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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 PETER J.
CARLSON, ESQ., IN SUPPORT OF
MOTION FOR FINAL APPROVAL OF
CLASS ACTION SETTLEMENT**

Hearing

Date: August 5, 2022

Time: 9:30 a.m.

Dept: CX101

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 Saul Elizarraras in this action. I submit this declaration in support of Plaintiff's Motion for Final Approval of the Class Action Settlement. 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.

QUALIFICATION OF COUNSEL

2. I graduated from the University of Oregon School of Law in May 2013 and have been a member, in good standing, of the State Bar of California since January 2014. I am

1 licensed to practice before all courts of the State of California and am admitted to practice in the
2 United States District Court for the Central District of California and have litigated cases in
3 various courts and counties throughout California, including successful briefing and argument in
4 the Court of Appeal.

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

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

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

17 6. I have tried two major class and PAGA cases against Fortune 100 companies. In
18 2018, I was the handling attorney on a PAGA-only case in Orange County where my firm
19 succeeded on a motion for summary adjudication and litigated through trial to obtain a \$425,000
20 judgment for over 1,600 aggrieved employees. Also, in 2019, I was the handling attorney for my
21 firm on a class action against Walmart, where we obtained class certification on behalf of over
22 5,000 employees. After extensive litigation, the matter went to trial, and the jury returned a
23 verdict of approximately \$6.1 million on the meal period claims.

24 7. In 2022, I was also selected as a Super Lawyers Rising Star.

25 **HOURS INCURRED**

26 8. I have spent 211.7 hours working on this action and I have kept contemporaneous
27 records of my billable hours. My time spent on this case reflects substantial work on this case,
28 including significant pre-filing work, drafting and amending pleadings, legal research regarding

1 nuanced and issues unique to this matter, review and analysis of voluminous records from
2 Defendant prior to mediation to verify and value the claims herein (including hundreds of pages
3 of documents and over 178,000 unique rows of excel data), and work on the preliminary and
4 final approval processes.

5 **HOURLY RATE**

6 9. My billing rate is \$575 per hour, and this rate is usual and customary for class
7 action and/or PAGA practitioners with my level of expertise and experience.

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

15 11. Importantly, the Real Rate Report data is not based on self-reported numbers,
16 surveys, or sampling – instead, these figures are based on an analysis of the actual amounts billed
17 to clients based on more than 25.8 million billing entries and 23.9 million hours billed by over
18 112,100 individual timekeepers from 4,620 law firms, totaling \$9.02 billion in fees billed. And,
19 specifically, the Los Angeles data is based on review of 1,311 associates and the corresponding
20 time and rates each billed to their client.

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

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

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

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

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

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

10 14. Moreover, my previous rate of \$540 per hour was approved by various courts in
11 California, including the following non-exhaustive list of recent settlements for which I have
12 been the handling attorney:

13 a. *Dr. Mohammad A. Gharavi v. Censeo Health, LLC, et al.*, San Bernardino
14 Superior Court, Case No. CIVDS1906608 (Nov. 2, 2020) (\$1,200,000 wage-and-hour class and
15 PAGA settlement approved with lodestar cross-check of \$540 rate);

16 b. *Maria Angulo v. CCX2931, LLC, et al.*, Los Angeles Superior Court, Case
17 No. BC717320 (July 15, 2021) (\$2,350,000 wage-and-hour class and PAGA settlement approved
18 with lodestar cross-check of \$540 rate);

19 c. *Octavio Torres v. Xerxes Corporation*, Orange County Superior Court,
20 Case No. 30-2019-01095537 (Mar. 9, 2021) (wage-and-hour PAGA settlement approved with
21 lodestar cross-check of \$540 rate);

22 d. *Brad Biggart v. Creative Communication Technologies, Inc., et al.*, San
23 Bernardino Superior Court, Case No. CIVDS1920394 (Feb. 22, 2021) (wage-and-hour PAGA
24 settlement approved with lodestar cross-check of \$540 rate);

25 e. *Sayra Aguirre v. WellQuest Living, LLC, et al.*, Los Angeles Superior
26 Court, Case NO. 19STCV15699 (Apr. 22, 2021) (wage-and-hour class and PAGA settlement
27 approved with lodestar cross-check of \$540 rate);

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f. *Richard Pompa, et al. v. Landforce Corporation, et al.*, San Bernardino Superior Court, Case No. CIVDS1700451 (June 21, 2021) (wage-and-hour class and PAGA settlement approved with lodestar cross-check of \$540 rate);

g. *Daniel Antuna v. GATX Corporation*, San Bernardino Superior Court, Case No. CIVDS1928516 (July 6, 2021) (wage-and-hour class and PAGA settlement approved with lodestar cross-check of \$540 rate);

h. *Zachary Lopez v. JBGC, Inc.*, San Bernardino Superior Court, Case No. CIVDS2013277 (July 21, 2021) (wage-and-hour PAGA settlement approved with lodestar cross-check of \$540 rate);

i. *Bobby Moody v. Dura Technologies, Inc., et al.*, San Bernardino Superior Court, Case No. CIVDS2008887 (Aug. 4, 2021) (wage-and-hour class and PAGA settlement approved with lodestar cross-check of \$540 rate); and

j. *Darren Logan v. Seaside Carriers, Inc.*, San Bernardino Superior Court, Case No. CIVDS1920346 (June 1, 2021) (wage-and-hour PAGA settlement approved with lodestar cross-check of \$540 rate).

I declare under the penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed on July 21, 2022, in Riverside, California.


Peter J. Carlson, Esq