

Brian J. Mankin, Esq. [CSB No. 216228]
brian@lmlfirm.com
Peter J. Carlson, Esq. [CSB No. 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
FOR THE COUNTY OF RIVERSIDE

CARLOS FLORES, individually, on a
representative basis, and on behalf of all
others similarly situated;

Plaintiff,

vs.

NIKKISO AMERICA, INC., a Delaware
Corporation; ACD, LLC, a California
Limited Liability Company; CRYOGENIC
INDUSTRIES, INC., a Delaware
Corporation; CRYOGENIC INDUSTRIES
SERVICE COMPANIES, LLC, a
California Limited Liability Company;
CRYOQUIP, LLC, a California Limited
Liability Company; COSMODYNE, LLC,
a California Limited Liability Company;
and DOES 1 through 20, inclusive;

Defendants.

Case No.: CVRI2204626
*[Assigned to Hon. Harold Hopp, Dept 1, for all
purposes]*

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

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 Carlos Flores
4 (“Plaintiff”). I am fully familiar with the facts of this case and submit this declaration in support
5 of Plaintiff’s Motion for Final Approval. The matters set forth herein are based upon my personal
6 knowledge and, if called upon as a witness, I could and would give competent testimony with
7 respect to the matters 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 over 175 class action and/or representative
20 PAGA actions. And, on these cases, myself and/or my firm have been appointed Class Counsel
21 on over half of these cases and have helped negotiate settlements totaling over \$116,000,000 for
22 my 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. Additionally, I have handled approximately 6 cases for which we received class
7 certification orders following contested certification motions concerning similar claims.

8 8. In 2022, 2023, and 2024, I was also selected as a Super Lawyers Rising Star.

9 **HOURS INCURRED**

10 9. I have spent 146.6 hours working on this action and have kept contemporaneous
11 records of these billable hours. This total includes significant pre-filing work, including legal
12 research regarding nuanced and issues unique to this matter, conducting a state-wide search of
13 filings in state and federal court to determine if there were pending (or prior) class/PAGA actions
14 with claims that overlap those intended in this action, drafting the letter to the LWDA to begin
15 the exhaustion of administrative remedies, drafting the initial class action complaint, researching
16 various new entities and propriety of adding them under a joint employer / integrated enterprise
17 theory of liability, filing the first and second amended complaints, and drafting various pleadings
18 during litigation. Additionally, my total hours includes time spent drafting discovery to each
19 Defendant along with a *Belaire* notice and researching several nuanced issues for class
20 certification and mediation. I also drafted informal discovery requests tailored to the claims
21 herein, engaged in the meet and confer process with defense counsel about the requests, and then
22 received, reviewed, and conducted an in-depth analysis of policies and procedures pertaining to
23 the claims, statistics relating to the number of current and former employees, number of shifts,
24 weeks worked and other things, and a sampling of payroll and timekeeping records for Class
25 Members. Finally, this total also includes all time spent drafting the mediation brief and creating
26 a damage model, attending mediation, preparing the settlement documents, reviewing revisions
27 from defense counsel, and then drafting and filing all approval documents.

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HOURLY RATE

10. My billing rate is \$650 per hour, and this rate is usual and customary for class action and/or PAGA practitioners with my level of expertise and experience.

11. This rate is consistent with Plaintiff and Defense attorneys who handle complex class action litigation, if not somewhat lower.

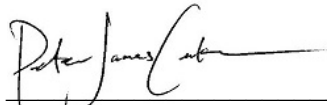
12. For example, my requested rate is also reasonable, consistent, and less than the rate found in the Laffey Matrix (www.laffeymatrix.com), which indicates that the benchmark rate for an attorney that graduated law school in 2013 (the “11-19 Years Out of Law School” category) is \$878 per hour.

13. Additionally, the 2023 Wolters Kluwer Real Rate Report (the “Real Rate Report”) confirms the reasonableness of my requested rate because it notes that for the Los Angeles area, which is a logical and reasonable comparison to this geographical marketplace given the overlap of counsel: (a) for associates generally, the median rate is \$680 per hour, with the upper quartile rate at \$880 per hour, and (b) for associates with seven or more years of experience, the median rate is \$674 per hour, and the upper quartile rate is \$888 per hour. Being that I have been in practice for over 10 years and helped collect more than \$116,000,000 for my clients on class/PAGA cases, I firmly believe that the Real Rate Report’s metrics (and the “upper quartile” rate) are an accurate standard to measure the reasonableness of my requested rate.

14. I believe that the Real Rate Report is perhaps the best method to analyze my requested rate because it 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 (such as Los Angeles). Thus, unlike other analyses or methods to review the reasonableness of hourly rates, 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. For this reason, 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

1 be premised upon precisely this form of independent, “objective” rate data that reflects “fair
2 market” rates actually billed to clients “in the community for similar work”).

3 I declare under penalty of perjury under the laws of the State of California that the
4 foregoing is true and correct. Executed on October 4, 2024, at Riverside, California.

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6 By: 
7 Peter J. Carlson, Esq.
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