

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, individually, on a representative basis, and on behalf of all others similarly situated

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY LOS ANGELES

GINA ROBERTSON, individually, on a
representative basis, and on behalf of all
others similarly situated;

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 Hon. Judge Daniel J. Buckley,
Dept 1, for all purposes]*

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

Hearing

Date: August 30, 2021

Time: 10:30 a.m.

Dept.: 1

Complaint filed: 5/14/2020

I, Misty M. Lauby, state and declare:

1. I am an attorney licensed to practice before all of the courts of the State of California. I represent the Plaintiff in this action and I am thoroughly familiar with and have

1 personal knowledge of all of the facts set forth herein. I submit this declaration in support of
2 Plaintiff's Motion for Approval of Class Action Settlement. If called as a witness, I could and
3 would competently testify thereto.

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

9 **COUNSEL'S EXPERIENCE**

10 3. I have been a member, in good standing, of the State Bar of California since June
11 2006. I am licensed to practice before all courts of the State of California and am admitted to
12 practice in the United States District Court for the Central District and Eastern District of
13 California and have litigated cases in various courts and counties throughout California.

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

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

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

- 25 a. California Employment Lawyers Association ("CELA") Wage & Hour Boot
26 Camp in September 2016;
- 27 b. CELA 13th Annual Advanced Wage and Hour Seminar in May 2017;
- 28 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; and
- l. CELA 32nd Annual Employment Law Conference in October 2019.
- m. Trojan Horse, LLC Monsanto Case Analysis with Bret Wisner May 4, 2020;
- n. Trojan Horse, LLC AM Case Analysis with Adam Slater May 7, 2020;
- o. Trojan Horse, LLC PM Case Analysis with Keith Mitnik & Matt Morgan May 7, 2020;
- p. Trojan Horse, LLC AM Case Analysis with Daniel Kramer & David DeRubertis May 8, 2020
- q. Trojan Horse, LLC PM Case Analysis with Brian Panish & Rex Parris – Rebuttal May 8, 2020;
- r. CELA Annual Advance Wage & Hour Update May 28, 2020;
- s. CELA Demystifying Video/Remote Depositions: A Technical and Legal Workshop June 4, 2020;
- t. 9th Annual CELA/FAIR Diversity Leadership Summit webinar June 23, 2020;
- u. CELA Negotiation in Employment Cases April 8, 202;
- v. CELA Annual Advance Wage & Hour Update May 19, 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 am the handling attorney approximately 30 settled or pending class action and/or representative PAGA actions and a few additional individual employment cases. And, on these cases, I have helped obtain settlements of approximately \$6,500,000 for my clients, the employees and the State of California.

9. Attached as **Exhibit A** is a list of 11 resolved and/or settlement class actions, collective actions, and/or PAGA actions that I have handled in the last 3 years (note: this list excludes currently active cases).

Hourly Rate

10. My billing rate is \$550 per hour, which is also usual and customary for class action practitioners with my level of experience and expertise.

11. 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).

12. My requested rate of \$550 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.

13. Moreover, my rate of \$550 per hour has been approved by courts in California, including *Ricardo Gallardo v TeeFor2*, et al., San Bernardino Superior Court (March 13, 2019) (PAGA Settlement approved with a loadstar cross-check of \$550 for Ms. Lauby); *Jesse Lepe v. West Coast Liquidators, Inc.*, San Bernardino Superior Court (July 31, 2020) (Class Settlement approved with a loadstar cross-check of \$550 for Ms. Lauby); *Donald McCulloch v. the Gill Corporation*, Los Angeles Superior Court (August 21, 2020) (PAGA Settlement approved with a loadstar cross-check of \$550 for Ms. Lauby); *Ruiz v. Unity Courier Service, Inc.*, Los Angeles Superior Court (July 1, 2021) (PAGA Settlement approved with a loadstar cross-check of \$550

1 for Ms. Lauby).

2 I declare under penalty of perjury under the laws of the State of California that the
3 foregoing is true and correct. Executed on July 27, 2021, at Riverside, California.

4
5 By: 
6 Misty M. Lauby

EXHIBIT “A”

Completed Class/Collective/PAGA Cases		
Case Name	Venue	Case Number
Castelo v. Millemiaaero	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 Service	Los Angeles	BC724435