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Attorneys for Plaintiff, JOSE GABRIEL CRUZ, individually
and on behalf of other individuals similarly situated

(additional counsel on next page)

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

JOSE GABRIEL CRUZ, individually and on
behalf of other individuals similarly situated, and
DOES 1-100, inclusive

Plaintiff,

v.

WEST COAST STEEL & PROCESSING, LLC a
California limited liability company, dba THE
GREAT PACIFIC ELBOW COMPANY,

Defendant.

CASE NO.: CIVDS 2009617

*[Assigned for all purposes to Hon. David
Cohn, Dept. S-26]*

**JOINT STIPULATION OF CLASS
ACTION AND PRIVATE ATTORNEYS
GENERAL ACT SETTLEMENT**

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7 Attorneys for Defendant, West Coast Steel & Processing, LLC
8 dba THE GREAT PACIFIC ELBOW COMPANY
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1 IT IS HEREBY STIPULATED, by and between the parties in the civil action entitled
2 Jose Gabriel Cruz ("Plaintiff") on behalf of Himself and the Class Members, on the one hand,
3 and Defendant West Coast Steel & Processing LLC, a California limited liability company dba
4 The Great Pacific Elbow Company ("WCS" or "Defendant"), on the other hand and subject to
5 the approval of the Court, that the Action (as defined below) is hereby being compromised and
6 settled pursuant to the terms and conditions set forth in this Joint Stipulation of Class Action and
7 PAGA Settlement and that the Court shall make and enter judgment, subject to the continuing
8 jurisdiction of the Court as set forth below, subject to the definitions, recitals and terms set forth
9 herein, which by this reference become an integral part of this Stipulation of Settlement.

10 DEFINITIONS

11 Unless otherwise defined herein, capitalized terms used in this Agreement shall have the
12 meanings set forth below:

13 1. "Action" means the Class Action Complaint known as Jose Gabriel Cruz v. West Coast
14 Steel & Processing, LLC, a California limited liability company, dba The Great Pacific Elbow
15 Company, and Does 1-100 inclusive, filed in San Bernardino County Superior Court on May 29,
16 2020 bearing Case No. CIVDS2009617.

17 2. "Agreement" means this Joint Stipulation of Class Action and PAGA Settlement.

18 3. "Class Counsel" means Marcus J. Bradley of Bradley/Grombacher, LLP and Sahag
19 Majarian II of the Law Offices of Sahag Majarian, II.

20 4. "Class Counsel Award" means the Court-approved attorneys' fees for Class Counsel's
21 litigation and resolution of the Action (not to exceed one-third of the Gross Settlement Fund or
22 Three Hundred Thirty-Three Thousand Dollars (\$333,333.33), plus reasonable costs and litigation
23 expenses incurred by Class Counsel in connection with this Action.

24 5. "Class Information" or "Class List" means information regarding Class Members that
25 Defendant shall in good faith compile from its records and shall be authorized by the Court to
26 transmit in a secured manner to the Settlement Administrator. Class Information shall be
27 transmitted in Microsoft Excel format and shall include each Class Member's: (a) full name; (b)
28 last known mailing address; (c) last known home and/or mobile telephone numbers; (d) last known

1 email addresses, (e) Social Security Number; (f) date of termination of employment, if any; (g) the
2 number of Compensable Workweeks during which each such person worked for Defendant in
3 California as a non-exempt employee during the Class Period; and (h) the number of PAGA
4 Workweeks during which each such person worked for Defendant in California as a non-exempt
5 employee during the Class Period, if any.

6 6. "Class Members" or "Settlement Class" means all current and former hourly-paid, non-
7 exempt employees who worked for Defendant at any time during the Class Period.

8 7. "Class Period" means the period from May 29, 2016 through August 21, 2021.

9 8. "Class Representative Service Award" means the amount that the Court authorizes to be
10 paid to Plaintiff Jose Gabriel Cruz in addition to his Individual Settlement Payment, in recognition
11 of his efforts and risks in assisting with the prosecution of the action in the amount of Seven
12 Thousand Five Hundred Dollars (\$7,500.00).

13 9. "Compensable Workweeks" means the number of workweeks during the Class Period
14 in which Class Members worked for Defendant. Defendant certifies and represents that to the best
15 of its knowledge that there are an estimated 63,000 Compensable Workweeks.

16 10. "Court" means the Superior Court of California for the County of San Bernardino.

17 11. "Defendant" or "WCS" means West Coast Steel & Processing LLC, a California
18 limited liability company dba The Great Pacific Elbow Company.

19 12. "Defense Counsel" shall mean Roger M. Mansukhani, and Bimali Walgampaya, and of
20 Gordon Rees Scully Mansukhani, LLP 633 West Fifth Street, 52nd floor, Los Angeles, California
21 90071

22 13. "Effective Date" shall mean the later of the following dates: (1) the date of final
23 resolution of a timely appeal by a Settlement Class Member of any Court order overruling his or
24 her objection to the Settlement; (2) the date time expires to file an appeal of any Court order
25 overruling a Settlement Class Member's objection to the Settlement; or (3) if no objection to the
26 Settlement is timely filed, the date of the Court's Final Approval Order and Judgment.

27 14. "Estimated Individual Settlement Payment" means the estimated amount payable to
28 each Settlement Class Member.

1 15. “Final Approval” means that the Final Approval Order and Judgment have been entered
2 and the Court has made its final orders concerning approval of the Settlement, as well as its final
3 orders concerning attorneys’ fees and costs to Class Counsel and the Class Representative Service
4 Award.

5 16. “Final Approval Hearing” or “Final Approval/Fairness Hearing” means a hearing held
6 by the Court to consider Final Approval of the Settlement, including the merits of objections, if
7 any, to the Settlement, as well as what attorneys’ fees and costs to be awarded to Class Counsel,
8 and any Class Representative Service Award to be awarded to the Class Representative.

9 17. “Final Approval Order and Judgment” means an order and judgment issued by the
10 Court, approving the Settlement and this Agreement as binding upon Plaintiffs, Defendant, and the
11 Settlement Class Members.

12 18. “Gross Settlement Amount” means the non-revisionary sum of One Million Dollars
13 and No Cents (\$1,000,000.00). This sum includes the Individual Settlement Payments to the
14 Settlement Class Members (including all required withholdings from Individual Settlement
15 Payments, but excluding all employer-side payroll taxes and obligations), any attorneys’ fees and
16 costs awarded to Class Counsel, any Class Representative Service Award awarded to the Class
17 Representative, any Settlement Administration Costs approved by the Court, and any LWDA
18 Payment approved by the Court. This is a non-reversionary settlement. In no event shall Defendant
19 be liable for less than One Million Dollars and No Cents (\$1,000,000.00), plus any employer side
20 tax obligations that may become due, as a result of this Settlement.

21 19. “Individual PAGA Payment” means the amount payable from the PAGA Payment to
22 each Class Member.

23 20. “Individual Settlement Payment” means the amount payable from the Net Settlement
24 Amount to each Participating Class Member.

25 21. “Net Settlement Amount” or “NSA” means the Maximum Settlement Amount, less
26 Attorneys’ Fees Award, Class Counsel Litigation Costs; Class Representative Service Award, 75%
27 of the PAGA Payment, and Settlement Administration Costs. The Net Settlement Amount also
28 includes, in addition to the One Million Dollars and No Cents (\$1,000,000.00), any additional

1 amount that Defendant must pay if the number of Compensable Workweeks increases by more
2 than 10% of the estimated 63,000 Compensable Workweeks. In such case, there will be an upward
3 adjustment of the Net Settlement Amount on a pro-rata basis for each workweek added above 10%
4 of 63,000.

5 22. "Objection" means a Class Member's written objection to the Settlement. Any
6 Objection shall be in the form described in paragraph 55 below.

7 23. "Opt Out" means a written request that a Class Member may submit to be excluded
8 from the Class and the Settlement. Any Opt Out shall be in the form described in paragraph 55
9 below.

10 24. "PAGA Group", "PAGA Group Member" or "PAGA Group Members" means all
11 current and former hourly-paid, non-exempt employees who worked for Defendant during the
12 PAGA

13 25. "PAGA Payment" means the amount that the Parties have agreed to pay to the
14 California Labor and Workforce Development Agency ("LWDA") and the PAGA Group in
15 connection with the California Labor Code Private Attorneys General Act of 2004, California
16 Labor Code Sections 2698, *et seq.* ("PAGA"). The Parties have agreed that Twenty Thousand
17 Dollars (\$20,000.00) of the Gross Settlement Amount will be allocated to the resolution of all
18 claims arising under PAGA. Pursuant to Labor Code Section 2699(i), it shall be distributed as
19 follows: 25%, or \$5,000, to the PAGA Group and 75%, or \$15,000, to the LWDA. If it should
20 later be determined by the Court that an additional amount is needed to effectuate a full and
21 complete release of all Released PAGA Claims, the amount shall be deducted from the Gross
22 Settlement Amount.

23 26. "PAGA Payment Share" means the gross amount that shall be paid to each PAGA
24 Group Member for his/her total PAGA Workweeks. The PAGA Payment Share shall be calculated
25 as described in paragraph 61 below.

26 27. "PAGA Period" means the period between May 29, 2019 and August 21, 2021.

27 28. "PAGA Workweek(s)" means the number of workweeks during the PAGA Period in
28 which PAGA Group worked for Defendant.

1 29. “Parties” means Plaintiff and Defendant.

2 30. “Plaintiff” means Jose Gabriel Cruz

3 31. “Preliminary Approval Order” means the Order to be issued by the Court approving and
4 authorizing the mailing of the Settlement Notice by the Settlement Administrator, setting the date
5 of the Final Approval Hearing and granting preliminary approval of the Settlement set forth in this
6 Agreement, among other things.

7 32. “Released Class Claims” are defined in paragraph 72 below.

8 33. “Released PAGA Claims” are defined in paragraph 73 below.

9 34. “Released Parties” means Defendant and each of its present and former predecessors,
10 successors, parent companies, subsidiaries, divisions, related or affiliated companies, and each of
11 their shareholders, officers, directors, employees, agents, attorneys, insurers, successors and
12 assigns, and any individual or entity which could be jointly liable with any of the foregoing.

13 35. “Response Deadline” means the forty-five (45) day period following the date the
14 Settlement Administrator mails the Notice of Class Action and PAGA Settlement to Class
15 Members within which any Class Member may: (a) submit a written Opt Out to be excluded from
16 the Class and this Settlement; (b) submit an Objection; and/or (c) dispute his or her workweek
17 information.

18 36. “Settlement” means the final and complete disposition of the Action pursuant to this
19 Agreement.

20 37. “Settlement Administrator” or “Administrator” means ILYM Group, Inc.

21 38. “Settlement Administration Costs” means the reasonable costs and fees of administering
22 the Settlement to be paid from the Gross Settlement Amount, not to exceed the reasonable estimate
23 of the Settlement Administrator, including, but not limited to: (i) printing, mailing and re-mailing
24 (if necessary) of Settlement Notices to Class Members; (ii) preparing and submitting to Class
25 Members and government entities all appropriate tax filings and forms; (iii) computing the amount
26 of and distributing Individual Settlement Awards, the Class Representative Service Award, the
27 Class Counsel Award; (iv) processing and validating Opt Outs; (v) establishing a Qualified
28 Settlement Fund, as defined by the Internal Revenue Code; and (vi) calculating and remitting to the

1 appropriate government agencies all employer and employee payroll tax obligations arising from
2 the Settlement and preparing and submitting filings required by law in connection with the
3 payments required by the Settlement.

4 39. "Settlement Class Members" means Plaintiff and all other Class Members who do not
5 who do not submit a timely and valid Opt Out.

6 **BACKGROUND**

7 40. On April 27, 2020, Plaintiff submitted the PAGA Notice to the LWDA for the purpose
8 of complying with California *Labor Code* § 2699.3's notice requirement, giving notice of
9 Plaintiff's intentions to file the Action.

10 41. On May 29, 2020, Plaintiff initiated the Action by filing a Class Action Complaint.
11 Thereafter, on September 4, 2020, Plaintiff filed a First Amended Class Action Complaint to add a
12 claim for relief pursuant to PAGA.

13 42. The operative First Amended Complaint alleges that Defendant (1) failed to pay for all
14 hours worked; (2) failed to provide off-duty and compliant meal periods, or compensation in lieu;
15 (3) failed to provide paid, off duty or compliant rest periods, and/or compensation in lieu thereof;
16 (4) failed to pay all wages due upon termination of employment; (5) failed to provide accurate
17 itemized wage statements; (6) failed to reimburse business expenses; (7) engaged in unfair
18 competition in violation Business & Professions Code §§ 17200, *et seq.*; and (12) seeks penalties
19 pursuant to PAGA.

20 43. Defendant denies each of the allegations of the Complaint and the PAGA Letter, deny
21 that Defendant has any liability for the claims of Plaintiff, the putative class he purports to
22 represent or any allegedly aggrieved employee, and denies that Plaintiff, the putative class he
23 purports to represent or any allegedly aggrieved employee is entitled to any relief.

24 44. Class Counsel and Defense Counsel have extensive experience in litigating wage and
25 hour class actions in California. Class Counsel and Defense Counsel have vigorously litigated the
26 Civil Action since its inception.

27 45. On June 10, 2021, Plaintiff and Defendant engaged in mediation before Mediator Marc
28 Feder, Esq., an experienced mediator in this area of law. In preparation for mediation, Defendant

1 voluntarily provided time records for the Settlement Class up to and including May 28, 2021.
2 Defendant produced data for over 26,723 shifts during the liability period. Although the mediation
3 was unsuccessful, On June 11, 2021, the Mediator issued Mediator's Proposal which both sides
4 accepted on June 22, 2021. The mediator's proposal is superseded in all respects by this Agreement
5 upon execution by Plaintiff and Defendant.

6 46. This Agreement is made in compromise of and embraces all claims against any of the
7 Released Parties as enumerated in paragraphs 72-74 below, including, but not limited to, all wage
8 and hour claims, rights, demands, liabilities, causes of action, and theories of liability of every
9 nature and description, whether known or unknown, that were or could have been alleged against
10 Defendants or any of the Released Parties arising out of or based on the facts alleged in the
11 Complaint and PAGA Letter.

12 47. Plaintiff and Class Counsel have concluded, after taking into account the sharply
13 disputed factual and legal issues involved in the Action, the risks attending further prosecution, and
14 the substantial benefits to be received pursuant to settlement as set forth in this Agreement, that
15 settlement on the terms set forth herein is in the best interest of Plaintiff and the Class, and is fair
16 and reasonable.

17 48. Similarly, Defendant has concluded, after taking into account the sharply disputed
18 factual and legal issues involved in the Civil Action, the risks and expense attending further
19 litigation, and its desire to put the controversy to rest, that settlement on the terms set forth herein is
20 in their best interest and is fair and reasonable.

21 49. This Settlement contemplates (i) entry of an order preliminarily approving the
22 Settlement, (ii) distribution of the Notice of Class Action and PAGA Settlement to Class Members,
23 and (iii) entry of a Final Order and Judgment of the Settlement. The Court shall retain jurisdiction
24 over the Civil Action and Parties for purposes of enforcing the Settlement and resolving any
25 disputes relating to the Settlement.

26 **TERMS AND CONDITIONS OF SETTLEMENT**

27 50. Preliminary Approval of the Settlement. Plaintiff will file an Unopposed Motion for
28 Preliminary Approval consistent with this Agreement.

1 51. Release as to Settlement Class Members. Upon the Final Approval by the Court,
2 Judgment will be entered. Upon the Final Approval by the Court and by operation of this
3 Agreement's terms, all Settlement Class Members and/or PAGA Group Members fully release and
4 discharge the Released Parties from all Released Class Claims and/or Released PAGA Claims, as
5 set forth herein.

6 52. Bankruptcy Protection.

- 7 a. In conjunction with its execution of this Agreement, Defendant must provide an
8 Officer's certificate from Defendant's CEO and CFO that they have determined,
9 having made due inquiry, that with the benefit of discounted settlement, the
10 Defendant is and will remain after payment of the settlement, solvent and adequately
11 capitalized, and each officer foresees no need to commence any bankruptcy or state-
12 law insolvency proceeding (e.g., assignment for benefit of creditors).
- 13 b. All releases of officers, directors, and equity members are conditioned upon the
14 payment in full and retention in full of the \$1,000,000 settlement amount, and are null
15 and void if Defendant fails to pay in full (including, but not limited to, by reason of its
16 bankruptcy) or if any or all of any amounts paid are avoided (clawed back) for the
17 benefit of any bankruptcy estate.
- 18 c. In the event that Defendant fails to make any installment payment or defaults on
19 payments required by the Settlement Agreement, the CEO shall be personally liable
20 for any unpaid amounts owed under the terms of the Settlement Agreement, including
21 any statutory interest and reasonable attorney's fees incurred as a result of any breach
22 of the Settlement Agreement.

23 53. Taxes. The Net Settlement Fund is a common fund that will be administered as a
24 Qualified Settlement Fund for federal income tax purposes pursuant to Treas. Reg. § 1.468B-1, and
25 the "administrator" of the Net Settlement Fund, within the meaning of Treas. Reg. § 1.468B-2(k),
26 shall comply with all applicable requirements, which shall include, without limitation, (a)
27 preparing a "Regulation Section 1.468B-3 Statement" pursuant to Treas. Reg. § 1.468B-3(e) on
28 behalf of Plaintiff and Defendant and providing copies to Class Counsel and Counsel for Defendant

1 for review and approval (which approval shall not be unreasonably withheld); and (b) preparing
2 and timely filing on behalf of the Net Settlement Fund (i) such income tax and other returns and
3 statements as are required to comply with Treas. Reg. § 1.468B-2 and the other applicable
4 provisions of the Internal Revenue Code of 1986, as amended (the “Code”), and (ii) all necessary
5 state or local tax returns.

6 54. Circular 230 Disclaimer. Each Party to this Agreement (for purposes of this section, the
7 “acknowledging party” and each Party to this Agreement other than the acknowledging party, an
8 “other party”) acknowledges and agrees that: (1) no provision of this Agreement, and no written
9 communication or disclosure between or among the Parties or their attorneys and other advisers, is
10 or was intended to be, nor shall any such communication or disclosure constitute or be construed or
11 be relied upon as, tax advice within the meaning of United States Treasury Department circular 230
12 (31 CFR part 10, as amended); (2) the acknowledging party (a) has relied exclusively upon his, her
13 or its own, independent legal and tax counsel for advice (including tax advice) in connection with
14 this Agreement, (b) has not entered into this Agreement based upon the recommendation of any
15 other Party or any attorney or advisor to any other Party, and (c) is not entitled to rely upon any
16 communication or disclosure by any attorney or adviser to any other party to avoid any tax penalty
17 that may be imposed on the acknowledging party, and (3) no attorney or adviser to any other Party
18 has imposed any limitation that protects the confidentiality of any such attorney’s or adviser’s tax
19 strategies (regardless of whether such limitation is legally binding) upon disclosure by the
20 acknowledging party of the tax treatment or tax structure of any transaction, including any
21 transaction contemplated by this Agreement.

22 55. Settlement Administration. Within fourteen (14) calendar days after Preliminary
23 Approval of this Joint Stipulation of Settlement, Defendant shall provide the Settlement
24 Administrator with the Class Information for purposes of mailing the Class Notice to Class
25 Members.

- 26 a. Notice By First Class U.S. Mail and Email to the Extent Available. Upon receipt of
27 the Class Information, the Settlement Administrator will perform a search based on
28 the National Change of Address Database to update and correct any known or

1 identifiable address changes. Within fourteen (14) days of receiving the Class
2 Information from Defendant pursuant, the Settlement Administrator shall mail by
3 First-Class United States mail, and email, to the extent email addresses are available,
4 the Notice of Class Action and PAGA Settlement to each Class Member using the
5 most recent address available to the Settlement Administrator for mail and email
6 delivery. The Notice of Class Action and PAGA Settlement will be in the form
7 attached hereto as **Exhibit 1** to the Class Members, with any modifications to non-
8 material terms required by the Court and/or any modifications agreed to by the Parties
9 and approved by the Court.

10 b. Posting of Important Case Documents on Class Administrator's Website. No later
11 than the date for mailing the Class Notice set forth above, the Administrator shall
12 create a website for the purpose of this settlement and will post the notice that goes
13 out, a copy of this Agreement, a copy of the operative Complaint, and all court orders
14 that relate to settlement thereon.

15 c. Undeliverable Notices. Any Class Notices returned to the Settlement Administrator as
16 non-delivered on or before the Response Deadline shall be re-mailed to the
17 forwarding address affixed thereto. If no forwarding address is provided, the
18 Settlement Administrator shall promptly attempt to determine a correct address by use
19 of skip-tracing, or other search using the name, address and/or Social Security number
20 of the Class Member involved, and shall then perform a re-mailing, if another mailing
21 address is identified by the Settlement Administrator. Class Members who are sent a
22 re-mailed Class Notice shall have their Response Deadline extended ten (10) days
23 from the original Response Deadline.

24 d. Notice of Class Action and PAGA Settlement. The Class Notice will be provided to
25 the Class Members in both English and Spanish in substantially the form attached as
26 **Exhibit 1**. Each Class Notice shall provide the Class Member with the estimated
27 number of Compensable Workweeks that will be credited to that Class Member, the
28 total estimated Compensable Workweeks that will be credited to all potential

1 Settlement Class Members, and the formula that will be used to calculate the
2 Individual Settlement Payments for all Settlement Class Members. If the Class
3 Member is also in the PAGA Group, the Notice shall also provide the formula for
4 calculating the PAGA Payment Shares such that the PAGA Group may readily
5 calculate an estimated PAGA Payment Share that he or she will receive under this
6 Settlement if the Court grants final approval of the Settlement. This purpose of
7 providing this information in the Notice is to enable each Class Member to calculate
8 his or her estimated Individual Settlement Payment and/or estimated Individual
9 PAGA Payment. The Class Notice shall also include instructions for submitting an
10 opt out from the Settlement as well as instructions for objecting to the Settlement.

11 e. Disputes Regarding the Estimated Individual Settlement Payments. Class Members
12 will have the opportunity, should they disagree with Defendant's records regarding
13 their estimated Compensable Workweeks, and their resulting estimated Individual
14 Settlement Payment, to provide documentation and/or an explanation to show
15 contrary dates during which they worked for Defendant during the Class Period
16 and/or PAGA Period. If there is a dispute, the Settlement Administrator will consult
17 with the Parties to determine whether an adjustment is warranted. The Settlement
18 Administrator shall determine the eligibility for, and the amounts of, any Individual
19 Settlement Payments and/or Individual PAGA Payments under the terms of this
20 Agreement. The Settlement Administrator's determination of the eligibility for and
21 amount of any Individual Settlement Payment shall be binding upon the Settlement
22 Class Members and the Parties.

23 f. Disputes Regarding Administration of Settlement. Any disputes not resolved by the
24 Settlement Administrator concerning the administration of the Settlement will be
25 resolved by the Court under the laws of the State of California. Prior to any such
26 involvement by the Court, counsel for the Parties will confer in good faith to resolve
27 the disputes without the necessity of involving the Court.

28 g. Objections. Any Settlement Class Member wishing to object to this Settlement may

1 inform the Court, Class Counsel, and Defense Counsel in writing of his or her intent
2 to object by following the procedure set forth in the Notice of Class Settlement no
3 later than the Response Deadline. Any Objection must: (1) state the Class Member's
4 full name, address, and the last four digits of his or her Social Security Number (for
5 identification purposes only); (2) state the grounds for the objection; (3) be signed by
6 the Class Member or his or her lawful representative; and (4) be postmarked on or
7 before the Response Deadline and returned to the Settlement Administrator.
8 Settlement Class Members may also appear at the Final Fairness Hearing to present
9 any objections. Class Counsel and Defense Counsel shall file any responses to any
10 written Objections submitted to the Court in accordance with this Agreement at least
11 seven (7) days before the Final Fairness and Approval Hearing, or on another date set
12 by the Court.

- 13 h. Opt-outs. Any Class Member seeking to be excluded from the Class and this
14 Settlement shall submit a written Opt Out to the Settlement Administrator. The
15 written Opt Out must: (1) contain the name, address, and the last four digits of the
16 Social Security Number of the person requesting exclusion; (2) state the Class
17 Member's request to exclude himself or herself from the Settlement and to opt out of
18 the Settlement; (3) be signed by the Class Member or his or her lawful representative;
19 and (4) be postmarked by the Response Deadline and returned to the Settlement
20 Administrator at the specified address. Any Class Member, who submits a completed,
21 signed and timely written Opt Out shall no longer be a member of the Class, shall be
22 barred from participating in this Settlement at Final Approval, by appeal, or
23 otherwise, shall be barred from objecting to this Settlement, and shall receive no
24 benefit from this Settlement, except that Class Members who are in the PAGA Group
25 will still receive his or her PAGA Payment Share and will release the Released PAGA
26 Claims. Any untimely or incomplete Opt Out shall be considered null and void. If a
27 Class Member submits both a completed, signed and timely objection and a
28 completed, signed and timely Opt Out, the Opt Out shall be deemed invalid, and the

1 Class Member shall be a Settlement Class Member and participate in this Settlement.
2 The Settlement Administrator shall notify Class Counsel and Defense Counsel of the
3 number of timely opt-outs within seven (7) days after the Response Deadline.

- 4 i. If more than ten percent (10%) of the Class Members opt out of the Settlement by
5 submitting completed, signed and timely written Opt Out, Defendant shall have the
6 right in their sole discretion to rescind and void this Settlement by giving written
7 notice to Class Counsel within ten (10) business days after the Settlement
8 Administrator informs the Parties that the opt out rate exceeded ten percent (10%). If
9 Defendant exercises its right to rescind and void this Settlement under this paragraph,
10 Defendant shall pay any and all reasonable costs and expenses incurred by the
11 Settlement Administrator.

12 56. Funding and Allocation of Gross Settlement Amount. This is a non-reversionary
13 Settlement in which Defendant is required to pay the entirety of the Gross Settlement Amount. No
14 amount of the Gross Settlement Amount will revert to Defendant. Defendant will pay the Gross
15 Settlement Amount to the Settlement Administrator, to be held in a Qualified Settlement Fund, in
16 two installments as follows:

- 17 a. Defendant shall transmit the first installment of \$500,000.00 of the Gross Settlement
18 Amount to the Settlement Administrator within fourteen (14) days of Final Approval;
19 and
20 b. Defendant shall transmit the second installment of \$500,000.00 of the Gross
21 Settlement Amount to the Settlement Administrator no later than December 31, 2022.

22 57. Individual Settlement Payments. Individual Settlement Payments will be paid from the
23 Net Settlement Fund and shall be paid pursuant to the terms set forth herein. Individual Settlement
24 Payments for Settlement Class Members shall be mailed by regular First-Class U.S. Mail to
25 Settlement Class Members' last known mailing address (as may be updated by the Settlement
26 Administrator during the Settlement Administration and Notice process set forth in Paragraph 67
27 above) within fourteen (14) days of Defendant transmitting the second installment of the Gross
28 Settlement Amount to the Settlement Administrator. The Settlement Administrator will be

responsible for issuing a form W-2 for the amount deemed as wages and an IRS Form 1099 for the portions allocated to penalties and interest. Any checks issued to Settlement Class Members shall remain valid and negotiable for one hundred and eighty (180) days from the date of their issuance. After expiration of the check-cashing period, any uncashed amounts will be paid to the California Unclaimed Property Fund.

58. PAGA Payment Shares. The Parties have agreed to pay the LWDA and PAGA Group Twenty Thousand Dollars (\$20,000) of the Gross Settlement Amount apportioned 25% or \$5,000, to the PAGA Group and 75% or \$15,000 to the LWDA. All Settlement Class Members that are also in the PAGA Group will be paid a PAGA Payment Share that shall be calculated based upon the total PAGA Workweeks as described below in paragraph 61. The PAGA Payment Shares are payments for the Released PAGA Claims.

59. Calculation of Individual Settlement Payments. The Settlement Administrator will calculate the total Compensable Workweeks for all Settlement Class Members. Each class member who will receive a percentage of the Net Settlement Fund will be calculated as follows:

Individual Settlement Award =

$$\frac{[\text{Individual Settlement Class Member Compensable Workweeks}]}{[\text{Total Settlement Class Member Compensable Workweeks}]} \times [\text{Net Settlement Fund}]$$

60. Twenty Percent (20%) of each individual settlement award shall be treated as wages, and paid pursuant to a W-2, and Eighty Percent (80%) shall be treated as penalties and interest and paid pursuant to a Form 1099.

61. Calculation of PAGA Payment Shares. The Settlement Administrator will calculate the total PAGA Workweeks for all PAGA Group Members. Five Thousand (\$5,000) shall be divided among the PAGA Group Members proportionally as follows:

Individual Settlement Award =

$$\frac{[\text{Individual PAGA Group Member's PAGA Workweeks}]}{[\text{Total PAGA Group PAGA Workweeks}]} \times [\text{\$5,000}]$$

62. 100% of the PAGA Payment Shares will be allocated to 1099 income.

63. Check-Cashing Period and Payments from Residual Fund. Any checks issued to Settlement Class Members and/or PAGA Group Members shall remain valid and negotiable for

1 one hundred and eighty (180) days from the date of their issuance. After one hundred eighty (180)
2 days from the original date the checks are issued, the Settlement Administrator shall stop payments
3 on any checks issued to Settlement Class Members that still have not been negotiated. After that
4 time, any uncashed amounts will be distributed to California Unclaimed Property Fund.

5 64. Class Representative Service Award. Defendant agrees not to oppose or object to any
6 application or motion by Plaintiff Jose Gabriel Cruz, for a Class Representative Service Award of
7 up to Seven Thousand Five Hundred Dollars and No Cents (\$7,500.00) for his time and effort in
8 bringing and prosecuting these matters and in exchange for a release of the Released Class Claims”
9 and Released PAGA Claims. The Class Representative Service Award shall be paid to Plaintiff
10 from the Gross Settlement Amount no later than seven (7) days of Defendant transmitting the
11 second installment of the Gross Settlement Amount to the Settlement Administrator. Any portion
12 of the requested Class Representative Service Award that is not awarded to the Plaintiff shall be
13 part of the Net Settlement Fund and shall be distributed to Settlement Class Members as part of the
14 initial Individual Settlement Payments. The Settlement Administrator shall issue an IRS Form 1099
15 to Plaintiff for his Class Representative Service Payment. Plaintiff shall be solely and legally
16 responsible to pay any and all applicable taxes on his Class Representative Service Award and
17 shall hold harmless Defendant from any claim or liability for taxes, penalties, or interest arising as
18 a result of the Class Representative Service Award. The Class Representative Service Award shall
19 be in addition to the Plaintiff's Individual Settlement Payments a Settlement Class Member and
20 PAGA Payment Share as a PAGA Group Member.

21 65. Class Counsel Attorneys' Fees Award. Defendant agrees not to oppose or object to any
22 application or motion by Class Counsel for attorneys' fees not to exceed one-third (1/3) of the
23 Gross Settlement Amount (or \$333,333.33), plus costs and expenses supported by a declaration
24 from Class Counsel from the Gross Settlement Amount. Any portion of the requested Class
25 Counsel Attorneys' Fees Award that is not awarded to Class Counsel shall be part of the Net
26 Settlement Fund and shall be distributed to Settlement Class Members as part of the initial
27 Individual Settlement Payments. The Class Counsel Attorneys' Fees Award shall be paid to Class
28 Counsel from the Gross Settlement Amount within seven (7) days of Defendant transmitting the

1 second installment of the Gross Settlement Amount to the Settlement Administrator. Class Counsel
2 shall be solely and legally responsible to pay all applicable taxes on the payment made pursuant to
3 this paragraph. The Settlement Administrator shall issue an IRS Form 1099 – MISC to Class
4 Counsel for the payments made pursuant to this paragraph.

5 66. LWDA Payment. Subject to Court approval, the Parties have allocated Twenty
6 Thousand Dollars and No Cents (\$20,000.00) for the payment of claims brought under the Private
7 Attorneys General Act of 2004, Cal. Lab. Code § 2698 *et seq.* California Labor Code section
8 2699(i) requires that the Parties distribute any settlement of PAGA claims as follows: seventy-five
9 percent (75%) to the LWDA for enforcement of labor laws and education of employers; and
10 twenty-five percent (25%) to “aggrieved employees” (i.e., PAGA Group) Therefore, Fifteen
11 Thousand Dollars and No Cents (\$15,000.00) shall be paid to the LWDA by the Settlement
12 Administrator within seven (7) days of Defendant transmitting the second installment of the Gross
13 Settlement Amount to the Settlement Administrator. Five Thousand Dollars and No Cents
14 (\$5,000.00) shall be paid as part of the Net Settlement Fund to be distributed to the PAGA Group
15 in accordance with the terms of this Agreement.

16 67. Settlement Administration. The Settlement Administrator shall be paid for the costs of
17 administration of the Settlement from the Gross Settlement Amount. The estimate of such costs of
18 administration for the disbursement of the Gross Settlement Amount is \$14,968.75. No fewer than
19 ten (10) calendar days prior to the Final Approval/Fairness Hearing, the Settlement Administrator
20 shall provide the Parties with a statement detailing the costs of administration of this Settlement.
21 The Settlement Administrator may pay itself the court-approved Settlement Administration Costs
22 immediately after Defendant transmits the second installment of the Gross Settlement Amount to
23 the Settlement Administrator. The Settlement Administrator, on Defendant’s behalf, shall have the
24 authority and obligation to make payments, credits and disbursements, including payments and
25 credits in the manner set forth herein, to Settlement Class Members and PAGA Group calculated in
26 accordance with the methodology set out in this Agreement and orders of the Court.

27 68. The Parties agree to cooperate in the Settlement administration process and to make all
28 reasonable efforts to control and minimize the cost and expenses incurred in administration of the

1 Settlement. The Parties each represent they do not have any financial interest in the Settlement
2 Administrator or otherwise have a relationship with the Settlement Administrator that could create
3 a conflict of interest.

4 69. The Settlement Administrator shall be responsible for: processing and mailing payments
5 to the Plaintiff, Class Counsel, the LWDA, and Settlement Class Members and/or PAGA Group;
6 printing and mailing the Class Notice as directed by the Court; receiving and reporting the Opt-outs
7 submitted by Class Members; deducting taxes from Individual Settlement Payments and
8 distributing tax forms; calculating the employer portion of any tax and benefit contributions
9 Defendant is to remit on the wage portion of the Individual Settlement Payments; processing and
10 mailing tax payments to the appropriate state and federal taxing authorities; providing
11 declaration(s) as necessary in support of Preliminary and/or Final Approval of this Settlement; and
12 other tasks as the Parties mutually agree or the Court orders the Settlement Administrator to
13 perform. The Settlement Administrator shall keep the Parties timely apprised of the performance of
14 all Settlement Administrator responsibilities. No later than fourteen (14) calendar days after the
15 Response Deadline, the Settlement Administrator shall provide Counsel for the Parties with a final
16 accounting of the Gross Settlement Amount and report the amount of all payments to be made to
17 each Settlement Class Member.

18 70. No person shall have any claim against Defendant, Plaintiff, Settlement Class Members,
19 PAGA Group Members, Class Counsel, Defense Counsel or the Settlement Administrator based on
20 distributions and payments made in accordance with this Agreement.

21 71. Final Approval/Fairness Hearing and Entry of Judgment. Following the expiration of
22 the Response Deadline, with the Court's permission, a Final Approval/Fairness Hearing shall be
23 conducted to determine Final Approval of the Settlement, along with the amount properly payable
24 for (i) the Class Counsel Attorneys' Fees Award, costs and litigation expenses, (ii) the Class
25 Representative Service Payment, (iii) Individual Settlement Payments and/or PAGA Payment
26 Shares (iv) the Settlement Administration Costs, (v) the LWDA Payment, and entry of judgment.
27 Pursuant to California Rule of Court 3.769(h), after granting Final Approval, the Court shall retain
28 jurisdiction over the Parties to enforce the terms of the judgment.

RELEASED CLAIMS

72. Released Class Claims with Respect to the Settlement Class Members. Providing there is final approval of this Settlement, then as of the date that Defendant transmits the second and final installment of the Gross Settlement Amount to the Settlement Administrator, each Settlement Class Member shall fully and finally release and discharge the Released Parties, and each of them from the Released Class Claims. The Released Class Claims with respect to the Settlement Class Members are all wage and hour claims, rights, demands, liabilities, causes of action, and theories of liability, whether known or unknown, that were or could have been alleged against any of the Released Parties arising out of, in connection with, or based on the facts alleged in the Complaint and/or the PAGA Letter. This includes, but may not be limited to failure to pay wages, including, but not limited to, overtime wages and minimum wages, failure to provide meal and rest periods, unpaid compensation or premium pay arising out of missed, late, on-duty and/or short meal and/or rest periods, failure to reimburse for business expenses, failure to pay wages upon termination, failure to provide accurate itemized wage statements, unfair business practices, penalties, damages, interest, costs or attorneys' fees, and related violations of any other state law, whether for economic damages, non-economic damages, liquidated or punitive damages, restitution, tort, contract, equitable relief, injunctive or declaratory relief, to the extent necessary to effect a full and complete release of the Released Class Claims, that are related or derivative of the claims related in this paragraph including, but not limited to, all wage and hour claims under California Labor Code Sections 200-204, 221-224, 226, 226.7, 400-410, 510, 511, 512, 1174, 1174.5, 1175, 1194-1197.1, 1198, , 2800, 2802, and 2804, and any related provisions, the California Code of Civ. Proc. Section 1021.5, and/or the California Business & Professions Code Sections 17200, *et seq.*, provided they were or could have been alleged against any of the Released Parties arising out of, in connection with, or based on the facts alleged in the Complaint and/or the PAGA Letter. This release shall extend to all such claims accrued during the Class Period.

73. Released PAGA Claims with Respect to the PAGA Group. Providing there is final approval of this Settlement, then as of the date that Defendant transmits the second and final installment of the Gross Settlement Amount to the Settlement Administrator, Plaintiff on behalf of

1 himself, the State of California, and each PAGA Group Member, shall fully and finally release and
2 discharge the Released Parties, and each of them from the Released PAGA Claims, which shall
3 extend to claims for civil penalties applicable to Plaintiff and each PAGA Group Member. The
4 Released PAGA Claims means all wage and hour claims, rights, demands, liabilities, causes of
5 action, and theories of liability of every nature and description under the California Labor Code
6 Private Attorneys General Act of 2004, Labor Code Sections 2698, *et seq.*, that were or could have
7 been alleged against any of the Released Parties arising out of, in connection with, or based on the
8 facts alleged in the Complaint, and/or the PAGA Letter, including but not limited to, all claims for
9 penalties for violation of any state law, failure to pay wages including, but not limited to, overtime
10 wages and minimum wages, failure to provide meal and rest periods, unpaid compensation or
11 premium pay arising out of missed, late, on-duty and/or short meal and/or rest periods, failure to
12 pay wages semi-monthly at designated times, failure to reimburse for business expenses, failure to
13 pay wages upon termination and failure to provide accurate itemized wage statements, penalties,
14 costs or attorneys' fees, to the extent necessary to effect a full and complete release of such
15 Released PAGA Claims, including all claims for penalties based on California Labor Code
16 Sections 200-204, 221-224, 226, 226.7, 400-410, 510, 511, 512, 1174, 1174.5, 1175, 1194-1197.1,
17 1198, , 2800, 2802, and 2804, and any related provisions. This release shall extend to all such
18 claims accrued during the PAGA Period. This release shall be binding on the PAGA Group
19 regardless of whether they submit a valid Opt Out from the Class.

20 74. Release by Plaintiff. Providing there is final approval of this Settlement, then as of the
21 date that Defendants transmit the Gross Settlement Amount to the Settlement Administrator,
22 Plaintiff, for himself, his successors, assigns, agents, executors, heirs and personal representatives,
23 spouse and attorneys, and any and all of them, voluntarily and with the advice of counsel, waives
24 and releases any and all claims, obligations, demands, actions, rights, causes of action, and
25 liabilities against any of the Released Parties of whatever kind and nature, character, and
26 description, whether in law or equity, whether sounding in tort, contract, federal, state and/or local
27 law, statute, ordinance, regulation, constitution, common law, or other source of law or contract,
28 whether known or unknown, and whether anticipated or unanticipated, including all claims arising

1 from or relating to any and all acts, events and omissions occurring prior to the date of final
2 approval of this Agreement. Plaintiff further releases all unknown claims against any of the
3 Released Parties, covered by California Civil Code Section 1542, which states: **"A general release
4 does not extend to claims that the creditor or releasing party does not know or suspect to
5 exist in his or her favor at the time of executing the release and that, if known by him or her,
6 would have materially affected his or her settlement with the debtor or released party."**

7 Notwithstanding the provisions of section 1542, and for the purpose of implementing a full and
8 complete release and discharge of all of his Released Claims, Plaintiff expressly acknowledges that
9 this Settlement is intended to include in its effect, without limitation, all Released Claims, which
10 Plaintiff does not know or suspect to exist in his favor at the time of execution hereof, and that the
11 Settlement contemplates the extinguishment of all such Released Claims.

12 MISCELLANEOUS PROVISIONS

13 75. Nullification of Settlement Agreement. If the Court for any reason does not finally
14 approve this Settlement, this Agreement shall be considered null and void and all parties to this
15 Settlement shall stand in the same position, without prejudice, as if the Settlement had been neither
16 entered into nor filed with the Court. Invalidation of any material portion of this Settlement shall
17 invalidate this Settlement in its entirety unless the parties agree in writing that the remaining
18 provisions shall remain in full force and effect.

19 76. Exhibits and Headings. The terms of this Agreement include the terms set forth in any
20 attached Exhibits, which are incorporated by this reference as though fully set forth herein. Any
21 Exhibit to this Agreement is an integral part of the Settlement. The descriptive headings of any
22 paragraphs or sections of this Agreement are inserted for convenience of reference only and do not
23 constitute a part of this Agreement.

24 77. Amendment or Modification. This Agreement may be amended or modified only by a
25 written instrument signed by Counsel for all Parties or their successors-in-interest.

26 78. Entire Agreement. This Agreement and any attached Exhibits between the Parties
27 constitute the entire Agreement among these Parties, and no oral or written representations,
28 warranties or inducements have been made to any Party concerning this Agreement or its Exhibits

1 other than the representations, warranties and covenants contained and memorialized in the
2 Agreement and its Exhibits.

3 79. Authorization to Enter Into Settlement Agreement. Counsel for any Parties warrant and
4 represent they are expressly authorized by the Parties whom they represent to negotiate this
5 Agreement and to take all appropriate actions required or permitted to be taken by such Parties
6 pursuant to this Agreement to effectuate its terms, and to execute any other documents required to
7 effectuate the terms of this Agreement. The Parties and their Counsel will cooperate with each
8 other and use their best efforts to affect the implementation of the Settlement. The person signing
9 this Agreement on behalf of Defendant represents and warrants that he or she is authorized to sign
10 this Agreement on Defendant's behalf. Plaintiff represents and warrant that he is authorized to sign
11 this Agreement and that they have not assigned any claim, or part of a claim, covered by this
12 Settlement to a third-party.

13 80. Binding on Successors and Assigns. This Agreement shall be binding upon, and inure to
14 the benefit of, the successors or assigns of the Parties hereto, as previously defined.

15 81. California Law Governs. All terms of this Agreement and the Exhibits hereto and any
16 disputes arising hereunder shall be governed by and interpreted according to the laws of the State
17 of California.

18 82. Cooperation. The Parties agree to cooperate fully with each other to accomplish the
19 terms and requirements of this Agreement, including but not limited to, the execution of such
20 documents and to take such other action as may reasonably be necessary to implement the terms of
21 this stipulated Agreement. The Parties will cooperate in a timely manner to incorporate these terms
22 and all other reasonable and necessary terms that may be required to effectuate a fair and
23 reasonable settlement, subject to Court approval. If the Court rejects the Settlement for reasons
24 other than the amount being insufficient, the Parties agree to cooperate fully with each other in
25 restructuring the Agreement in a way that does not increase the Gross Settlement Amount to meet
26 the Court's concerns.

27 83. Counterparts. This Agreement may be executed in counterparts by way of true and
28 correct copies (including pdf's or other electronic images) of signatures, each of which shall have

the same force and effect as an original, and all of which together shall constitute one and the same instrument.

84. Invalidity of Any Provision. Before declaring any provision of this Agreement invalid, the Court shall first attempt to construe the provisions valid to the fullest extent possible consistent with applicable precedents so as to define all provisions of this Agreement valid and enforceable.

85. Notices. Unless otherwise specifically provided, all notices, demands or other communications in connection with this Stipulation shall be: (1) in writing; (2) deemed given on the third business day after mailing; and (3) sent via United States registered or certified mail, return receipt requested, addressed as follows:

To Plaintiff:

BRADLEY/GROMBACHER LLP

Marcus J. Bradley
Kiley L. Grombacher
31365 Oak Crest Drive, Suite 240
Westlake Village, California 91361
Telephone: (805) 270-7100
Facsimile: (805) 270-7589
mbradley@bradleygrombacher.com
kgrombacher@bradleygrombacher.com

LAW OFFICES OF SAHAG MAJARIAN II

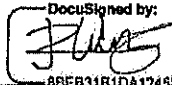
Sahag Majarian II
18250 Ventura Boulevard
Tarzana, California 91356
Telephone: (818) 609-0807
Facsimile: (818) 609-0892
sahagii@aol.com

To Defendant:

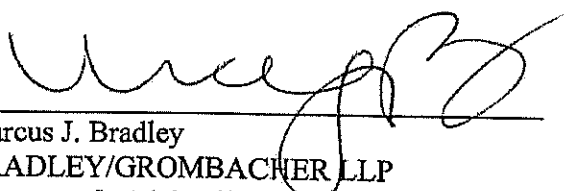
Roger M. Mansukhani
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**GORDON REES SCULLY
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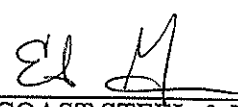
Dated: 8/30/2021

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Jose Gabriel Cruz

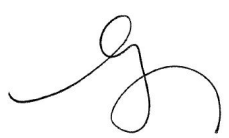
Dated: 8/30/21


Marcus J. Bradley
BRADLEY/GROMBACHER LLP
Attorneys for Plaintiff

Dated: 8.30.21


WEST COAST STEEL & PROCESSING, LLC
By: ERIC Gamm
Title: CEO

Dated: October 30, 2021


Roger M. Mansukhani
Bimali Walgampaya
GORDON REES SCULLY MANSUKHANI, LLP
Attorneys for Defendant