

Brian J. Mankin, Esq. [CSB No. 216228]
brian@lmlfirm.com
Misty M. Lauby, Esq. [CSB No. 243009]
misty@lmlfirm.com
LAUBY, MANKIN & LAUBY LLP
4590 Allstate Drive
Riverside, CA 92501
Tel: (951) 320-1444 | Fax: (951) 320-1445

Attorneys for Plaintiff Gina Robertson and on behalf of the Proposed Class

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF LOS ANGELES – SPRING STREET COURTHOUSE

GINA ROBERTSON, individually, on behalf
of all similarly situated current and former
employees, and on behalf of the State of
California and all Aggrieved Employees;

Plaintiff,

vs.

ALL CARE HOME HEALTH PROVIDER, a
California Corporation; ALL CARE HOME
HEALTH OF SAN GABRIEL, a California
Corporation; ALL CARE HOSPICE, a
California Corporation; ALL CARE
PROVIDER SERVICES, INC., a California
Corporation; COMCARE HOME HEALTH,
INC., a California Corporation; ANDREW J.
PAGSISIHAN, an individual; LILIA
PAGSISIHAN, an individual; APOLONIO
PAGSISIHAN, an individual; and DOES 1
through 10, inclusive;

Defendants

Case No.: 20STCV18318
*[Assigned to the Hon. Judge Daniel J.
Buckley, Dept. 1]*

**DECLARATION OF MISTY M. LAUBY,
ESQ., IN SUPPORT OF MOTION FOR
FINAL APPROVAL OF CLASS ACTION
SETTLEMENT**

Hearing:
Date: March 16, 2022
Time: 10:30 a.m.
Dept.: 1

Complaint Filed: May 14, 2020

1 I, Misty M. Lauby, state and declare:

2 1. I am an attorney licensed to practice before all of the courts of the State of
3 California. I am a partner at Lauby, Mankin & Lauby LLP. I represent the Plaintiff in this
4 action and I am thoroughly familiar with and have personal knowledge of all of the facts set forth
5 herein. I submit this declaration in support of Plaintiff's Motion for Approval of Class Action
6 Settlement. If called as a witness, I could and would competently testify thereto.

7 2. For the sake of brevity, this declaration does not discuss the settlement itself, the
8 procedural background of the litigation, the claims and investigation by my firm and co-counsel,
9 and why the settlement is fair and reasonable. Those topics are covered in detail in the
10 concurrently filed Declaration of Brian Mankin. This declaration simply provides information
11 requested by the court as to why I am adequate class counsel.

12 **COUNSEL'S EXPERIENCE**

13 3. I have been a member, in good standing, of the State Bar of California since 2006.
14 I am licensed to practice before all courts of the State of California and am admitted to practice
15 in the United States District Court for the Central District of California and have litigated cases
16 in various courts and counties throughout California, including successful briefing and argument
17 in the Court of Appeal.

18 4. I began working as an attorney for Fernandez & Lauby in 2006. From 2006
19 through March 2018, I worked in the firm's insurance defense department as the handling
20 attorney in approximately 250-350 complex construction defect litigation matters that I
21 successfully managed and settled on behalf of multiple insurance carrier clients.

22 5. In or around March 2018, I transitioned to handling exclusively employee vs.
23 employer litigation matters.

24 6. Leading up to the transition and continuing through the present, I have taken
25 seriously the responsibility of acquiring expertise in the field by participating in numerous
26 continuing legal education seminars specific to the representation of employees in litigated
27 matters, mediation, and complex litigation, including the following non-exhaustive list:

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- a. California Employment Lawyers Association (“CELA”) Wage & Hour Boot Camp in September 2016;
- b. CELA 13th Annual Advanced Wage and Hour Seminar in May 2017;
- c. CELA 30th Annual Employment Law Conference in October 2017;
- d. Castle Publications and SheppardMullin Wage and Hour Laws in March 2018;
- e. Bridgeport PAGA Claims 2018 Seminar in March 2018;
- f. California Lawyers Association Labor & Employment Law Section 35th Labor & Employment Law Annual Meeting April 2018;
- g. Bridgeport Class Action Litigation Conference Seminar in April 2018;
- h. Los Angeles County Bar Association 2018 Complex Court Symposium in November 2018;
- i. CELA 15th Annual Advanced Wage & Hour Seminar in May 2019;
- j. CELA 6th Annual Trial College in May-June 2019;
- k. Pepperdine University Strauss Institute for Dispute Resolution – Mediation: The Art of Facilitating Settlement, An Interactive Training Program in June 2019;
- l. CELA 32nd Annual Employment Law Conference in October 2019;
- m. CELA The Ethics of a PAGA Action in May 2020;
- n. CELA Annual Advanced Wage & Hour Update in May 2020;
- o. CELA Demystifying Video/Remote Depositions: A Technical and Legal Workshop in June 2020;
- p. CELA An Epic Problem: Mass Arbitration and Other Strategies for Responding to Class Action Waivers in June 2020;
- q. CELA 9th Annual CELA/Fair Diversity Leadership Summit in June 2020;
- r. CELA AB5 and the Future of Independent Contractors In California in June 2020;

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- s. Trojan Horse, LLC – Various Participatory Case Analysis and Trial Advocacy MCLE programs throughout 2020 and 2021;
- t. CELA Advanced Wage & Hour Update in May 2021; and
- u. Trial Lawyers University Live in October 2021.

7. The vast majority of my employment cases have been litigated as class actions, representative PAGA actions or a combination of the two.

8. I have been the handling attorney on over 30 class action and/or representative PAGA actions. And, on these cases, myself and/or my firm have been appointed Class Counsel on over 13 cases, and have helped recover over \$8,000,000 for my clients, the employees, and the State of California.

9. Attached as **Exhibit A** is a list of 13 resolved and/or settlement class actions, collective actions, and/or PAGA actions that I have handled in the last 4 years (note: this list excludes currently active cases and settlements pending approval).

10. In this case alone, I personally spent at least 190.30 hours on all aspects of this matter including client intake and all client communications, analysis of claims, drafting pleadings, preparing all propounded discovery, wide-ranging research, analysis of significant quantities of class data and documents in preparation for mediation, mediation briefing and developing damages calculations, among other tasks.

Hourly Rate

11. My billing rate is \$650 per hour, which is also usual and customary for class action practitioners with my level of experience and expertise.

12. This rate is consistent with Plaintiff and Defense attorneys who handle complex class action litigation, if not somewhat lower. For instance, the 2020 Wolters Kluwer Real Rate Report (“Real Rate Report”) states that the rates for partners in Los Angeles are between \$740 and \$1,015 for the middle and upper quartiles (See 2020 Real Rate Report, attached to Mankin Decl. as Exhibit A).

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13. My requested rate of \$650 per hour is also reasonable and consistent with those found in the Laffey Matrix (www.laffeymatrix.com), which indicates that the benchmark rate for a 14-year attorney is \$759 per hour.

CONCLUSION

14. As set forth above, I have litigated over 30 class and representative actions, and have successfully resolved at least 13 of those cases, with many others still pending that will resolve in the future.

15. For these reasons, as well as the facts and information presented in the concurrently filed Declaration of Brian J. Mankin, it is respectfully requested that the Court: (1) grant final approval of the settlement as being fair, reasonable, and in the best interests of the class, (2) appoint Plaintiff as the Class Representative, (3) appoint Brian J. Mankin and Misty M. Lauby of Lauby, Mankin & Lauby LLP as Class Counsel, and (4) final approve the requested attorneys' fees, costs, and enhancement payment to the Class Representative.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed on February 17, 2022, at Riverside, California.

By: 
Misty M. Lauby

EXHIBIT “A”

Completed Class/Collective/PAGA Cases		
Case Name	Venue	Case Number
Castelo v. Millemiaero	San Bernardino	CIVDS1825783
Constante v. Eddie's Trucking	San Bernardino	CIVDS1902466
Gallardo v. Tee For 2	San Bernardino	CIVDS1719564
Garcia v. Coach	USDC	5:18-cv-01537
Garcia v. Harkins	USDC	5:18-cv-02314
Legorreta v. Paradise	Riverside	RIC1723591
Lepe v. Big Lots	San Bernardino	CIVDS1825693
Lupercio v. Access Exterminator	San Bernardino	CIVDS1921036
McCulloch v. The Gill	Los Angeles	BC722742
Redman v. Zenith	San Bernardino	CIVDS1826759
Ruiz v. Unity Courier	Los Angeles	BC724435
Palmer v. Charter Hospice	San Bernardino	CIVDS2013037
Moreno v. JJ Kane	Riverside	CVRI2101236