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Attorneys for Plaintiff and others similarly situated

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

KEITH GUTHRIE, individually, on a
representative basis, and on behalf of
all others similarly situated;

Plaintiff,

vs.

ITS LOGISTICS, LLC, a Delaware
Company, and DOES 1 through 20,
inclusive;

Defendants.

Case No.: 1:21-CV-00729-AWI-EPG
*[Assigned to Hon. Anthony W. Ishii,
U.S. District Judge, Courtroom 2]*

**DECLARATION OF BRIAN J.
MANKIN IN SUPPORT OF
MOTION FOR PRELIMINARY
APPROVAL OF CLASS ACTION
SETTLEMENT**

Hearing

Date: July 25, 2022
Time: 1:30 pm
Courtroom: 2

Complaint filed: March 9, 2021

I, Brian J. Mankin, state and declare:

1. I am an attorney licensed to practice before all of the courts of the State of California. I manage the employment law department and am a partner with the law firm of Lauby Mankin Lauby LLP, which has offices in Orange County and Riverside County. I am thoroughly familiar with and have personal knowledge of all of the facts set forth herein. I submit this declaration in support of Plaintiff's Motion for Final Approval of this Class Action Settlement. If called as a witness, I could and would competently testify thereto.

COUNSEL'S EXPERIENCE

2. I have been a member, in good standing, of the State Bar of California since 2001. I am admitted to practice in the United States District Courts for the Central, Eastern, Northern and Southern District of California and the Ninth Circuit Court of Appeal and have tried cases in various courts in California.

3. I have handled over 500 employee vs. employer litigation matters during my 21 years in practice. Over the last 15 years, my practice has almost entirely consisted of representing employees, the majority of which has included class action and representative action wage and hour matters. In total, I have handled over 250 class action and representative action wage/hour cases, and have been appointed by the court as class counsel and have received final court approval and judgment in approximately half of those actions to date, and anticipate receiving final approval in many more of those in the future.

4. As part of these settlements and judgments, I have recovered in excess of \$250 million in damages for my clients and the class members (who often work as nurses, ambulance drivers, technicians, warehouse workers, truck drivers, sales, professional occupations and countless other trades). As of the end of last year, my team and I held the record for the largest known PAGA-only case in California's history as of that time - a \$12.5 million-dollar court approved settlement, which followed extensive litigation, summary adjudication and writs to the CA Supreme Court against a Fortune 50 company (*Garcia v. Macy's*, San Bernardino Superior Court).

5. I have tried two class and PAGA cases against Fortune 100 companies. In 2018, I was lead counsel in a PAGA case that my firm tried to the bench in the Orange County Superior Court and received a \$425,000 judgment. In 2019, I was co-counsel in a class action case against Walmart that was tried to the jury in District Court for the Central District, wherein the jury awarded Plaintiffs over \$6 million. Following the successful outcome in trial, both cases were

1 appealed.

2 6. Over the last four or five consecutive years, I have been selected by
3 my peers as a “Super Lawyer” in Employment Litigation, a distinction that only
4 5% of lawyers receive.

5 **THE SETTLEMENT IS FAIR, ADEQUATE AND REASONABLE**

6 7. At my office, Misty Lauby (a partner in the firm) has handled the day
7 to day litigation, and I have assisted and overseen various aspects of the case.

8 8. Throughout this case, Plaintiff and his counsel have diligently
9 investigated the claims and defenses on behalf of the Class Members and worked
10 to achieve an early resolution of the claims to maximize the recovery by avoiding
11 further expenditure of attorneys’ fees and costs. After evaluating the significant
12 risks attendant with further litigation, and weighing them against the benefits of a
13 known compromise and settlement as set forth in the Settlement Agreement,
14 settlement on the terms agreed to is believed to be in the best interest of Plaintiff
15 and the Class and is a fair and reasonable resolution of the claims alleged. As set
16 forth in the Settlement Agreement and Class Notice, all Class Members will be
17 afforded notice of the settlement and an opportunity to object or request exclusion.
18 Class Members will also be provided information about the settlement and they
19 will not have to submit anything or take any action at all if they want to participate
20 in the settlement

21 9. My office brought to bear a great deal of experience in negotiating the
22 settlement of this case. We engaged in the necessary discovery and investigation,
23 making it possible to exercise informed judgment throughout the settlement
24 process. We also conducted extensive investigation of the claims prior to
25 instituting litigation, during litigation, and prior to mediation which included
26 significant document review (e.g. documents pertaining to Defendants’ policies
27 and procedures, time and pay records, and personnel documents), and conducted
28 an extensive analysis of the detailed class-wide data provided by Defendants. I

1 also engaged in several meet and confer communications with Defendant's counsel
2 in an effort to hone in on the key issues in dispute and evaluate the strengths and
3 weaknesses of each claim, and the case as a whole.

4 10. Based on my experience in other cases, including wage and hour
5 matters, I believe am qualified to evaluate the class claims and viability of defenses
6 in this class action. In this case, the recovery for each Class Member is reasonable,
7 fair, and adequate, and a settlement at this time is in the best interests of the class.
8 The settlement provides each class member with compensation for the alleged
9 violations when viewed in relation to the costs and risks inherent in obtaining class
10 certification and proceeding to trial.

11 11. My office, as well as Defendants' counsel, fully endorse the terms and
12 conditions of the settlement as set forth in the Settlement Agreement.

13 12. Of course, the settlement amount represents a compromise figure,
14 taking into account the various risks surrounding class certification and the merits
15 of Defendant's asserted defense. Nevertheless, the settlement provides for fair and
16 adequate payments to the class members, with no reversion to Defendant.

17 **ADEQUACY OF COUNSEL AND THE PROVISIONAL**
18 **REASONABLENESS OF THE REQUESTED FEES AND COSTS**

19 13. As set forth above, I have handled over 250 class and representative
20 actions, have been appointed as class counsel and have successfully resolved about
21 half of those class/PAGA actions, and many others remain pending and will
22 successfully resolve in the future.

23 14. When this case was taken on a contingency fee basis, with the firms
24 representing Plaintiff agreeing to assume responsibility for all litigation costs, the
25 ultimate result was far from certain. In the course of this litigation, my firm has
26 paid all costs including filing fees, court costs, research fees, and mediation costs.
27 There was never a guarantee that we would recoup these expenditures.

28 / / /

15. In this case, Plaintiff's counsel is requesting \$87,500 in attorney's fees, which is 25 percent of the Settlement Amount. Defendant does not oppose this fee request.

16. I have been in practice for 21 years, with most of those years handling complex litigation and for over the last 15 years, my practice has almost entirely consisted of handling class action wage and hour matters. My billing rate is \$775/hour. I believe these rates are consistent with Plaintiff and Defense attorneys who handle complex class action litigation, if not somewhat lower.

17. My office will provide a detailed lodestar analysis with our fee motion. But suffice to say, I believe the requested fee is warranted and appropriate based on the risks we undertook and the results we achieved for the Class Members. Defendant does not oppose this fee request.

18. The Settlement Agreement caps Plaintiff's firm's costs at \$15,000. We will submit a detailed expense report with the fee motion. Any unused costs will return to the Net Settlement Amount for payment to the Class Members.

CONCLUSION

19. For the foregoing reasons, and those set forth in the motion and declaration of Ms. Lauby, it is respectfully requested that the Court grant preliminary approval of the settlement as being fair, reasonable, and in the best interests of the class, as well as preliminarily approve the requested attorneys' fees, costs, and enhancement payment to the Class Representative.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed on June 15, 2022, at Riverside, California.

By: /s/ Brian J. Mankin
Brian J. Mankin, Esq.