount of attorneys' fees and costs to award to Class Counsel; and (3) the amount of service awards to the Class Representative. The Court may continue or adjourn the final approval hearing without further notice to the Class Notice.


17. The Court may, for good cause shown, extend any of the deadlines set forth in this Order without further notice to Class Members. In the event that the Settlement does not receive final approval or the Effective Date of the Settlement does not occur for any reason, this Order, the Settlement, and the Settlement Agreement shall be rendered null and void and shall be vacated. Further, the fact that the parties were willing to stipulate to certification Class for settlement purposes 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, and the parties to the Settlement shall be deemed to have reverted to their respective status as of the date and time immediately prior to the execution of the Agreement.

18. If the Court grants Final Approval, each Participating Class Member and their successors shall conclusively be deemed to have released the Class Claims, and each Class Member shall conclusively be deemed to have released the PAGA Claims, set forth in the Settlement

1 Agreement and Class Notice against the Released Parties (as defined in the Agreement). Further, all
2 Participating Class Members and their successors shall be permanently enjoined and forever barred
3 from asserting any released Class Claims, and all Class Members shall be permanently enjoined and
4 forever barred from asserting any released PAGA Claims, against the Released Parties.

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6 **IT IS SO ORDERED.**

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8 DATED: July 2, 2024


9 HON. GEORGE J. ABDALLAH
10 JUDGE OF THE SUPERIOR COURT
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