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

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

Plaintiff,

vs.

J.J. KANE ASSOCIATES, INC., a New
Jersey Corporation; and DOES 1 through 10,
inclusive;

Defendants.

Case No.: CVRI2101236

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

**DECLARATION OF MISTY M. LAUBY
IN SUPPORT OF MOTION FOR FINAL
APPROVAL OF CLASS ACTION
SETTLEMENT**

Hearing

Date: September 7, 2022

Time: 8:30 a.m.

Dept. 1

Complaint filed: 3/9/21

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 for Approval of Class Action
6 Settlement. If called as a witness, I could and would competently testify thereto.

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

12 **QUALIFICATIONS OF COUNSEL**

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

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

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

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

- a. California Employment Lawyers Association (“CELA”) Wage & Hour Boot Camp in September 2016;
- b. CELA 13th Annual Advanced Wage and Hour Seminar in May 2017;
- 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;
- l. CELA 32nd Annual Employment Law Conference in October 2019;
- m. CELA The Ethics of a PAGA Action in May 2020;
- n. CELA Annual Advanced Wage & Hour Update in May 2020;
- o. CELA Demystifying Video/Remote Depositions: A Technical and Legal Workshop in June 2020;
- p. CELA An Epic Problem: Mass Arbitration and Other Strategies for Responding to Class Action Waivers in June 2020;
- q. CELA 9th Annual CELA/Fair Diversity Leadership Summit in June 2020;
- r. CELA AB5 and the Future of Independent Contractors In California in June 2020;

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- 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; and
4 u. Trial Lawyers University Live in October 2021.
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 13 cases, and have helped recover over \$8,000,000 for my clients, the employees, and
11 the State of California.

12 9. I have been involved in one contested class certification motion in a case that
13 settled just prior to the class certification hearing.

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

17 **HOURS INCURRED**

18 11. I have spent 94.4 hours working on this action and have kept contemporaneous
19 records of these billable hours. To that end, I performed substantial work on this case, including
20 significant pre-filing work, legal research regarding nuanced and issues unique to this matter,
21 review and analysis of voluminous records from Defendant to verify and value the claims herein,
22 and work on the mediation, preliminary and final approval processes.

23 **HOURLY RATE**

24 12. My billing rate is \$650 per hour, and this rate is usual and customary for class
25 action and/or PAGA practitioners with my level of expertise and experience.

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

1 and \$1,015 for the middle and upper quartiles.

2 14. Importantly, the Real Rate Report data is not based on self-reported numbers,
3 surveys, or sampling – instead, these figures are based on an analysis of the actual amounts billed
4 to clients based on more than 25.8 million billing entries and 23.9 million hours billed by other
5 112,100 individual timekeepers from 4,620 law firms, totaling \$9,02 billion in fees billed.

6 15. My requested rate is also reasonable, consistent and less than the rate found in the
7 Laffey Matrix (www.laffeymatrix.com), which indicates that the benchmark rate for an attorney
8 that graduated law school in 2006 is \$764.

9 **CONCLUSION**

10 16. As set forth above, I have litigated over 30 class and representative actions, and
11 have successfully resolved at least 14 of those cases, with many others still pending that will
12 resolve in the future.

13 17. For these reasons, as well as the facts and information presented in the
14 concurrently filed Declaration of Brian J. Mankin, it is respectfully requested that the Court: (1)
15 grant final approval of the settlement as being fair, reasonable, and in the best interests of the
16 class, (2) appoint Plaintiff as the Class Representative, and (3) appoint Brian J. Mankin and
17 Misty M. Lauby of Lauby, Mankin & Lauby LLP as Class Counsel,

18 I declare under penalty of perjury under the laws of the State of California that the
19 foregoing is true and correct. Executed on August 15, 2022, at Los Angeles, California.

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21 By: 

22 Misty M. Lauby
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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
Palmer v. Charter	San Bernardino	CIVDS2013037
Redman v. Zenith	San Bernardino	CIVDS1826759
Robertson v. All Care	Los Angeles	20STCV18318
Ruiz v. Unity Courier Service	Los Angeles	BC724435