

Brian J. Mankin, Esq. [CSB No. 216228]
brian@lmlfirm.com
Peter J. Carlson, Esq. [CSB No. 295611]
peter@lmlfirm.com
LAUBY, MANKIN & LAUBY LLP
4590 Allstate Drive
Riverside, CA 92501
Tel: (951) 320-1444 | Fax: (951) 320-1445

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

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

Plaintiff,

vs.

FUTURE FOAM, INC., a Nebraska
Corporation; and DOES 1 through 20,
inclusive;

Defendants.

Case No.: 30-2019-01068606-CU-OE-CXC
[Assigned to Hon. Glenda Sanders, CX101]

**DECLARATION OF PLAINTIFF SAUL
ELIZARRARAS IN SUPPORT OF
CLASS ACTION SETTLEMENT**

Hearing

Date: August 5, 2022

Time: 1:30 p.m.

Dept: CX101

I, Saul Elizarraras, state and declare:

1. I am the Plaintiff in the in the above captioned action and have personal
knowledge of all matters stated herein and could competently testify thereto.

2. I make this declaration in support of the motion for final approval of the class
action settlement reached in this matter. As discussed herein, I believe that the settlement is fair
and reasonable and constitutes a fair resolution of the claims alleged, especially considering that
the average class member will receive a payment of about \$4,500 – which is equivalent to nearly
two full months of work.

1 3. I was employed by Defendant from 2016 through March 2020. During my
2 employment, there were several practices that I believe violated California law. Therefore, once
3 I was terminated by the company, I researched attorneys and contacted Lauby, Mankin & Lauby
4 LLP. Although I did not think I was being paid correctly, I was unsure if I wanted to bring a
5 lawsuit because of the risk of stepping forward as a whistle blower, since this could jeopardize
6 my livelihood in the industry and make it difficult to find future jobs. Nevertheless, because I did
7 not think that myself or the other employees were being paid correctly for the work we performed,
8 I retained Lauby, Mankin & Lauby LLP to move forward with a case.

9 4. After retaining my attorneys, I understood that I had two options: I could pursue
10 my individual case – including claims for harassment, discrimination, and wrongful termination
11 (as discussed below) – and attempt to maximize my personal recovery, or I could bring a
12 class/representative action and put the interests of the class ahead of my own. The decision of
13 whether to bring my individual claims or to bring a class action put me in a tough spot, because
14 on the one hand, I wanted to hold the company accountable for how they treated me and, on the
15 other hand, I wanted to help other employees that were not paid correctly. And I knew that, if I
16 wanted to bring a class action, I would need to put the interests of the class first to better serve
17 the class. In the end, in the interest of helping all employees that were subjected to the wage
18 violations, I decided to help everyone by bringing a class/representative action.

19 5. Since first initiating this action, I estimate that I have spent at least sixty (60) hours
20 engaged in activities to benefit the class. I have assisted my attorneys in numerous ways, including
21 helping to explain and discuss the company's practices and their general practices and procedures,
22 locating and analyzing company documents, and communicating with other class members. These
23 efforts occurred through numerous meetings with Class Counsel, telephone conferences, letters,
24 emails, and text communications. I also assisted in preparation for mediation and helped obtain a
25 positive result for the class.

26 6. I respectfully request that the Court approve the agreed-upon service award. I
27 agreed to set aside my personal interests and to put the interests of the class ahead or on par with
28 my own. In doing so, and by successfully bringing this case as a class action, I helped to obtain a

1 highly beneficial settlement for the class members that resulted in nearly two months of pay for
2 the average class member.

3 7. I also believe that the requested service award is fair and reasonable given that I
4 have faced substantial risks and made numerous sacrifices to obtain this class action settlement.

5 8. For example, filing this lawsuit and being a whistle blower was stressful on a day-
6 to-day basis as I have constantly worried about the risk that this case could impact my ability to
7 find future jobs.

8 9. Additionally, as a condition of this class action settlement, I was required to
9 compromise on and waive my separate individual claim for harassment, discrimination, and
10 wrongful termination. Notably, I believe that I was harassed, discriminated against, and ultimately
11 terminated without being rehired due to being Hispanic. And this termination happened in March
12 2020, which was terrible timing because it happened right as the COVID-19 pandemic was
13 ramping up, which made unemployment and my financial situation extremely stressful and
14 difficult for my family. In all, I believe that the termination caused me to lose wages of at least
15 \$16,000, not to mention the distress, anxiety, and other emotional damages I suffered.

16 10. Although I wanted to pursue these claims to recover significant lost wages and
17 compensation for pain and suffering, the proposed class action settlement required me to waive
18 all of my claims in order to benefit all of the other employees that were mistreated by Future
19 Foam. Ultimately, I agreed to waive my individual claims without a separate individual settlement
20 (which caused me to lose significant potential lost wages and other damages) in exchange for a
21 service award because I believed it was in the best interests of the class members.

22 11. Therefore, I believe that the requested \$10,000 service award is justified based on
23 the time I spent on the case, the risk and stress I faced, as well as my decision to waive my separate
24 individual claims in order to secure this highly beneficial class action settlement.

25 I declare under the penalty of perjury under the laws of the State of California that the
26 foregoing is true and correct. Executed on Jul 15, 2022, in Corona (city),
27 California.

28 
Saul Elizarraras (Jul 15, 2022 17:53 PDT)
Saul Elizarraras