

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 Daniel Lara Diaz, on behalf of the State of CA and Aggrieved Employees

Stan S. Mallison (Bar No. 18491)
StanM@TheMMLawFirm.com
Hector R. Martinez (Bar No. 206336)
HectorM@TheMMLawFirm.com
MALLISON & MARTINEZ
1939 Harrison Street, Suite 730
Oakland, California 94612-3547
Tel: (510) 832-9999 | Fax: (510) 832-1101

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

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF RIVERSIDE

DANIEL LARA DIAZ and GLENN FITE,
individually, on a representative basis, and on
behalf of all others similarly situated;

Plaintiffs,

vs.

SHAMROCK FOODS CO., an Arizona
Corporation; and DOES 1 through 20,
inclusive;

Defendants.

) Case No.: RIC 2004126
) *[Assigned to Hon. Judge Craig Riemer, Dept*
) *1, for all purposes]*

) **DECLARATION OF MISTY M. LAUBY,**
) **ESQ., IN SUPPORT OF MOTION TO**
) **APPROVE SETTLEMENT PURSUANT**
) **TO THE PRIVATE ATTORNEYS**
) **GENERAL ACT OF 2004**

) Hearing

) Date: July 6, 2022

) Time: 8:30 am

) Dept.: 1

) **Reservation #: 266157493719**

) Complaint Filed: October 20, 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 to Approve Settlement Pursuant
6 to the Private Attorneys General Act of 2004. If called as a witness, I could and would
7 competently testify thereto.

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

13 **COUNSEL'S EXPERIENCE**

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

19 4. I began working as an attorney for Fernandez & Lauby LLP in 2006 (Fernandez
20 & Lauby was later renamed to Lauby, Mankin & Lauby LLP). From 2006 through March 2018, I
21 worked in the firm's insurance defense department as the handling attorney in approximately
22 250-350 complex construction defect litigation matters that I successfully managed and settled
23 on behalf of multiple insurance carrier clients.

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

26 6. Leading up to the transition and continuing through the present, I have taken
27 seriously the responsibility of acquiring expertise in the field by participating in numerous
28 continuing legal education seminars specific to the representation of employees in litigated

1 matters, mediation, and complex litigation, including the following non-exhaustive list:

- 2 a. California Employment Lawyers Association (“CELA”) Wage & Hour Boot
- 3 Camp in September 2016;
- 4 b. CELA 13th Annual Advanced Wage and Hour Seminar in May 2017;
- 5 c. CELA 30th Annual Employment Law Conference in October 2017;
- 6 d. Castle Publications and SheppardMullin Wage and Hour Laws in March
- 7 2018;
- 8 e. Bridgeport PAGA Claims 2018 Seminar in March 2018;
- 9 f. California Lawyers Association Labor & Employment Law Section 35th Labor
- 10 & Employment Law Annual Meeting April 2018;
- 11 g. Bridgeport Class Action Litigation Conference Seminar in April 2018;
- 12 h. Los Angeles County Bar Association 2018 Complex Court Symposium in
- 13 November 2018;
- 14 i. CELA 15th Annual Advanced Wage & Hour Seminar in May 2019;
- 15 j. CELA 6th Annual Trial College in May-June 2019;
- 16 k. Pepperdine University Strauss Institute for Dispute Resolution – Mediation:
- 17 The Art of Facilitating Settlement, An Interactive Training Program in June
- 18 2019;
- 19 l. CELA 32nd Annual Employment Law Conference in October 2019;
- 20 m. CELA The Ethics of a PAGA Action in May 2020;
- 21 n. CELA Annual Advanced Wage & Hour Update in May 2020;
- 22 o. CELA Demystifying Video/Remote Depositions: A Technical and Legal
- 23 Workshop in June 2020;
- 24 p. CELA An Epic Problem: Mass Arbitration and Other Strategies for
- 25 Responding to Class Action Waivers in June 2020;
- 26 q. CELA 9th Annual CELA/Fair Diversity Leadership Summit in June 2020;
- 27 r. CELA AB5 and the Future of Independent Contractors In California in June
- 28 2020;

- 1 s. Trojan Horse, LLC – Various Participatory Case Analysis and Trial Advocacy
2 MCLE programs throughout 2020 and 2021;
3 t. CELA Advanced Wage & Hour Update in May 2021;
4 u. Trial Lawyers University Live in October 2021; and
5 v. CELA Advanced Wage & Hour Update in May 2022.

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

8 8. I have been the handling attorney on over 30 class action and/or representative
9 PAGA actions. And, on these cases, myself and/or my firm have been appointed Class Counsel
10 on over 14 cases, and have helped recover over \$8,000,000 for my clients, the employees, and
11 the State of California.

12 9. Attached as **Exhibit A** is a list of 14 resolved and/or settlement class actions,
13 collective actions, and/or PAGA actions that I have handled in the last 4 years (note: this list
14 excludes currently active cases and settlements pending approval).

15 10. In this case alone, I personally spent at least 110.30 hours on all aspects of this
16 matter including client intake and all client communications, contested motion to amend the
17 complaint, contested motion for remand, successfully opposed motion for dismissal and to
18 compel arbitration, analysis of claims, drafting pleadings, preparing all propounded discovery,
19 wide-ranging research, analysis of significant quantities of class data and documents in
20 preparation for mediation, mediation briefing and developing damages calculations, among other
21 tasks. My billing records for this matter are attached as **Exhibit B**.

22 **Hourly Rate**

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

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

Decl. as Exhibit A).

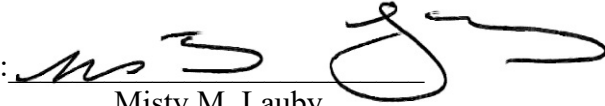
13. My requested rate of \$650 per hour is also reasonable and consistent with those found in the Laffey Matrix (www.laffeymatrix.com), which indicates that the benchmark rate for a 16-year attorney is \$764 per hour.

CONCLUSION

14. As set forth above, I have litigated over 30 class and representative actions, and have successfully resolved at least 14 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 grant approval of the PAGA settlement.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed on June 13, 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
Robertson v. All Care Home Health	Los Angeles	20STCV18318

EXHIBIT “B”

Selection Criteria

Slip.Record ID
Slip.Classification Open

Security limits slip information to the current timekeeper only.
Rate Info - identifies rate source and level

Slip ID		Timekeeper	Units	Rate	Slip Value
Dates and Time		Activity	DNB Time	Rate Info	
Posting Status		Client	Est. Time	Bill Status	
Description		Phase/Task	Variance		
586981	TIME	MML	2.80	0.00	0.00
9/29/2020		Review/analyze	2.80	C@1	
WIP		Lara Diaz v Shamrock	0.00	Do Not Bill	
Initial client telephone meeting, review and analyze all documents provided by client, preliminary legal research on claims.			0.00		
586982	TIME	MML	6.10	0.00	0.00
10/2/2020		Draft/revise	6.10	C@1	
WIP		Lara Diaz v Shamrock	0.00	Do Not Bill	
Draft demand for docs, litigation hold, and lengthy LWDA letter.			0.00		
586983	TIME	MML	6.40	0.00	0.00
10/19/2020		Draft/revise	6.40	C@1	
WIP		Lara Diaz v Shamrock	0.00	Do Not Bill	
Draft 32 page class action complaint.			0.00		
586984	TIME	MML	0.10	0.00	0.00
10/22/2020		Draft/revise	0.10	C@1	
WIP		Lara Diaz v Shamrock	0.00	Do Not Bill	
Review Notice of Assignment.			0.00		
586985	TIME	MML	1.30	0.00	0.00
10/23/2020		Draft/revise	1.30	C@1	
WIP		Lara Diaz v Shamrock	0.00	Do Not Bill	
Review 51 pages of Diaz payroll records.			0.00		
586986	TIME	MML	0.10	0.00	0.00
10/29/2020		Draft/revise	0.10	C@1	
WIP		Lara Diaz v Shamrock	0.00	Do Not Bill	
Review letter from opposing counsel re client's personnel records.			0.00		
586987	TIME	MML	0.10	0.00	0.00
11/19/2020		Draft/revise	0.10	C@1	
WIP		Lara Diaz v Shamrock	0.00	Do Not Bill	
Review email from opposing counsel re acknowledgement of receipt of summons and complaint.			0.00		

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Slip Listing

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Slip ID		Timekeeper	Units	Rate	Slip Value
Dates and Time		Activity	DNB Time	Rate Info	
Posting Status		Client	Est. Time	Bill Status	
Description		Phase/Task	Variance		
586988	TIME	MML	0.60	0.00	0.00
12/28/2020		Draft/revise	0.60	C@1	
WIP		Lara Diaz v Shamrock	0.00	Do Not Bill	
Review OC letter re arbitration agreement.			0.00		
586989	TIME	MML	6.40	0.00	0.00
12/30/2020		Draft/revise	6.40	C@1	
WIP		Lara Diaz v Shamrock	0.00	Do Not Bill	
Review Defendant's Notice of Removal, Declaration of Natalie Wright iso Ntc of Removal, Certificate of Interested Parties, Defendant's Answer to Complaint, and Notice of Assignment			0.00		
586990	TIME	MML	1.20	0.00	0.00
1/6/2021		Draft/revise	1.20	C@1	
WIP		Lara Diaz v Shamrock	0.00	Do Not Bill	
Review Judge Olguin's Initial Standing Order.			0.00		
586991	TIME	MML	0.70	0.00	0.00
1/7/2021		Review/analyze	0.70	C@1	
WIP		Lara Diaz v Shamrock	0.00	Do Not Bill	
In office discussions re standalone PAGA claims in Federal Court, review authorities			0.00		
586992	TIME	MML	0.30	0.00	0.00
1/11/2021		Review/analyze	0.30	C@1	
WIP		Lara Diaz v Shamrock	0.00	Do Not Bill	
Review Order Setting Scheduling Conference.			0.00		
586993	TIME	MML	3.30	0.00	0.00
1/13/2021		Review/analyze	3.30	C@1	
WIP		Lara Diaz v Shamrock	0.00	Do Not Bill	
M&C with OC re mx to compel arb , draft confirmation email, and further extensive review of authorities re standalone PAGA claims in federal court including Urbino , Canela , Baumann , Snow, Rodriguez, Benko , Sparta, Fukuchi , Pelker , Davila , Fisher, Lockwood , Pratt, Herd, Bay Drivers.			0.00		
586994	TIME	MML	10.20	0.00	0.00
1/14/2021	1/15/2021	Draft/revise	10.20	C@1	
WIP		Lara Diaz v Shamrock	0.00	Do Not Bill	
Draft Motion for Remand.			0.00		
586995	TIME	MML	11.40	0.00	0.00
1/18/2021	1/19/2021	Draft/revise	11.40	C@1	
WIP		Lara Diaz v Shamrock	0.00	Do Not Bill	
Draft Declaration iso Motion for Remand and First Amended Complaint; further review of authorities including Millar, AJY Int , Baddie , Kisaka , Lawrence, Barrios, United Steel, Broadway Grill, Ramirez			0.00		

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Slip ID		Timekeeper	Units	Rate	Slip Value
Dates and Time		Activity	DNB Time	Rate Info	
Posting Status		Client	Est. Time	Bill Status	
Description		Phase/Task	Variance		
586996	TIME	MML	3.60	0.00	0.00
1/20/2021		Review/analyze	3.60	C@1	
WIP		Lara Diaz v Shamrock	0.00	Do Not Bill	
Review Def Mt to Compel Arbitration.			0.00		
586997	TIME	MML	10.80	0.00	0.00
1/25/2021	1/27/2021	Draft/revise	10.80	C@1	
WIP		Lara Diaz v Shamrock	0.00	Do Not Bill	
Review authorities and draft opposition to motion to compel arbitration.			0.00		
586999	TIME	MML	2.30	0.00	0.00
2/4/2021		Review/analyze	2.30	C@1	
WIP		Lara Diaz v Shamrock	0.00	Do Not Bill	
Rev Def Opp to Motion to Amend.			0.00		
587000	TIME	MML	1.30	0.00	0.00
2/4/2021		Review/analyze	1.30	C@1	
WIP		Lara Diaz v Shamrock	0.00	Do Not Bill	
Rev Def Reply ISO Motion to Dismiss and authorities cited			0.00		
587002	TIME	MML	1.80	0.00	0.00
2/26/2021		Draft/revise	1.80	C@1	
WIP		Lara Diaz v Shamrock	0.00	Do Not Bill	
Draft Joint Rule 26f Report.			0.00		
587003	TIME	MML	0.30	0.00	0.00
4/6/2021		Review/analyze	0.30	C@1	
WIP		Lara Diaz v Shamrock	0.00	Do Not Bill	
Rev Minute Order granting Pltf Mx for Remand.			0.00		
587004	TIME	MML	0.30	0.00	0.00
4/6/2021		Review/analyze	0.30	C@1	
WIP		Lara Diaz v Shamrock	0.00	Do Not Bill	
Rev Minute Order granting Pltf Mx for Remand.			0.00		
587005	TIME	MML	0.60	0.00	0.00
5/14/2021		Draft/revise	0.60	C@1	
WIP		Lara Diaz v Shamrock	0.00	Do Not Bill	
Draft Declaration re Material Pleadings.			0.00		
587006	TIME	MML	0.70	0.00	0.00
5/18/2021		Draft/revise	0.70	C@1	
WIP		Lara Diaz v Shamrock	0.00	Do Not Bill	
Draft Joint Initial CMC Statement.			0.00		

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Slip Listing

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Slip ID		Timekeeper	Units	Rate	Slip Value
Dates and Time		Activity	DNB Time	Rate Info	
Posting Status		Client	Est. Time	Bill Status	
Description		Phase/Task	Variance		
587007	TIME	MML	1.20	0.00	0.00
6/2/2021		Review/analyze	1.20	C@1	
WIP		Lara Diaz v Shamrock	0.00	Do Not Bill	
Review CMO #1.			0.00		
587008	TIME	MML	0.20	0.00	0.00
8/18/2021		Draft/revise	0.20	C@1	
WIP		Lara Diaz v Shamrock	0.00	Do Not Bill	
Draft Joint Status Conference Statement.			0.00		
587009	TIME	MML	1.20	0.00	0.00
8/19/2021		Draft/revise	1.20	C@1	
WIP		Lara Diaz v Shamrock	0.00	Do Not Bill	
Draft informal requests for documents and data to Defendant in preparation for mediation.			0.00		
587010	TIME	MML	1.60	0.00	0.00
11/11/2021	11/18/2021	Draft/revise	1.60	C@1	
WIP		Lara Diaz v Shamrock	0.00	Do Not Bill	
Draft Stipulated Protective Order.			0.00		
587011	TIME	MML	3.20	0.00	0.00
12/9/2021		Review/analyze	3.20	C@1	
WIP		Lara Diaz v Shamrock	0.00	Do Not Bill	
Review defendant's document production in preparation for mediation.			0.00		
587012	TIME	MML	12.70	0.00	0.00
12/23/2021	12/28/2021	Draft/revise	12.70	C@1	
WIP		Lara Diaz v Shamrock	0.00	Do Not Bill	
Draft Mediation Brief.			0.00		
587013	TIME	MML	2.30	0.00	0.00
1/3/2022		Draft/revise	2.30	C@1	
WIP		Lara Diaz v Shamrock	0.00	Do Not Bill	
Prepare Risk Assessment.			0.00		
587014	TIME	MML	8.80	0.00	0.00
1/4/2022		Appear/attend	8.80	C@1	
WIP		Lara Diaz v Shamrock	0.00	Do Not Bill	
Attend Mediation.			0.00		
587015	TIME	MML	0.80	0.00	0.00
1/5/2022		Draft/revise	0.80	C@1	
WIP		Lara Diaz v Shamrock	0.00	Do Not Bill	
Review/revise draft MOU.			0.00		

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Slip ID		Timekeeper	Units	Rate	Slip Value
Dates and Time		Activity	DNB Time	Rate Info	
Posting Status		Client	Est. Time	Bill Status	
Description		Phase/Task	Variance		
587016	TIME	MML	0.40	0.00	0.00
1/25/2022		Draft/revise	0.40	C@1	
WIP		Lara Diaz v Shamrock	0.00	Do Not Bill	
Draft Stip to continue CMC and Joint Cases			0.00		
587017	TIME	MML	0.70	0.00	0.00
4/20/2022		Draft/revise	0.70	C@1	
WIP		Lara Diaz v Shamrock	0.00	Do Not Bill	
Draft Joint Statement and Declaration re Order to Show Cause.			0.00		
587018	TIME	MML	4.50	0.00	0.00
5/10/2022	5/23/2022	Draft/revise	4.50	C@1	
WIP		Lara Diaz v Shamrock	0.00	Do Not Bill	
Draft Declarations of Misty Lauby and Daniel Lara Diaz iso Motion for Approval; revise motion for approval re Kullar analysis and release language.			0.00		
Grand Total					
		Billable	0.00		0.00
		Unbillable	110.30		0.00
		Total	110.30		0.00