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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 LOS ANGELES

GENNINE MERRITT, individually, on a
representative basis, and on behalf of all
others similarly situated;

Plaintiff,

vs.

DMA CLAIMS, INC., a California
Corporation; DMA CLAIMS
MANAGEMENT, INC., an Illinois
Corporation; VENBROOK GROUP, LLC,
a Delaware Limited Liability Company;
VENBROOK INSURANCE SERVICES,
LLC, a California Limited Liability
Company; and DOES 1 through 20,
inclusive;

Defendants.

Case No.: 21STCV31200
*[Assigned to Hon. Judge Stuart M. Rice, Dept 1,
for all purposes]*

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

Hearing

Date: May 16, 2023
Time: 10:30 a.m.
Dept.: 1

Complaint filed: August 24, 2021

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

2 1. I am an attorney duly licensed to practice law in the State of California and am a
3 Senior Associate at Lauby, Mankin & Lauby LLP, attorneys of record for Plaintiff in the above-
4 entitled action. I am fully familiar with the facts of this case. The matters set forth herein are
5 based upon my personal knowledge. I submit this declaration in support of Plaintiff's Motion for
6 Final Approval of this Class Action Settlement and, if called upon as a witness, I could and
7 would give competent testimony with respect to the matters contained herein.

8 **QUALIFICATION OF COUNSEL**

9 2. I graduated from the University of Oregon School of Law in May 2013 and have
10 been a member, in good standing, of the State Bar of California since January 2014. I am
11 licensed to practice before all courts of the State of California and am admitted to practice in the
12 United States District Court for the Central District of California and have litigated cases in
13 various courts and counties throughout California, including 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 145 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 negotiate settlements totaling over \$87,500,000 for my clients,
21 the employees, and 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. In 2022 and 2023, I was selected as a Super Lawyers Rising Star.

6 **HOURS INCURRED**

7 8. I have spent 174.2 hours working on this action. This time was incurred on tasks
8 including, but not limited to: preliminary research of all Labor Code claims; in-depth research
9 into various corporate entities (for both DMA and the Venbrook entities) and docket searches to
10 identify all potentially-related cases; investigation of the entities whom we believed to be
11 relevant and potentially liable for these claims; drafting of the LWDA letter setting forth facts
12 and claims on behalf of the Aggrieved Employees; drafting lengthy class and representative
13 PAGA action complaint; meetings and conference calls to discuss viability of claims and
14 impacts of new information learned during course of litigation; drafting and revising various
15 pleadings; reviewing and editing detailed list of informal requests for mediation; review,
16 evaluation, and statistical analysis of thousands of pages of documents and thousands of rows of
17 excel data produced for mediation; coordination with statistical expert to generate model of
18 violation rates, etc.; editing and preparing the class/PAGA damage model and mediation brief
19 for mediation; post-mediation work on various documents; and the review and editing of
20 preliminary and final approval documents.

21 **HOURLY RATE**

22 9. My billing rate is \$575 per hour, and this rate is usual and customary for class
23 action and/or PAGA practitioners with my level of expertise and experience.

24 10. This rate is consistent with Plaintiff and Defense attorneys who handle complex
25 class action litigation, if not somewhat lower. For instance, the Wolters Kluwer 2020 Real Rate
26 Report (“Real Rate Report”) states that the median rates for associates in Los Angeles is \$576.00
27 per hour, with the upper quartile rate at \$770.00 per hour. The Real Rate Report also notes that
28 the median and upper quartile rates for associates with 7 or more years of experience are \$520

1 and \$789, respectively. Being that I have been in practice for 9 years, my experience falls
2 squarely within the confines of that range, at a rate lower than those in the Real Rate Report.

3 11. Importantly, the Real Rate Report data is not based on self-reported numbers,
4 surveys, or sampling – instead, these figures are based on an analysis of the actual amounts billed
5 to clients based on more than 25.8 million billing entries and 23.9 million hours billed by over
6 112,100 individual timekeepers from 4,620 law firms, totaling \$9.02 billion in fees billed. And,
7 specifically, the Los Angeles data is based on review of 1,311 associates and the corresponding
8 time and rates each billed to their client.

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

12 13. My hourly rate has been approved by various courts in California, including the
13 following non-exhaustive list of recent settlements for which I have been the handling attorney:

14 a. *Elizarraras v. Future Foam*, Orange County Superior Court, Case No. 30-
15 2020-01152286-CU-OE-CXC (Sept. 13, 2022) (\$1,200,000 wage-and-hour class and PAGA
16 settlement approved with lodestar cross-check of \$575 rate);

17 b. *Arevalos v. Americor Funding*, Orange County Superior Court, Case No.
18 30-2019-01068606-CU-OE-CXC (Aug. 16, 2022) (\$2,212,500 wage-and-hour class and PAGA
19 settlement approved with lodestar cross-check of \$575 rate);

20 c. *Guzman v. Deckers Outdoor*, Riverside County Superior Court, Case No.
21 CVRI2100707 (Sept. 30, 2022) (\$950,000 wage-and-hour class and PAGA settlement approved
22 with lodestar cross-check of \$575 rate);

23 d. *Finger v. Professional Registry Holdings, LLC, et al.*, Riverside Superior
24 Court, Case No. CVRI2101956 (June 28, 2022) (\$500,000 wage-and-hour class and PAGA
25 settlement approved with lodestar cross-check of \$575 rate);

26 e. *Woods, et al. v. Just In Time Cargo, Inc.*, San Bernardino Superior Court,
27 Case No. CIVDS200750 (June 8, 2022) (\$450,000 wage-and-hour class and PAGA settlement
28 approved with lodestar cross-check of \$575 rate);

1 f. *Torres, et al. v. ePac Los Angeles, LLC, et al.*, San Bernardino Superior
2 Court, Case No. CIVDS2017140 (April 19, 2022) (wage-and-hour class and PAGA settlement
3 approved with lodestar cross-check of \$575 rate);

4 g. *Carrillo v. BluSky Restoration Contractors LLC*, San Bernardino Superior
5 Court, Case No. CIVSB2105793 (June 29, 2022) (\$360,000 PAGA-only settlement approved
6 with lodestar cross-check of \$575 rate).

7 I declare under penalty of perjury under the laws of the State of California that the
8 foregoing is true and correct. Executed on April 24, 2023 at Riverside, California.

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10 By: 
11 Peter J. Carlson, Esq.
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