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Attorneys for Plaintiffs, on a representative basis and on behalf of all others similarly situated

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

KRISTY ELWELL, individually, on a
representative basis, and on behalf of all
others similarly situated;

Plaintiff,

vs.

DIVERSITY WIRELESS PARTNERS
LLC, a California Limited Liability
Company; and DOES 1 through 20,
inclusive;

Defendants.

Case No.: CIVSB2134554
*[Assigned to Hon. Judge David Cohn, Dept. S26
for all purposes]*

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

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 Kristy Elwell ("Plaintiff"). I am fully familiar with the facts of this case and submit this declaration in support of Plaintiff's Motion for Final Approval. 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.

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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.

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).

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

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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. Indeed, the perfect starting point for analyzing the reasonableness of this rate is the Wolters Kluwer Real Rate Report (the “Real Rate Report”).

11. Importantly, the Real Rate Report is not based on self-reported numbers, surveys, sampling, or reviews or other publications – instead, the Real Rate Report is based on the actual hours and fees that law firms billed to clients. In this regard, the Real Rate Report is “a much better reflection of true market rates than self-reported rates in all practice areas.” *Brown v. CVS Pharmacy, Inc.* (C.D. Cal. Apr. 24, 2017) 2017 U.S. Dist. LEXIS 182309, at *21; see also *PLCM Group, Inc. v. Drexler* (2000) 22 Cal.4th 1084, 1085 (holding that rates should be premised upon precisely this form of independent, “objective” rate data that reflects “fair market” rates actually billed to clients “in the community for similar work”). Additionally, the Real Rate Report is based on an enormous and statistically significant compilation of data which is compiled to provide the hourly rates actually billed by partners and associates in metropolitan areas.

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.

11. Importantly, the Real Rate Report is not based on self-reported numbers, surveys, sampling, or reviews or other publications – instead, the Real Rate Report is based on the actual hours and fees that law firms billed to clients. In this regard, the Real Rate Report is “a much better reflection of true market rates than self-reported rates in all practice areas.” *Brown v. CVS Pharmacy, Inc.* (C.D. Cal. Apr. 24, 2017) 2017 U.S. Dist. LEXIS 182309, at *21; see also *PLCM Group, Inc. v. Drexler* (2000) 22 Cal.4th 1084, 1085 (holding that rates should be premised upon precisely this form of independent, “objective” rate data that reflects “fair market” rates actually billed to clients “in the community for similar work”). Additionally, the Real Rate Report is based on an enormous and statistically significant compilation of data which is compiled to provide the hourly rates actually billed by partners and associates in metropolitan areas.

1 12. For the Los Angeles area, which is a logical and reasonable comparison to this
2 geographical marketplace given the overlap of counsel, the median rate for associates is \$576.00
3 per hour, with the upper quartile rate at \$770.00 per hour. The Real Rate Report also notes that
4 the median and upper quartile rates for associates with 7 or more years of experience are \$520
5 and \$789, respectively. Being that I have been in practice for over 9 years, my experience falls
6 squarely within the confines of that range, at a rate lower than those in the Real Rate Report.

7 13. My requested rate is also reasonable, consistent, and less than the rate found in the
8 Laffey Matrix (www.laffeymatrix.com), which indicates that the benchmark rate for an attorney
9 that graduated law school in 2013 is \$733 per hour.

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

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

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

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

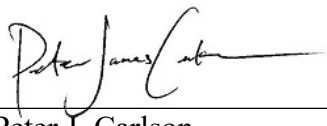
21 d. *Finger v. Professional Registry Holdings, LLC, et al.*, Riverside Superior
22 Court, Case No. CVRI2101956 (June 28, 2022) (\$500,000 wage-and-hour class and PAGA
23 settlement approved with lodestar cross-check of \$575 rate);

24 e. *Woods, et al. v. Just In Time Cargo, Inc.*, San Bernardino Superior Court,
25 Case No. CIVDS200750 (June 8, 2022) (\$450,000 wage-and-hour class and PAGA settlement
26 approved with lodestar cross-check of \$575 rate);
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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 July 13, 2023, at Riverside, California.

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10 By: 
11 Peter J. Carlson
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