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

EDUARDO RIVERA, individually, on a
representative basis, and on behalf of all
others similarly situated;

Plaintiff,

vs.

PATRIOT PAVING, INC., a California
Corporation; and DOES 1 through 20,
inclusive;

Defendants.

Case No.: CIVSB2210619
*[Assigned to Hon. Jessica Morgan Dept S26, for
all purposes]*

**DECLARATION OF KIRK D. HANSON
IN SUPPORT OF PLAINTIFF'S
UNOPPOSED MOTION FOR FINAL
APPROVAL OF CLASS ACTION
SETTLEMENT**

Hearing

Date: November 13, 2023

Time: 8:30 a.m.

Dept.: S26

Complaint filed: May 27, 2022

I, Kirk D. Hanson, declare as follows:

1. I am the owner of the Law Offices of Kirk D. Hanson and am co-counsel in this matter with Lauby, Mankin & Lauby LLP, attorneys for Plaintiff herein Eduardo Rivera. I make this declaration in support of Plaintiff's Unopposed Motion for Final Approval of Class Action

1 Settlement. I am thoroughly familiar with and have personal knowledge of all the facts set forth
2 herein. If called as a witness, I could and would competently testify to the facts set forth in this
3 declaration.

4 **EXPERIENCE OF CLASS COUNSEL KIRK D. HANSON**

5 2. I have been a member of the State Bar of California since 1993. I am also an inactive
6 member of the State Bar of Arizona (2004). I am admitted to practice in the United States District
7 Court for the Southern District of California, the United States District Court for the Central
8 District of California, the United States District Court for the Eastern District of California, the
9 United States District Court for the Northern District of California, and the Ninth Circuit Court of
10 Appeal and have personally tried employment and other jury trials to verdict in state and federal
11 courts. I have represented employees and employers in employment litigation matters since 1995.
12

13 3. While I was a partner at Grace, Hollis & Hanson LLP, my firm and I served as
14 counsel of record in the following wage/hour and employment class action cases, wherein I and
15 my former partner, Graham S.P. Hollis, were responsible for the supervision and prosecution of
16 the cases: *Malone, et al. v. Praxair*, San Bernardino Superior Ct. Case No. CIVRS804874; *James*
17 *Vest, et al. v. Scher Tire Inc.*, Riverside Superior Ct. Case No. RIC493539, February 2008;
18 *Kirkland Singer, et al. v. Becton Dickinson & Company*, United States District Court for Southern
19 District of California, Case No. 08CV0821 IEG(BLM), March 2008; *Joseph Mahoney, et al. v.*
20 *AT&T Corporation*, Los Angeles Superior Ct. Case No. BC385361, February 2008; *Kathleen*
21 *Falcon, et al. v. Flight Suits, Inc.*, San Diego Superior Ct. Case No. 27-3008-00079012-CU-OE-
22 CTL, February 2008; *Theresa Thompson, et al. v. Lawinfo.com, Inc.*, San Diego Superior Ct. Case
23 No. 37-2007-00077948-CU-OE-CTL, October 2007; *Birch, et al. v. Office Depot, Inc.*, United
24 States District Court for Southern District of California, Case No. 06CV1690DMS (WMC), June
25 2006; *Duarte, et al. v. Rainbow Disposal Co., Inc.*, Orange County Superior Ct. case No. 30-2008-
26 00044404, February 2008; *Fennessey v. Round Table Development Company and Round Table*
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1 *Pizza, Inc.*, San Diego Superior Ct. Case No. GIC872055, Sept. 2006; and *Jackson v. Vulcan*
2 *Materials, et al.*, Ventura County Superior Ct. Case No. CIV 241305, May 2006.

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4 4. In May of 2009, I left Grace, Hollis & Hanson LLP and opened my own firm. Since
5 that time, I have handled and prosecuted the following class action and PAGA representative
6 action cases: *Hector Banda v. Verizon California Inc.*, Los Angeles Superior Court Case No.
7 BC434587; *Jessica Ward v. Hootwinc, et al.*, San Diego Superior Court Case No. 37-2010-
8 00085794-CU-OE-CTL; *Soriano v. CLMP LTD, dba Manpower of Temecula*, Riverside County
9 Superior Court Case No. 1005931; *Benjamin Sison v. Primeflight Aviation Services, Inc.*, San
10 Diego Superior Court Case No. 37-2011-00088792-CU-OE-CTL; *Anderson v. Conwell Corp.*,
11 LLC, Los Angeles Superior Court Case No. BC437349; *Padilla v. Staffmark Investment, LLC*, San
12 Bernardino County Superior Court Case No. CIVDS 1408641; *McKenzie v. Federal Express*
13 *Corp.*, United States District Court Central District of California Case No. CV 10-02420 GAF;
14 *Michael Merchant v. OfficeTeam*, Los Angeles Superior Court Case No. BC 461652; *Malakhat*
15 *Pollard v. Jeffrey Pine Holdings LLC*, San Diego Superior Court Case 37-2011-00097596-CU-
16 OE-CTL; *Vera Willner v. Manpower Inc.*, United States District Court Northern District of
17 California Case No. C11-02846 JSW; *Robles v. Tustin Motors, Inc.*, Orange County Superior
18 Court Case No. 30-2012-00579414; *Bengel v. Career Strategies Temporary, Inc.*, Los Angeles
19 Superior Court Case No. BC 565227; *Escallada v. Riviera Reincarnate, LLC*, Riverside County
20 Superior Court Case No. RIC 1509262; *Vidrio v. United Airlines, Inc.*, United States District Court
21 Central District of California Case No. CV 15-7985-PSG; *Ward v. United Airlines, Inc.*, United
22 States District Court Northern District of California Case No. 15-cv-02309-WHA; *Amber Garcia*
23 *v. Macy's West Stores, Inc.*, San Bernardino County Superior Court Case No. CIVDS1516007;
24 *Vanessa Cruz v. Hotcakes, Inc.*, San Diego County Superior Court Case No. 37-2019-00000748-
25 CU-OE-CTL; *Anne Borren v. Pacific Bell Telephone Company*, San Francisco Superior Court
26 Case No. CGC-17-561441, and *Sudano v. Keypoint Government Solutions, Inc.*, San Diego
27 Superior Court Case No. 37-2020-00000430-CU-OE-CTL, among other cases.
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1 5. In addition to handling wage and hour class actions, general employment matters,
2 and other civil cases at the trial court level, I also have significant experience handling civil
3 appeals before the Ninth Circuit and the California Courts of Appeal. The following is an
4 exemplar list of my appellate experience:

5 ***Construction Management Services v. Nibco, Inc.***, 1997 WL 33799294, Fourth District, Div.
6 One (Feb. 6, 1997) (I represented Nibco, Inc. in construction contract claim dispute);

7 ***Edmund Tucker v. J.W. Elliott, Inc.***, Fourth District, Div. 1 July 1999, Case No. D031370 (I
8 represented Tucker in a FEHA racial discrimination/wrongful termination case);

9 ***Philips Products v. Glass Holdings, Inc.***, 2002 WL 2027321, Fifth District (09/05/2002) (I
10 represented Philips Products in a contract dispute);

11 ***Leslie Furey v. Blockbuster, Inc.***, 2007 WL 1991450, Fourth District, Div. 1 (07/11/2007) (I
12 represented Furey in a FEHA disability discrimination case).

13 ***Jane Doe v. California Lutheran High School Assn.***, 170 Cal.App.4th 828 (2009) (I represented
14 Jane Doe, a minor, in an Unruh Act sexual orientation discrimination claim);

15 ***Merchant v. Office Team***, 2013 WL 1153648, Second District, Div. 4 (March 21, 2013) (I
16 represented Merchant in a Labor Code section 226 class action);

17 ***Hernandez v. BCI Coca-Cola Bottling Co.***, 554 Fed.Appx. 661 (9th Cir. 2014) (I represented
18 Hernandez in a Labor Code section 226 class action);

19 ***Nigro v. Sears, Roebuck and Co.***, 784 F.3d 495 (9th Cir. 2015) (I represented Nigro in a medical
20 condition discrimination claim);

21 ***Arlene King v. Universal Protection Service, L.P.***, 2016 WL 1293903, Second District, Div. 8
22 (April 1, 2016) (I represented King in a PAGA representative action alleging illegal employee
23 security deposits in violation of Labor Code sections 403 -404);
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1 **Ward v. United Airlines, Inc.**, 9 Cal.5th 732 (June 29, 2020) (I represented flight attendants and
2 pilots against United Airlines, Inc. before the California Supreme Court on certification from the
3 Ninth Circuit on a complicated Labor Code section 226 wage statement claim); and

4 **Ward v. United Airlines, Inc.**, 986 F.3d 1234 (9th Cir. Feb. 2, 2021) (I represented flight
5 attendants and pilots against United Airlines, Inc. before the Ninth Circuit Court of Appeal on a
6 complicated Labor Code section 226 wage statement claim).

7
8 6. I have practiced law for over 29 years and have extensive experience handling class
9 action and PAGA representative action cases involving a broad range of Labor Code violations,
10 including Labor Code violations similar to the ones involved in this action. As such, I believe I am
11 competent and was well-qualified to negotiate and evaluate the settlement in this case. On April
12 10, 2023, I, along with my co-counsel Peter Carlson, attended an all-day mediation in this matter
13 with well-respected wage and hour mediator Gail Glick. The mediation was an arms-length
14 negotiation at all times between experienced counsel and was a hard-fought negotiation. And,
15 although the monetary amount of the Settlement was agreed to at the mediation on April 10, 2023,
16 the negotiation on the details of the long version settlement continued for weeks after the
17 mediation. Based upon my years of class action experience, and based upon my work and
18 experience in this case (including negotiating the Settlement in this case at the mediation on April
19 10, 2023), it is my informed opinion that this Settlement is a great result for the Class Members.

20 **FINAL SUMMARY OF THE SETTLEMENT**

21 7. The paragraphs in this section of my declaration shall summarize the final
22 Settlement numbers after notice was mailed to the Class Members and they had the opportunity
23 to either exclude themselves from the Settlement or object to the Settlement. This summary is
24 based upon the Declaration of Taylor Mitzner of Phoenix Settlement Administrators (filed
25 concurrently herewith), who is the Court-appointed settlement administrator in this action.

26 8. On August 7, 2023, Phoenix Settlement Administrators (“Phoenix”) mailed the
27 Class Notice to the 72 Class Members. Phoenix received only one Request for Exclusion, and
28 there have been no objections. During the response period, Phoenix identified two additional

Class Members who were not on the original Class List. Accordingly, there are 73 Class Members.

9. After subtracting \$99,666.67 for Class Counsel's attorney's fees, \$10,401.28 for Class Counsel's litigation costs, \$7,500.00 for Plaintiff's Service Award, \$10,000.00 for the PAGA payment, and \$6,000.00 for settlement administration costs from the \$299,000.00 Gross Settlement Amount, the remaining Net Settlement Amount payable to the Class Members is **\$165,432.05**. This Net Settlement Amount is **\$9,639.11** higher than the **\$155,833.34** Net Settlement Amount estimated in the motion for preliminary approval. The higher amount is due to the difference between Class Counsel's estimated litigation costs not to exceed \$20,000.00 and Class Counsel's actual litigation costs of \$10,401.28.

10. The highest individual settlement payment will be approximately \$6,527.18, and the average individual settlement payment will be approximately \$2,266.19. This is a great result! Moreover, the settlement payments to each Class Member are fair because each payment is calculated based upon the number of workweeks attributable to each Class Member.

11. Based upon the foregoing, and based upon the analysis set forth in the declaration of my co-counsel Brian J. Mankin, it is my informed opinion that this Settlement is fair and reasonable and merits final approval because the Class Members are receiving significant recoveries and not one Class Member has objected to the Settlement. Additionally, I can confirm that this Settlement was negotiated at arm's length by me and my co-counsel following a sufficient exchange of information and documents prior to mediation. And, the mediation was conducted by Gail Gick, a well-respected wage and hour mediator. Accordingly, I respectfully submit that this Settlement warrants final approval.

ATTORNEY'S FEES & COSTS

A. Attorney's Fees

12. The one-third fee requested here is within the normal percentage for wage and hour common fund class action cases in California. *See generally Laffitte v. Robert Half Int'l, Inc.* (2016) 1 Cal.5th 480. Moreover, the one-third fee requested here is also within the range of fee

awards in other class action and PAGA representative action wage and hour cases *that I have personally handled*. These cases include, but are not limited to:

Banda v. Verizon California, Inc., Los Angeles County Superior Court Case No. BC 434587 (**35% fee awarded** on a **\$15,000,000.00** common fund settlement of a PAGA/class action Labor Code section 226 claim);

Robles v. DCH, Los Angeles County Superior Court Coordination Proceeding Case No. 4833 (**33.33% fee awarded** on a **\$4,035,600.00** common fund settlement of multiple Labor Code PAGA/class claims);

Padilla v. Staffmark Investment, LLC, San Bernardino County Superior Court Case No. CIVDS1408641 (**33.33% fee awarded** on a **\$2,000,000.00** common fund settlement of a PAGA only Labor Code section 226 claim);

Michael Merchant v. OfficeTeam, Los Angeles County Superior Court Case No. BC 461652 (**33.33% fee awarded** on a **\$1,500,000.00** common fund settlement of a PAGA/class action Labor Code section 226 claim);

Bengel v. Career Strategies Temporary, Inc., Los Angeles County Superior Court Case No. BC 565227 (**33.33% fee awarded** on a **\$750,000.00** common fund settlement of a PAGA/class action Labor Code section 226 claim);

Birch v. Office Depot, United States District Court for the Southern District of California, Case No. 06cv1690 DMS (**40% fee awarded** on a **\$16,000,000.00** common fund settlement of Labor Code class action claims);

Amber Garcia v. Macy's West Stores, Inc., San Bernardino County Superior Court Case No. CIVDS1516007 (**33.33% fee awarded** on a **\$12,500,000.00** common fund settlement of a PAGA only Labor Code section 226 claim); and

Vidrio v. United Airlines, Inc., U. S. District Court, Central District of California, Case No. CV 15-7985 PSG (MRWx) (June 29, 2023) Document 114 (**33.33% fee awarded** on a **\$54,408,649.00** common fund settlement of a PAGA/class action Labor Code section 226 claim).

1 13. I have been working on this case on a contingent-fee basis since May of 2022,
2 and, along with my co-counsel Lauby, Mankin & Lauby LLP, have advanced all of the litigation
3 costs associated with the prosecution of this case. Accordingly, we have taken on a significant
4 risk in prosecuting this case on a contingency basis.

5 14. I kept track of my time worked on this case in increments of six minutes (e.g.,
6 meaning 6 minutes was the minimum increment of time billed for any task) and
7 contemporaneously tracked all billable work by the date, the time spent performing each task,
8 and a description of each task performed. Using this method, I tracked all my time on this case,
9 which time adds up to **63.8 hours**. This 63.8 hours is the time worked by me on this case doing
10 the following legal work: reviewing and evaluating all potential claims; reviewing and analyzing
11 Plaintiff's payroll records; communications with co-counsel about case handling, case strategy,
12 and case issues; preparing, editing, and/or reviewing Plaintiff's pleadings (e.g., Complaint,
13 PAGA Notice Letter, Motion for Preliminary Approval of Class Action Settlement, etc.);
14 reviewing Plaintiff's draft discovery to Defendant and evaluation of Defendant's formal and
15 informal discovery responses; evaluating/calculating class damages; reviewing/editing Plaintiff's
16 Mediation Brief, proposed Memorandum of Understanding, and Risk Assessment in preparation
17 for Mediation; preparing for Mediation; attending all-day Mediation, negotiating the settlement
18 of the case, and settling the case; preparing for hearing on Plaintiff's Motion for Preliminary
19 Approval; traveling from San Diego to San Bernardino County Superior Court, attending hearing
20 on Motion for Preliminary Approval, and traveling back to San Diego; and preparing for and
21 attending the hearing on final approval.

22 15. Notwithstanding the summary of my hours on this case set forth directly above, it
23 is important for me to point out that this is not an hourly billing matter. To the contrary, this is a
24 pure contingency case wherein I and my co-counsel only get paid attorney's fees and reimbursed
25 for costs if we win the case. The named Plaintiff has no obligation to pay me or my co-counsel
26 for attorney's fees or costs if we had lost this case. Importantly, the only reason that I kept track
27 of my billable hours in this case is in the event the Court desires to do a lodestar cross-check on
28 our requested common fund percentage fee recovery. Based upon my extensive experience

1 handling class action wage and hour matters over the last 29 years, and based upon the success I
2 have achieved in those cases, my current hourly rate for purposes of a lodestar cross-check is
3 \$900 per hour. I have consulted with other attorneys who specialize in plaintiff wage and hour
4 class action work, and who have a similar number of years in practice, and can confirm that \$900
5 per hour is appropriate for senior plaintiff's attorneys and partners in this practice area. In fact,
6 the reasonable hourly rate for my work on class action wage and hour cases was recently
7 approved at \$935 per hour by the United States District Court, Central District of California, in
8 *Vidrio v. United Airlines, Inc.*, Case No. CV 15-7985 PSG (MRWx) (Order dated June 29,
9 2023), Document 114. In that case, the District Court assigned a reasonable hourly rate for me at
10 \$935 per hour for purposes of its lodestar cross-check on my requested fee recovery in that case.
11 *Id.* at p. 17. Thus, my straight lodestar in this case before any multiplier is applied, amounts to
12 **\$57,483.80** (e.g., 63.8 hours x \$900/hour).

13 **B. Costs**

14 16. My costs in this case amount to **\$2,662.50**, which is my $\frac{1}{4}$ share of the mediation
15 fees. Plaintiff and Defendant agreed to split the cost of mediation 50/50, and the \$2,662.50 is my
16 share of the Plaintiff's side mediation expenses. This cost is both reasonable and necessary, as
17 the mediation resulted in the successful resolution of this case. Mediation costs are routinely
18 awarded as an item of costs and are widely accepted as a necessary litigation expense. As such, I
19 request reimbursement for my \$2,662.50 share of the mediation costs.

20 I declare under penalty of perjury under the laws of the State of California that the
21 foregoing is true and correct.

22 Executed this 9th day of October, 2023, in San Diego, California.

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Kirk D. Hanson