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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

ARMANDO FLORES and WILLIAM
STOREY, individually, on a representative
basis, and on behalf of all others similarly
situated;

Plaintiffs,

v.

SUNRISE RESPIRATORY CARE, INC., a
California Corporation; SUNRISE
RESPIRATORY MANAGEMENT GROUP,
LLC, a California Limited Liability
Company, MICHAEL EILBERT, OSCAR
MUNOZ and DOES 1 through 20, inclusive;

Defendants.

Case No.: CIVSB2127592

*[Assigned to Hon. Judge Joseph T. Ortiz,
Dept. S17, for all purposes]*

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

Hearing

Date: June 14, 2023

Time: 1:30 p.m.

Dept: S17

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 Plaintiffs in this action. I am fully familiar with the facts of this case and submit this declaration in support of Plaintiffs' 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.

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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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Hours Incurred

8. I was the handling attorney on this case prior to the file transitioning to Kristina Bui Carlson. During the time I was the handling attorney, I spent 42.7 hours working on this action on tasks including: preliminary research of all Labor Code claims; in-depth research into Defendant's corporate entity and state-wide docket searches to identify any pending or related cases; investigation of the entities whom we believed to be relevant and potentially liable for these claims; drafting of the LWDA letter setting forth facts and claims on behalf of the Aggrieved Employees; and drafting the class complaint then the first amended class and PAGA complaint.

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 the actual amounts billed to clients 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. 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.

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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 April 25, 2023, at Riverside, California.

By:


Peter J. Carlson