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Attorneys for Plaintiff, 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

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

Hearing

Date: November 13, 2023

Time: 8:30 a.m.

Dept.: S26

Complaint filed: May 27, 2022

1 I, Peter J. Carlson, state and declare:

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

8 **QUALIFICATION OF COUNSEL**

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

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

19 4. I have been the handling attorney on 160 class action and/or representative PAGA
20 actions. And, on these cases, myself and/or my firm have been appointed Class Counsel on over
21 half of these cases and have helped negotiate settlements totaling over \$90,500,000 for my
22 clients, the employees, and the State of California.

23 5. I was the handling attorney for the second largest PAGA-only settlement in
24 California's history – a \$12.5 million-dollar court approved settlement, which followed extensive
25 litigation, summary adjudication and writs to the CA Supreme Court against a Fortune 50
26 company (*Garcia v. Macy's*, San Bernardino Superior Court Case No. CIVDS1516007).

27 6. I have tried two major class and PAGA cases against Fortune 100 companies,
28 both of which were appealed. In 2018, I was the handling attorney on a PAGA-only case in

1 Orange County where my firm succeeded on a motion for summary adjudication and litigated
2 through trial to obtain a \$425,000 judgment for over 1,600 aggrieved employees. Also, in 2019,
3 I was the handling attorney for my firm on a class action against Walmart, where we obtained
4 class certification on behalf of over 5,000 employees. After extensive litigation, the matter went
5 to trial, and the jury returned a verdict of approximately \$6.1 million on the meal period claims.

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

7 **HOURS INCURRED**

8 8. I have spent 107.4 hours working on this action and have kept contemporaneous
9 records of these billable hours. This includes: significant pre-filing work; legal research
10 regarding nuanced and issues unique to this matter; drafting the letter to the LWDA to begin the
11 exhaustion of administrative remedies; drafting the class action and PAGA complaint; review
12 and analysis of all voluminous pre-mediation documents, data, and information to verify and
13 value the claims herein; analyzing all relevant documents and data and drafting a mediation brief
14 and damage model; and work on the approval processes.

15 **HOURLY RATE**

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

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

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

1 based on an enormous and statistically significant compilation of data which is compiled to
2 provide the hourly rates actually billed by partners and associates in metropolitan areas.

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

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

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

14 a. *Elizarraras v. Future Foam*, Orange County Superior Court, Case No. 30-
15 2020-01152286-CU-OE-CXC (Sept. 13, 2022) (\$1,200,000 wage-and-hour class and PAGA
16 settlement approved with lodestar cross-check of \$575 rate);

17 b. *Arevalos v. Americor Funding*, Orange County Superior Court, Case No.
18 30-2019-01068606-CU-OE-CXC (Aug. 16, 2022) (\$2,212,500 wage-and-hour class and PAGA
19 settlement approved with lodestar cross-check of \$575 rate);

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

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

26 e. *Woods, et al. v. Just In Time Cargo, Inc.*, San Bernardino Superior Court,
27 Case No. CIVDS200750 (June 8, 2022) (\$450,000 wage-and-hour class and PAGA settlement
28 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 October 19, 2023, at Riverside, California.

By: 
Peter J. Carlson