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Attorneys for Plaintiff, on a representative basis and on behalf of all others similarly situated

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

ASHLEY BROWN, individually, on a
representative basis, and on behalf of all
others similarly situated;

Plaintiff,

vs.

MINUTECLINIC DIAGNOSTIC MEDICAL
GROUP OF CALIFORNIA, INC., a
California Corporation; MINUTECLINIC
DIAGNOSTIC MEDICAL GROUP OF
ORANGE COUNTY, INC., a California
Company; MINUTECLINIC DIAGNOSTIC
MEDICAL GROUP OF SAN DIEGO, INC.,
a California Corporation; and DOES 1
through 10, inclusive;

Defendants.

Case No.: 30-2021-01185270-CU-OE-CXC
*[Assigned to Hon. Judge Glenda Sanders,
Dept CX101, for all purposes]*

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

Hearing

Date: September 9, 2022

Time: 1:30 p.m.

Dept.: CX101

Complaint filed: 2/22/2021

1 I, Peter J. Carlson, state and declare:

2 1. I am an attorney licensed before all of the courts of the State of California and am
3 a senior associate at Lauby, Mankin & Lauby LLP, attorneys of record for Plaintiff Ashley
4 Brown in this action. I am thoroughly familiar with and have personal knowledge of all facts set
5 forth herein. I submit this declaration in support of Plaintiff's Motion for Preliminary Approval
6 of this Class Action Settlement and, if called as a witness, I would competently testify thereto.

7 **QUALIFICATION OF COUNSEL**

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

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

18 4. I have been the handling attorney on over 125 class action and/or representative
19 PAGA actions. And, on these cases, myself and/or my firm have been appointed Class Counsel
20 on over 50 cases, and have helped recover over \$71,000,000 for my clients, the employees, and
21 the State of California.

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

26 6. I have tried two major class and PAGA cases against Fortune 100 companies. In
27 2018, I was the handling attorney on a PAGA-only case in Orange County where my firm
28 succeeded on a motion for summary adjudication and litigated through trial to obtain a \$425,000

1 judgment for over 1,600 aggrieved employees. Also, in 2019, I was the handling attorney for my
2 firm on a class action against Walmart, where we obtained class certification on behalf of over
3 5,000 employees. After extensive litigation, the matter went to trial, and the jury returned a
4 verdict of approximately \$6.1 million on the meal period claims.

5 7. Based on these qualifications, as well as the substantial and impactful work I have
6 done on this case (discussed below), I respectfully request that the Court appoint me as Class
7 Counsel in this matter.

8 **HOURS INCURRED**

9 8. I have spent a substantial number of hours working on this action and will apprise
10 the Court of my total billable hours at the Final Approval stage. However, to date, my work on
11 this case includes, but is not limited to, tasks such as: preliminary research of all Labor Code
12 claims; in-depth research into Defendant's corporate entity and docket searches to identify all
13 potentially-related cases; investigation of the entities whom we believed to be relevant and
14 potentially liable for these claims; drafting of the LWDA letter setting forth facts and claims on
15 behalf of the Aggrieved Employees; drafting a lengthy class action complaint, followed by a
16 First Amended Complaint, alleging class and representative PAGA claims; meetings and
17 conference calls with client to discuss viability of claims and impacts of new information learned
18 during course of litigation; drafting and revising various pleadings; reviewing and editing
19 detailed list of informal requests for mediation; review, evaluation, and statistical analysis of
20 voluminous data and records produced by Defendant for mediation; coordination with statistical
21 expert to generate model of violation rates, etc.; editing and preparing the class/PAGA damage
22 model and confidential mediation brief for mediation; post-mediation work on various
23 documents; and the review and editing of preliminary documents.

24 **HOURLY RATE**

25 9. My billing rate increased in 2022 to \$575 per hour (up from \$540 in previous
26 years), and this rate is usual and customary for class action and/or PAGA practitioners with my
27 level of expertise and experience.

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

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

14 12. My requested rate is also reasonable, consistent, and less than the rate found in the
15 Laffey Matrix (www.laffeymatrix.com), which indicates that the benchmark rate for an attorney
16 that graduated law school in 2013 is \$672 per hour.

17 13. At the Final Approval stage, I will submit additional evidence confirming the
18 reasonableness of my hourly rate. However, my rate of \$540 per hour was approved by various
19 courts in California, including the following non-exhaustive list of recent settlements for which I
20 have been the handling attorney:

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

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

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

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

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

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

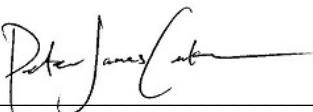
13 g. *Daniel Antuna v. GATX Corporation*, San Bernardino Superior Court,
14 Case No. CIVDS1928516 (July 6, 2021) (wage-and-hour class and PAGA settlement approved
15 with lodestar cross-check of \$540 rate);

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

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

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

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 July 29, 2022, in Riverside, California.

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Peter J. Carlson, Esq.