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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
COUNTY OF STANISLAUS

SCOTT KLIMEK, individually, on a
representative basis, and on behalf of all
others similarly situated;

Plaintiff,

vs.

KINGSPAN INSULATED PANELS, INC., a
Florida Corporation; and DOES 1 through 20,
inclusive;

Defendants.

Case No.: CV-21-004201
*[Assigned to Hon. Judge John D. Freeland,
Dept 23, for all purposes]*

**DECLARATION OF PETER J.
CARLSON IN SUPPORT OF MOTION
FOR FINAL APPROVAL OF CLASS
ACTION SETTLEMENT**

Complaint filed: August 5, 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 Scott Klimek
4 (“Plaintiff”). I am fully familiar with the facts of this case and submit this declaration in support
5 of Plaintiff’s Motion for Final Approval of this Class Action Settlement. The matters set forth
6 herein are based upon my personal knowledge 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 successful briefing and argument in
14 the Court of Appeal.

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

19 4. I have been the handling attorney on over 145 class action and/or representative
20 PAGA actions. And, on these cases, myself and/or my firm have been appointed Class Counsel
21 on over half of these cases and have helped negotiate settlements totaling over \$87,500,000 for
22 my clients, the employees, and the State of California.

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

27 6. I have tried two major class and PAGA cases against Fortune 100 companies,
28 both of which were appealed. In 2018, I was the handling attorney on a PAGA-only case in

1 Orange County where my firm succeeded on a motion for summary adjudication and litigated
2 through trial to obtain a \$425,000 judgment for over 1,600 aggrieved employees. Also, in 2019,
3 I was the handling attorney for my firm on a class action against Walmart, where we obtained
4 class certification on behalf of over 5,000 employees. After extensive litigation, the matter went
5 to trial, and the jury returned a verdict of approximately \$6.1 million on the meal period claims.

6 7. In 2022 and 2023, I was also selected as a Super Lawyers Rising Star.

7 **HOURS INCURRED**

8 8. I have spent 181.7 hours working on this action on tasks including: preliminary
9 research of all Labor Code claims; in-depth research into Defendant's corporate entity and state-
10 wide docket searches to identify any pending or related cases; investigation of the entities whom
11 we believed to be relevant and potentially liable for these claims; drafting of the LWDA letter
12 setting forth facts and claims on behalf of the Aggrieved Employees; drafting class and
13 representative PAGA action complaint; meetings and conference calls to discuss viability of
14 claims and impacts of new information learned during course of litigation; drafting and revising
15 various pleadings; drafting a full set of written discovery to Defendant prior to mediation being
16 scheduled; review, evaluation, and analysis of thousands of pages of data and documents
17 produced by Defendant prior to mediation; post-settlement work on various documents; and the
18 review and editing of preliminary and final approval documents.

19 **HOURLY RATE**

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

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

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

6 12. 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 2013 is \$676 per hour.

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

11 a. *Elizarraras v. Future Foam*, Orange County Superior Court, Case No. 30-
12 2020-01152286-CU-OE-CXC (Sept. 13, 2022) (\$1,200,000 wage-and-hour class and PAGA
13 settlement approved with lodestar cross-check of \$575 rate);

14 b. *Arevalos v. Americor Funding*, Orange County Superior Court, Case No.
15 30-2019-01068606-CU-OE-CXC (Aug. 16, 2022) (\$2,212,500 wage-and-hour class and PAGA
16 settlement approved with lodestar cross-check of \$575 rate);

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

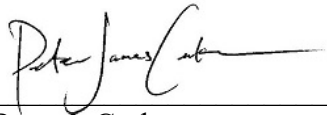
20 d. *Finger v. Professional Registry Holdings, LLC, et al.*, Riverside Superior
21 Court, Case No. CVRI2101956 (June 28, 2022) (\$500,000 wage-and-hour class and PAGA
22 settlement approved with lodestar cross-check of \$575 rate);

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

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

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

4 I declare under penalty of perjury under the laws of the State of California that the
5 foregoing is true and correct. Executed on May 17, 2023, at Riverside, California.

6
7 By: 
8 Peter J. Carlson