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

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF RIVERSIDE

JUAN DIAZ, on behalf of all Aggrieved
Employees and the State of California;

Plaintiff,

vs.

LEGACY TILE AND STONE, INC., a
California Corporation; and DOES 1 through
20, inclusive;

Defendant.

Case No.: CVRI2104520
*[Assigned to Hon. Judge Craig Riemer, Dept 1
for all purposes]*

**DECLARATION OF PETER J.
CARLSON, ESQ., IN SUPPORT OF
MOTION TO APPROVE SETTLEMENT
PURSUANT TO THE PRIVATE
ATTORNEYS GENERAL ACT OF 2004**

Hearing

Date: July 7, 2022

Time: 8:30 a.m.

Dept.: 1

Reservation #: 102220112985

Complaint filed: October 4, 2021

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 Plaintiff Juan Diaz. I submit this declaration in support of Plaintiff's Motion to Approve the Settlement Pursuant to the Private Attorney General Act of 2004 (the "PAGA"). 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.

1 QUALIFICATION OF COUNSEL

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

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

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

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

20 6. I have tried two major class and PAGA cases against Fortune 100 companies. In
21 2018, I was the handling attorney on a PAGA-only case in Orange County where my firm
22 succeeded on a motion for summary adjudication and litigated through trial to obtain a \$425,000
23 judgment for over 1,600 aggrieved employees. Also, in 2019, I was the handling attorney for my
24 firm on a class action against Walmart, where we obtained class certification on behalf of over
25 5,000 employees. After extensive litigation, the matter went to trial, and the jury returned a
26 verdict of approximately \$6.1 million on the meal period claims.

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HOURS INCURRED

7. I have spent 62.9 hours working on this action. Attached as **Exhibit A** is a true and correct copy of my billing records, which I kept contemporaneously. This work detailed therein includes, but is not limited to, tasks such as: preliminary research of all Labor Code claims; in-depth research into Defendant's corporate entity and docket searches to identify all potentially-related cases; investigation of the entities whom we believed to be relevant and potentially liable for these claims; drafting of the LWDA letter setting forth facts and claims on behalf of the Aggrieved Employees; drafting the representative PAGA action complaint; meetings and conference calls to discuss viability of claims and impacts of new information learned during course of litigation; drafting and revising various pleadings; reviewing and editing detailed list of informal requests for mediation; review, evaluation, and statistical analysis of records produced for mediation; editing and preparing the PAGA damage model and confidential mediation brief for mediation; post-mediation work on various documents; and the review and editing of preliminary and final approval documents.

HOURLY RATE

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

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

10. Importantly, the Real Rate Report data is not based on self-reported numbers, surveys, or sampling – instead, these figures are based on an analysis of the actual amounts billed to clients based on more than 25.8 million billing entries and 23.9 million hours billed by over

1 112,100 individual timekeepers from 4,620 law firms, totaling \$9.02 billion in fees billed. And,
2 specifically, the Los Angeles data is based on review of 1,311 associates and the corresponding
3 time and rates each billed to their client.

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

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

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

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

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

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

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

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

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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 June 14, 2022, in Riverside, California.


Peter J. Carlson, Esq.

EXHIBIT “A”

Timekeeper	Date	Task	Hours	Rate	Total
PJC	6/23/2021	Initial TC with client; Office conference with staff	0.9	\$575	\$517.50
PJC	7/6/2021	Case review with BJM; create initial case strategy	0.3	\$575	\$172.50
PJC	7/28/2021	Legal research re claims; Conduct research re: company and entity; Run docket search of all possible venues to search for potentially related claims; Review all client docs	2.7	\$575	\$1,552.50
PJC	7/29/2021	Draft demand for documents, demand for preservation of evidence, and LWDA letters	6.2	\$575	\$3,565.00
PJC	8/3/2021	Status update with client	0.3	\$575	\$172.50
PJC	8/23/2021	Telephone call with opposing counsel re: claims and possible mediation; research and analyze potential mediators; status update with client	1.7	\$575	\$977.50
PJC	9/3/2021	Telephone call with client	0.4	\$575	\$230.00
PJC	9/16/2021	Exchange emails with opposing counsel re: mediators	0.4	\$575	\$230.00
PJC	9/21/2021	Draft lengthy PAGA complaint	5.4	\$575	\$3,105.00
PJC	9/23/2021	Further draft PAGA complaint	2.5	\$575	\$1,437.50
PJC	9/30/2021	Review file, claims, and client documents; Draft list of informal requests for mediation	3.7	\$575	\$2,127.50
PJC	10/15/2021	Receive, review, and analyze Defendant's Answer	0.3	\$575	\$172.50
PJC	11/8/2021	Review file re: upcoming mediation; Draft email to opposing counsel re: status of documents and data	0.6	\$575	\$345.00
PJC	11/9/2021	Status update with client	0.3	\$575	\$172.50
PJC	12/1/2021	Exchange emails with opposing counsel re: mediation and timing of data/documents	0.4	\$575	\$230.00
PJC	12/3/2021	Status update with client	0.3	\$575	\$172.50
PJC	12/7/2021	Review and analyze Defendant's pre-mediation production of documents and data	7.1	\$575	\$4,082.50
PJC	12/8/2021	Create initial draft of mediation brief	7.1	\$575	\$4,082.50
PJC	12/9/2021	Further draft mediation brief; analyze data and create PAGA damage model	6.4	\$575	\$3,680.00
PJC	12/10/2021	Telephone call with mediator re: claims; Draft MOU; email opposing counsel	2.4	\$575	\$1,380.00
PJC	12/13/2021	Lengthy call with Judge Cannon re: mediation; office conference with BJM re: same	1.2	\$575	\$690.00
PJC	12/15/2021	Attend mediation	3.9	\$575	\$2,242.50
PJC	12/16/2021	Exchange emails with opposing counsel re: MOU; Further edit and revise MOU; Exchange emails with opposing counsel re: same	1.4	\$575	\$805.00
PJC	1/13/2021	Draft stipulation to continue hearing	0.6	\$575	\$345.00
PJC	1/25/2022	Case review re: status of whether court issued CMO yet; Edit and revise PAGA settlement agreement to conform to anticipated CMO	1.7	\$575	\$977.50
PJC	2/22/2022	Status update with client	0.3	\$575	\$172.50
PJC	3/7/2022	Case review re: status of settlement documents and long-form	0.4	\$575	\$230.00
PJC	5/23/2022	Draft motion for PAGA approval	2.9	\$575	\$1,667.50
PJC	5/31/2022	Draft declaration of PJC iso motion for PAGA approval	1.1	\$575	\$632.50
TOTALS			62.9		\$36,167.50