

Brian J. Mankin, Esq. [SBN 216228]
brian@lmlfirm.com
Peter J. Carlson, Esq. [SBN 295611]
peter@lmlfirm.com
LAUBY MANKIN LAUBY LLP
5198 Arlington Avenue, PMB 513
Riverside, CA 92504
Tel: (951) 320-1444 | Fax: (951) 320-1445

Attorneys for Plaintiff Juan Nieves and on behalf of the Proposed Class

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SAN BERNARDINO

JUAN NIEVES, individually, on a
representative basis, and on behalf of all
others similarly situated;

Plaintiff,

vs.

KLLM TRANSPORT SERVICES, LLC, a
Texas Limited Liability Company; and
DOES 1 through 20, inclusive;

Defendants.

Case No.: CIVSB2134796
*[Assigned to Hon. Judge David Cohn, Dept. S26,
for all purposes]*

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

Complaint filed: December 21, 2021

I, Peter J. Carlson, state and declare:

1. I am an attorney duly licensed to practice law in the State of California and am a senior associate at Lauby, Mankin & Lauby LLP, attorneys of record for Plaintiff Juan Nieves ("Plaintiff"). I am fully familiar with the facts of this case and submit this declaration in support of Plaintiff's Motion for Final Approval of this Class Action Settlement. The matters set forth herein are based upon my personal knowledge and, if called upon as a witness, I could and would give competent testimony with respect to the matters contained herein.

///

QUALIFICATION OF COUNSEL

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

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

4. I have been the handling attorney on 145 class action and/or representative PAGA actions. And, on these cases, myself and/or my firm have been appointed Class Counsel on over half of these cases and have helped negotiate settlements totaling over \$83,000,000 for my clients, the employees, and the State of California.

5. I was the handling attorney for the second largest PAGA-only settlement in California's history – 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 Case No. CIVDS1516007).

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

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

///

HOURS INCURRED

8. I have spent 160.2 hours working on this action and have kept contemporaneous records of these billable hours. This includes: significant pre-filing work; legal research regarding nuanced and issues unique to this matter; extensive litigation work connected to Defendant's removal to federal court, including drafting a motion to remand and drafting an opposition to Defendant's motion to strike; review and analysis of voluminous records from Defendant to verify and value the claims herein; analyzing all relevant documents and data and drafting a mediation brief and damage model; and work on the approval processes.

HOURLY RATE

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

10. 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 9 years, my experience falls squarely within the confines of that range, at a rate lower than those in the Real Rate Report.

11. 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 112,100 individual timekeepers from 4,620 law firms, totaling \$9.02 billion in fees billed. And, specifically, the Los Angeles data is based on review of 1,311 associates and the corresponding time and rates each billed to their client.

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

///

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

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

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

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

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

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

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

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

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed on March 1, 2023, at Riverside, California.

By: 
Peter J. Carlson