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Attorneys for Plaintiff, on behalf of the State of CA and all Aggrieved Employees

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

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

Plaintiff,

vs.

SHERPAUL CORPORATION, a California
Corporation; and DOES 1 through 20,
inclusive;

Defendants.

Case No.: RIC2002410

*[Assigned to Hon. Judge Craig Riemer, Dept 1, for
all purposes]*

**DECLARATION OF PETER J. CARLSON,
ESQ., IN SUPPORT OF MOTION TO
APPROVE SETTLEMENT PURSUANT TO
THE PRIVATE ATTORNEYS GENERAL
ACT OF 2004**

Hearing

Date: September 26, 2022

Time: 8:30 a.m.

Dept.: 1

Reservation #: 890960827233

Complaint filed: June 1, 2020

I, Peter J. Carlson, state and declare:

1. I am an attorney licensed before all courts of the State of California and am a senior associate at Lauby, Mankin & Lauby LLP, attorneys of record for Plaintiff Joanne Sowle. I submit this declaration in support of Plaintiff's Motion to Approve the Settlement Pursuant to the Private Attorney General Act of 2004 (the "PAGA"). I am thoroughly familiar with and have personal knowledge of all facts set forth herein. If called as a witness, I could and would competently testify thereto.

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1 QUALIFICATION OF COUNSEL

2 2. I graduated from the University of Oregon School of Law in May 2013 and have been a
3 member, in good standing, of the State Bar of California since January 2014. I am licensed to practice
4 before all courts of the State of California and am admitted to practice in the United States District
5 Court for the Central District of California and have litigated cases in various courts and counties
6 throughout California, including successful briefing and argument in the Court of Appeal.

7 3. I began working at Fernandez & Lauby LLP (the predecessor of Lauby, Mankin &
8 Lauby LLP) in March 2016 and, since that time, my practice has consisted solely of representing
9 employees. The vast majority of my cases have been litigated as class actions, representative PAGA
10 actions, or a combination of the two.

11 4. I have been the handling attorney on over 120 class action and/or representative PAGA
12 actions. And, on these cases, myself and/or my firm have been appointed Class Counsel on over 50
13 cases, and have helped recover over \$71,000,000 for my clients, the employees, and the State of
14 California.

15 5. I was the handling attorney for the second largest PAGA-only settlement in California's
16 history – a \$12.5 million-dollar court approved settlement, which followed extensive litigation,
17 summary adjudication and writs to the CA Supreme Court against a Fortune 50 company (Garcia v.
18 Macy's, San Bernardino Superior Court Case No. CIVDS1516007).

19 6. I have tried two major class and PAGA cases against Fortune 100 companies. In 2018,
20 I was the handling attorney on a PAGA-only case in Orange County where my firm succeeded on a
21 motion for summary adjudication and litigated through trial to obtain a \$425,000 judgment for over
22 1,600 aggrieved employees. Also, in 2019, I was the handling attorney for my firm on a class action
23 against Walmart, where we obtained class certification on behalf of over 5,000 employees. After
24 extensive litigation, the matter went to trial, and the jury returned a verdict of approximately \$6.1
25 million on the meal period claims.

26 HOURS INCURRED

27 7. I have spent 115.4 hours working on this action. Attached as **Exhibit A** is a true and
28 correct copy of my billing records, which I kept contemporaneously. This work detailed therein

1 includes, but is not limited to, tasks such as: preliminary research of all Labor Code claims; in-depth
2 research into Defendant's corporate entity and docket searches to identify all potentially-related cases;
3 investigation of the entities whom we believed to be relevant and potentially liable for these claims;
4 drafting of the LWDA letter setting forth facts and claims on behalf of the Aggrieved Employees;
5 drafting the representative PAGA action complaint; meetings and conference calls to discuss viability
6 of claims and impacts of new information learned during course of litigation; drafting and revising
7 various pleadings; drafting discovery, reviewing Defendant's responses, and meeting and conferring
8 over arguably inadequate responses; reviewing and editing detailed list of informal requests for
9 mediation; review, evaluation, and statistical analysis of records produced for mediation; editing and
10 preparing the PAGA damage model and confidential mediation brief for mediation; post-mediation
11 work on various documents; and the review and editing of preliminary and final approval documents.

12 **HOURLY RATE**

13 8. My billing rate increased in 2022 to \$575 per hour, and this rate is usual and customary
14 for class action and/or PAGA practitioners with my level of expertise and experience.

15 9. This rate is consistent with Plaintiff and Defense attorneys who handle complex class
16 action litigation, if not somewhat lower. For instance, the Wolters Kluwer 2020 Real Rate Report
17 ("Real Rate Report") states that the median rates for associates in Los Angeles is \$576.00 per hour,
18 with the upper quartile rate at \$770.00 per hour. The Real Rate Report also notes that the median and
19 upper quartile rates for associates with 7 or more years of experience are \$520 and \$789, respectively.
20 Being that I have been in practice for 8 years, my experience falls squarely within the confines of that
21 range, at a rate lower than those in the Real Rate Report.

22 10. Importantly, the Real Rate Report data is not based on self-reported numbers, surveys,
23 or sampling – instead, these figures are based on an analysis of the actual amounts billed to clients
24 based on more than 25.8 million billing entries and 23.9 million hours billed by over 112,100
25 individual timekeepers from 4,620 law firms, totaling \$9.02 billion in fees billed. And, specifically,
26 the Los Angeles data is based on review of 1,311 associates and the corresponding time and rates each
27 billed to their client.

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1 11. My requested rate is also reasonable, consistent, and less than the rate found in the
2 Laffey Matrix (www.laffeymatrix.com), which indicates that the benchmark rate for an attorney that
3 graduated law school in 2013 is \$676 per hour.

4 2. My hourly rate has been approved by various courts in California, including the
5 following non-exhaustive list of recent settlements for which I have been the handling attorney:

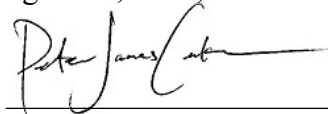
6 a. *Woods, et al. v. Just In Time Cargo, Inc.*, San Bernardino Superior Court, Case
7 No. CIVDS200750 (June 8, 2022) (\$450,000 wage-and-hour class and PAGA settlement approved
8 with lodestar cross-check of \$575 rate);

9 b. *Torres, et al. v. ePac Los Angeles, LLC, et al.*, San Bernardino Superior Court,
10 Case No. CIVDS2017140 (April 19, 2022) (wage-and-hour class and PAGA settlement approved with
11 lodestar cross-check of \$575 rate);

12 c. *Finger v. Professional Registry Holdings, LLC, et al.*, Riverside Superior Court,
13 Case No. CVRI2101956 (June 28, 2022) (\$500,000 wage-and-hour class and PAGA settlement
14 approved with lodestar cross-check of \$575 rate);

15 d. *Carrillo v. BluSky Restoration Contractors LLC*, San Bernardino Superior
16 Court, Case No. CIVSB2105793 (June 29, 2022) (\$360,000 PAGA-only settlement approved with
17 lodestar cross-check of \$575 rate).

18 I declare under the penalty of perjury under the laws of the State of California that the
19 foregoing is true and correct. Executed on August 12, 2022, in Riverside, California.

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21 Peter J. Carlson, Esq.
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EXHIBIT “A”

Sowle v. Sherpaul
Plaintiff's Counsel's Time Records

Date	Attorney	Description	Hours	Rate	Amount
4/10/2020	Peter J. Carlson	Receipt, review and analysis of documents from client; lengthy Telephone call with client; Further review and analysis of claims, including research on proper corporate entity and any related DBAs	3.40	\$575	\$ 1,955.00
4/29/2020	Peter J. Carlson	Telephone call with client; Legal research regarding potential claims and underlying theories of liability; Draft case initiating docs; Draft LWDA letter	4.40	\$575	\$ 2,530.00
5/6/2020	Peter J. Carlson	Lengthy Telephone call with client regarding status	0.50	\$575	\$ 287.50
5/15/2020	Peter J. Carlson	Draft class action complaint	5.80	\$575	\$ 3,335.00
5/18/2020	Peter J. Carlson	Receive and review documents from client (e-mails and voicemails from owner to client post-representation); Telephone call with client regarding same; Office conference with BJM; Draft Cease and Desist letter to company	1.60	\$575	\$ 920.00
5/19/2020	Peter J. Carlson	Case meeting with BJM re: strategy	0.30	\$575	\$ 172.50
6/19/2020	Peter J. Carlson	Exchange emails with client re: status	0.40	\$575	\$ 230.00
6/19/2020	Peter J. Carlson	Further legal research and analysis of claims, including regular rate violation (higher weekend pay) and meal/rest break claims	2.40	\$575	\$ 1,380.00
6/22/2020	Peter J. Carlson	Appear at CMC via courtcall	0.70	\$575	\$ 402.50
7/14/2020	Peter J. Carlson	Draft FAC adding PAGA causes of action	3.80	\$575	\$ 2,185.00
7/28/2020	Peter J. Carlson	Review file, develop case strategy, and identify upcoming tasks	0.30	\$575	\$ 172.50
8/13/2020	Peter J. Carlson	Case review re: filing, service; email OPC re: NAR; exchange emails with client re status	0.90	\$575	\$ 517.50
8/17/2020	Peter J. Carlson	Exchange emails with opc re joint statement and status of service	0.30	\$575	\$ 172.50
8/19/2020	Peter J. Carlson	Draft request to continue CMC	0.60	\$575	\$ 345.00
9/8/2020	Peter J. Carlson	Draft Plaintiff's first set of special interrogatories	0.90	\$575	\$ 517.50
9/9/2020	Peter J. Carlson	Further draft special interrogatories, Belaire notice, and email opc pursuant to CMO E(2)	1.60	\$575	\$ 920.00
9/15/2020	Peter J. Carlson	Review CMO E(3); draft email to opc with list of items needed for meaningful mediation under E(3)(a)	0.60	\$575	\$ 345.00
9/15/2020	Peter J. Carlson	Call with client re status	0.40	\$575	\$ 230.00
9/18/2020	Peter J. Carlson	Receive and review correspondence from opc re motion to compel arbitraiton; legal research re same; email opc with proposal to file SAC on PAGA-only basis	1.60	\$575	\$ 920.00
9/23/2020	Peter J. Carlson	Call with client re status; send confirming email	0.80	\$575	\$ 460.00
9/23/2020	Peter J. Carlson	Draft SAC on PAGA-only basis; Draft stip to file SAC; Draft decl of PJC iso dismissal of class claims; Draft decl of Plaintiff re same	3.10	\$575	\$ 1,782.50
9/28/2020	Peter J. Carlson	Exchange emails with opc re: discovery or mediation; call with opc re: same; Call with client; Further draft declaration of Plaintiff iso dismissal of class claims and email to client	1.60	\$575	\$ 920.00
10/15/2022	Peter J. Carlson	Exchange various meet and confer emails with opc	0.40	\$575	\$ 230.00
10/19/2020	Peter J. Carlson	Call with opc to meet and confer for joint statement; Draft joint statement	2.10	\$575	\$ 1,207.50
10/30/2020	Peter J. Carlson	Call with client re status	0.40	\$575	\$ 230.00
11/3/2020	Peter J. Carlson	Review file; Email opc re: request for class size to determine appropriate mediator	0.40	\$575	\$ 230.00
12/14/2020	Peter J. Carlson	Review file and email opc re: delay setting mediation	0.90	\$575	\$ 517.50

Sowle v. Sherpaul
Plaintiff's Counsel's Time Records

Date	Attorney	Description	Hours	Rate	Amount
12/23/2020	Peter J. Carlson	Call with client re: status; Draft informal requests for mediation; Draft stipulated protective order for mediation; email opc re same	3.10	\$575	\$ 1,782.50
1/11/2021	Peter J. Carlson	Exchange emails with opc re: mediation	0.40	\$575	\$ 230.00
1/15/2021	Peter J. Carlson	Exchange emails with opc re: mediation	0.40	\$575	\$ 230.00
2/15/2021	Peter J. Carlson	Review file and draft stip to continue CMC; Email opc re: same	0.90	\$575	\$ 517.50
2/24/2021	Peter J. Carlson	Legal research regarding waiting time penalty claims arising from sick time violations under LC 246 for failing to pay sick time at "regular rate"; Review case documents and corresponding facts to determine if cognizable claim	1.40	\$575	\$ 805.00
3/30/2021	Peter J. Carlson	Draft mediation brief	4.20	\$575	\$ 2,415.00
3/31/2021	Peter J. Carlson	Continue drafting mediation brief	8.40	\$575	\$ 4,830.00
4/1/2021	Peter J. Carlson	Finalize mediation brief; Review and extrapolate relevant data points for PAGA claims; Create PAGA damage model; Email brief to mediator and opc	3.40	\$575	\$ 1,955.00
4/8/2021	Peter J. Carlson	Attend mediation; Legal Research re: IWC Wage Order 15 and exception for personal attendant; Call with client re status; Office conference with BJM; Email to opc	4.40	\$575	\$ 2,530.00
4/8/2021	Peter J. Carlson	Review Court's CMO re: lifting discovery stay; Draft decl of PJC and proposed order to lift stay	0.70	\$575	\$ 402.50
4/20/2021	Peter J. Carlson	Case analysis re: strategy and determining next steps in case	0.40	\$575	\$ 230.00
5/27/2021	Peter J. Carlson	Review and analyze Court's order denying request to lift stay; exchange emails with OPC re joint statement	0.90	\$575	\$ 517.50
6/1/2021	Peter J. Carlson	Review file re: Defendant's Answer; Call with opc re: upcoming hearing; Draft joint statement and exchange emails with opc re: same	1.80	\$575	\$ 1,035.00
6/3/2021	Peter J. Carlson	Exchange emails with client	0.30	\$575	\$ 172.50
7/6/2021	Peter J. Carlson	Case review with BJM to determine next steps	0.30	\$575	\$ 172.50
8/17/2021	Peter J. Carlson	Draft full set of discovery, including SROG, Belaire, RFP, RFA, and FROGs	3.70	\$575	\$ 2,127.50
8/17/2021	Peter J. Carlson	Email client re: status	0.50	\$575	\$ 287.50
9/9/2021	Peter J. Carlson	Exchange emails with client	0.30	\$575	\$ 172.50
9/20/2021	Peter J. Carlson	Exchange emails with opc re: discovery	0.30	\$575	\$ 172.50
9/21/2021	Peter J. Carlson	Call with opc re: joint statement; Draft joint statement; email client re: status	0.90	\$575	\$ 517.50
10/11/2021	Peter J. Carlson	Review status of discovery; email opc re: overdue discovery responses	0.60	\$575	\$ 345.00
10/28/2021	Peter J. Carlson	Review and analyze Defendant's responses to SROG, RFA, RFPA, FROG; draft memo re: results and issues	1.90	\$575	\$ 1,092.50
10/28/2021	Peter J. Carlson	Legal research re disputed topics; Draft 7-page meet and confer	4.90	\$575	\$ 2,817.50
11/8/2021	Peter J. Carlson	Receive email from opc re: discovery; Email Belaire notice again	0.40	\$575	\$ 230.00
11/9/2021	Peter J. Carlson	Draft additional email to opc re discovery dispute	0.40	\$575	\$ 230.00
11/16/2021	Peter J. Carlson	Continued meet and confer re: discovery dispute	0.40	\$575	\$ 230.00
11/23/2021	Peter J. Carlson	Call with opc re: discovery dispute; Draft lengthy confirming email to opc re: agreements reached	0.50	\$575	\$ 287.50
3/7/2022	Peter J. Carlson	Call with client re: status; Review discovery responses and new facts/documents; Draft mediation brief and damage model	4.80	\$575	\$ 2,760.00
3/9/2022	Peter J. Carlson	Continued mediation prep	1.10	\$575	\$ 632.50

Sowle v. Sherpaul

Plaintiff's Counsel's Time Records

Date	Attorney	Description	Hours	Rate	Amount
3/11/2022	Peter J. Carlson	Further draft and finalize 2nd mediation brief; email to mediator	1.70	\$575	\$ 977.50
3/16/2022	Peter J. Carlson	Call with client; Call with Mediator Judge Cannon; Send mediation brief to defense counsel; review and analyze Defendant's mediation brief	3.90	\$575	\$ 2,242.50
3/17/2022	Peter J. Carlson	Attend mediation and draft MOU	4.90	\$575	\$ 2,817.50
5/31/2022	Peter J. Carlson	Call with opc; Draft joint statement; Exchange emails re same	1.20	\$575	\$ 690.00
6/27/2022	Peter J. Carlson	Review Court's CMO and begin drafting documents in support of Motion for PAGA Approval	1.70	\$575	\$ 977.50
6/28/2022	Peter J. Carlson	Draft Motion for PAGA Approval, [Proposed] Order, Declarations in support of same, and Notice to AEs	8.10	\$575	\$ 4,657.50
6/29/2022	Peter J. Carlson	Further draft Motion for PAGA Approval and supporting docs	1.40	\$575	\$ 805.00
6/29/2022	Peter J. Carlson	Exchange emails with opc re: joint statement; Draft and circulate same	0.60	\$575	\$ 345.00
Subtotals for Peter J. Carlson			115.4		\$ 66,355.00

PROOF OF SERVICE
(Pursuant to CCP §§ 1013(a)(1) and 2015.5)

STATE OF CALIFORNIA)
) ss.
COUNTY OF RIVERSIDE)

I am employed in the County of Riverside, State of California. I am over the age of 18 and not a party to the within action; my business address is 5198 Arlington Avenue, PMB 513, Riverside, California 92504.

On August 12, 2022, I caused to be served the foregoing document(s) described as follows:

**DECLARATION OF PETER J. CARLSON, ESQ., IN SUPPORT OF MOTION TO APPROVE
SETTLEMENT PURSUANT TO THE PRIVATE ATTORNEYS GENERAL ACT OF 2004**

I declare that I am "readily familiar" with the firm's practice of collection and processing correspondence for mailing. It is deposited with the U.S. postal service on that same day in the ordinary course of business. I am aware that on motion of party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing in affidavit.

☐ **By Mail** I deposited such envelope in the mail at Riverside, California. The envelope was mailed with postage thereon fully prepaid.

☐ **By Facsimile** I sent this document via fax to all parties as listed on attached service list, on

☐ **(By Overnight Service)** I deposited such envelope in a facility regularly maintained by the United Parcel Service for receipt of items for overnight delivery, with overnight delivery expenses prepaid, addressed to the person to be served.

☒ **By Email or Electronic Transmission:** Pursuant to CCP § 1010.6 or an agreement of the parties to accept service by email or electronic transmission, I caused the document(s) to be sent from email address tracie@lmlfirm.com to the persons at the electronic notification address listed in the service list. I did not receive, within a reasonable time after the transmission, any electronic message or other indication that the transmission was not successful.

☐ **(By Certified Mail-Return Receipt Requested)** I caused such envelope with postage fully prepaid thereon, to be placed in the United States mail at Riverside, California.

☐ **By Personal Service** I caused said document(s) to be personally served by hand on the parties listed on the attached service list.

☒ **State** I declare under penalty of perjury under the laws of the State of California that the above is true and correct. Executed on August 12, 2022, Riverside, California.

☐ **Federal** I declare that I am employed in the office of a member of the bar of this court at whose direction the service was made.


Tracie Chiarito, Declarant

SERVICE LIST

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