

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

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF ALAMEDA

ASTRID OROZCO, individually, on a
representative basis, and on behalf of all
others similarly situated;

Plaintiff,

vs.

DELPHON INDUSTRIES, LLC, a Delaware
Limited Liability Company; and DOES 1
through 20, inclusive;

Defendants.

Case No.: 22CV006597

*[Assigned to Hon. Evelio Grillo, Dept. 21, for
all purposes]*

**DECLARATION OF PETER J.
CARLSON, ESQ., IN SUPPORT OF
PLAINTIFF'S MOTION FOR FINAL
APPROVAL OF CLASS ACTION
SETTLEMENT**

Complaint filed: February 4, 2022

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 Astrid Orozco ("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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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 155 class action and/or representative PAGA
13 actions. And, on these cases, myself and/or my firm have been appointed Class Counsel on over
14 half of these cases and have helped negotiate settlements totaling over \$88,000,000 for my
15 clients, the employees, and 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,
21 both of which were appealed. In 2018, I was the handling attorney on a PAGA-only case in
22 Orange County where my firm succeeded on a motion for summary adjudication and litigated
23 through trial to obtain a \$425,000 judgment for over 1,600 aggrieved employees. Also, in 2019,
24 I was the handling attorney for my firm on a class action against Walmart, where we obtained
25 class certification on behalf of over 5,000 employees. After extensive litigation, the matter went
26 to trial, and the jury returned a verdict of approximately \$6.1 million on the meal period claims.

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

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1 **Hours Incurred**

2 8. I have spent 214.6 hours working on this action and have kept contemporaneous
3 records of these billable hours. This includes: significant pre-filing work; legal research
4 regarding nuanced and issues unique to this matter; in-depth search of all California Superior
5 Courts and district courts to investigate whether there were any prior actions against Defendant
6 pleading claims on behalf of the same or similar class of employees; drafting the letter to the
7 LWDA to begin the exhaustion of administrative remedies; drafting the initial class action
8 complaint and, later, the amended first amended complaint adding causes of action under PAGA;
9 pre-mediation review and analysis of voluminous documents, including company handbook and
10 policies, exemplars of wage statements, and over 82,000 rows of excel data representing a
11 sampling of time and payroll for class members; compilation and analysis of data to verify and
12 value the claims herein; drafting a mediation brief and comprehensive class and PAGA damage
13 model; and work on the approval processes.

14 **Hourly Rate**

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

17 10. This rate is consistent with Plaintiff and Defense attorneys who handle complex
18 class action litigation, if not somewhat lower. Indeed, the perfect starting point for analyzing the
19 reasonableness of this rate is the Wolters Kluwer Real Rate Report (the “Real Rate Report”).

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

1 provide the hourly rates actually billed by partners and associates in metropolitan areas.

2 12. For example, in Los Angeles, the median rate for associates is \$576.00 per hour,
3 with the upper quartile rate at \$770.00 per hour. The Real Rate Report also notes that the median
4 and upper quartile rates for associates with 7 or more years of experience are \$520 and \$789,
5 respectively. Being that I have been in practice for over 9 years, my experience falls squarely
6 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);

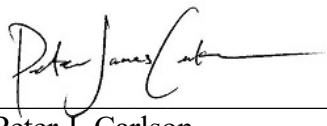
21 d. *Finger v. Professional Registry Holdings, LLC, et al.*, Riverside Superior
22 Court, Case No. CVRI2101956 (June 28, 2022) (\$500,000 wage-and-hour class and PAGA
23 settlement approved with lodestar cross-check of \$575 rate);

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 August 21, 2023, at Riverside, California.

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10 By: 
11 Peter J. Carlson
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