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**FILED**  
SUPERIOR COURT OF CALIFORNIA  
COUNTY OF SAN BERNARDINO  
SAN BERNARDINO DISTRICT

AUG 10 2023

BY *Victoria Sanchez*  
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and on behalf of other individuals similarly situated

**SUPERIOR COURT FOR THE STATE OF CALIFORNIA**

**COUNTY OF SAN BERNARDINO**

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

Plaintiff,

v.

WEST COAST STEEL & PROCESSING,  
LLC, a California limited liability company,  
dba THE GREAT PACIFIC ELBOW  
COMPANY, and DOES 1 through 100,  
inclusive

Defendant.

Case No. CIVDS2009617

Assigned to Hon. David Cohn, Department S26

**[AMENDED PROPOSED] ORDER AND  
JUDGMENT GRANTING FINAL  
APPROVAL OF CLASS ACTION, CLASS  
REPRESENTATIVE ENHANCEMENT  
PAYMENTS, AND ATTORNEYS' FEES  
AND COSTS; AND JUDGMENT**

Date: May 26, 2022

Time: 10:00 a.m.

Dept.: S26

Complaint Filed: May 29, 2020

First Amend. Compl. Filed: September 29, 2020

**[AMENDED PROPOSED] ORDER AND JUDGMENT UPON FINAL APPROVAL OF CLASS ACTION**

**SETTLEMENT**

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1 of California Code of Civil Procedure section 1781(e), California Rules of Court, rule 3.769, and due  
2 process.

3 5. Out of a class of 631 members, there are no objectors in this case. As noted by other  
4 courts, "[i]n the context of a settlement agreement, the test is not the maximum amount plaintiffs might  
5 have obtained at trial on the complaint, but rather whether the settlement is reasonable under all of the  
6 circumstances." (*Wershba v. Apple Computer* (2001) 91 Cal.App.4th 224, 250). As stated by the court  
7 in *Wershba*: "A settlement need not obtain 100 percent of the damages sought in order to be fair and  
8 reasonable. Compromise is inherent and necessary in the settlement process. Thus, even if 'the relief  
9 afforded by the proposed settlement is substantially narrower than it would be if the suits were to be  
10 successfully litigated,' this is no bar to a class settlement because 'the public interest may indeed be  
11 served by a voluntary settlement in which each side gives ground in the interest of avoiding litigation.'" (*Wershba, supra*, 91 Cal.App.4th at 250, citing *Air Line Stewards, et al. v. American Airlines, Inc., et al.* (7th Cir. 1972) 455 F.2d 101, 109.)

14 6. There are no opt-outs in this case, representing 100% of the 631 settlement class  
15 members.

16 7. All Participating Class Members who did not opt out of the Settlement shall be deemed  
17 to have released their respective Released Claims against the Released Parties.

18 8. The Court hereby approves the Settlement as set forth in the Settlement Agreement as  
19 fair, reasonable, and adequate, and directs the parties to effectuate the Settlement Agreement  
20 according to its terms.

21 9. For purposes of settlement only, the Court finds that: (a) the members of the Class are  
22 ascertainable and so numerous that joinder of all members is impracticable; (b) there are questions of  
23 law or fact common to the Class and there is a well-defined community of interest among the Class  
24 Members with respect to the subject matter of the litigation; (c) the claims of the Class Representative  
25 are typical of the claims of the members of the Class; (d) the Class Representative has fairly and  
26 adequately protected the interests of the Class Members; (e) a class action is superior to other available  
27 methods for an efficient adjudication of this controversy; and (f) Class Counsel are qualified to serve

1 as counsel for the Class Representative and the Class.

2 10. The Court orders that within fourteen (14) calendar days of Final Approval, Defendant  
3 shall transmit the first installment amount of \$500,000.00 to ILYM Group, Inc. (the "Settlement  
4 Administrator"), as provided for in the Settlement Agreement. The Court also orders that no later than  
5 December 31, 2022, Defendant shall transmit the second installment of \$500,000.00 to the Settlement  
6 Administrator. This amount does not include the employer's portion of any payroll taxes owed to the  
7 government authorities as a result of the settlement payments, which Defendant will pay in addition  
8 to the gross settlement amount. Defendant's share of the applicable payroll taxes is the amount of  
9 \$19,283.25.

10 11. The Court finds that the Individual Settlement Payments, as provided for in the  
11 Settlement, are fair, reasonable, and adequate, and orders the Settlement Administrator to distribute  
12 these payments in conformity with the terms of the Settlement.

13 12. The Court finds that the payment to the LWDA in the amount of \$15,000 for its 75%  
14 share of the civil penalties allocated under the Private Attorneys General Act ("PAGA") is fair,  
15 reasonable, and adequate, and orders the Settlement Administrator to distribute this payment in  
16 conformity with the terms of the Settlement.

17 13. The Court finds that a Class Representative enhancement award in the amount of \$7,500  
18 to the Plaintiff is appropriate for the risks undertaken and their service to the Class. The Court finds  
19 that this award is fair, reasonable, and adequate, and orders that the Settlement Administrator make  
20 this payment in conformity with the terms of the Settlement.

21 14. The Court finds that attorneys' fees in the amount of \$333,333.33 and actual litigation  
22 costs of \$12,000.00 for Class Counsel are fair, reasonable, and adequate, and orders that the Settlement  
23 Administrator distribute these payments to Class Counsel in conformity with the terms of the  
24 Settlement.

25 15. The Court orders that the Settlement Administrator shall be paid \$15,0000 from the Gross  
26 Settlement Amount for all of its work done and to be done until the completion of this matter, and  
27 finds that sum appropriate.

16. On January 13, 2023, the Settlement Administrator mailed the settlement checks to 631 Participating Settlement Class Members. The total amount sent to Participating Settlement Class Members was \$571,437.82, as \$45,728.85 was withheld for all applicable employee payroll taxes.

17. The deadline for participating settlement class members to cash their settlement award check was July 12, 2023; 180 days after its issuance. A total of \$52,437.54 remained uncashed after the July 12, 2023, check cashing deadline date. On August 14, 2023, in accordance with the terms of the Parties' Settlement Agreement, the Settlement Administrator will begin the process for reporting the unclaimed funds to the California State Controller's Office -Unclaimed Property Fund. This process usually takes about 8-9 months until the Settlement Administrator receives the letter from the State Controllers' Office instructing it when to send the unclaimed funds. The Settlement Administrator will continue to hold these unclaimed funds until such a time it is required to transfer said funds to the State Controller's Office.

18. This document shall constitute a final judgment pursuant to California Rules of Court, rule 3.769(h) which provides, "If the court approves the settlement agreement after the final approval hearing, the court must make and enter judgment. The judgment must include a provision for the retention of the court's jurisdiction over the parties to enforce the terms of the judgment. The court may not enter an order dismissing the action at the same time as, or after, entry of judgment." The Court will retain jurisdiction to enforce the Settlement, the Final Approval Order, and this Judgment.

19. Defendant nor any of the Released Parties shall have any further liability for costs, expenses, interest, attorneys' fees, or for any other charge, expense, or liability, except as provided for by the Settlement Agreement.

20. Neither the making of the Settlement Agreement nor the entry into the Settlement Agreement constitutes an admission by Defendant, nor is this Order a finding of the validity of any claims in the Action or of any other wrongdoing. Further, the Settlement Agreement is not a concession, and shall not be used as an admission of any wrongdoing, fault, or omission of any entity or persons; nor may any action taken to carry out the terms of the Settlement Agreement be construed as an admission or concession by or against Defendant or any related person or entity.

1           21. The Parties will bear their own costs and attorneys' fees except as otherwise provided by  
2 this Court's Order awarding Class Counsel's award for attorneys' fees and litigation costs.

3           22. By virtue of this Judgment and as of the date Defendant completely funds the settlement,  
4 all Settlement Class Members (as defined in the Settlement Agreement), have released and discharged  
5 Defendant and each of its present and former predecessors, successors, parent companies, subsidiaries,  
6 divisions, related or affiliated companies, and each of their shareholders, officers, directors,  
7 employees, agents, attorneys, insurers, successors and assigns, and any individual or entity which  
8 could be jointly liable with any of the foregoing (collectively the "Released Parties") from all claims,  
9 causes of action and factual or legal theories that were alleged on behalf of the Class Members in  
10 Plaintiff's Action, or could have been alleged based on the facts and legal theories contained in the  
11 Action. The definition of Released Claims shall not be limited in any way by the possibility that  
12 Plaintiff or Class Members may discover new facts, legal theories, or legal arguments not alleged in  
13 the operative complaints in the Action but which might serve as an alternative basis for pursuing the  
14 same claims, causes of action, or legal theories of relief falling within the definition of Released  
15 Claims.

16           23. Also, by virtue of this Judgment and as of the date Defendant completely funds the  
17 settlement, Plaintiff Jose Gabriel Cruz has released, in addition to the Released Claims described  
18 above, all claims, whether known or unknown, under federal or state law, against the Released Parties.  
19 Plaintiff understand that this release includes unknown claims and that each is, as a result, waiving all  
20 rights and benefits afforded by Section 1542 of the California Civil Code, which provides: "A general  
21 release does not extend to claims that the creditor or releasing party does not know or suspect to exist  
22 in his or her favor at the time of executing the release and that, if known by him or her, would have  
23 materially affected his or her settlement with the debtor or released party."

24           24. As of the date Defendant completely funds the settlement, this Judgment also bars (i) any  
25 and all PAGA Group Members, and (ii) the California Labor Workforce and Development Agency,  
26 any other agency of the State of California, or any person acting on its behalf, from pursuing claims  
27 against any Released Party for civil penalties recoverable under PAGA that arise out of or relate to  
28

1 the PAGA Released Claims. The res judicata effect of the Judgment will be the same as that of this  
2 release. The definition of PAGA Released Claims shall not be limited in any way by the possibility  
3 that Plaintiff, the LWDA or PAGA Group Members may discover new facts, legal theories, or legal  
4 arguments not alleged in the operative complaint in the Action but which might serve as an alternative  
5 basis for pursuing the same claims, causes of action, or legal theories of relief falling within the  
6 definition of PAGA Released Claims.

7 25. The Court retains continuing jurisdiction to enforce this Settlement pursuant to California  
8 Rule of Court, rule 3.769(h), even after the entry of judgment based thereon. Without affecting the  
9 finality of the Settlement or Judgment entered, this Court shall retain exclusive and continuing  
10 jurisdiction over the action and the Parties, including all Participating Class Members, for purposes of  
11 enforcing and interpreting this Order and the Settlement.

12 26. By this judgment, the Settlement Class Members shall be deemed to have, and by  
13 operation of the judgment shall have, fully, finally, and forever released, relinquished and discharged  
14 all Released Claims.

15 27. Plaintiff shall give notice of this Judgment to Settlement Class Members pursuant to rule  
16 3.771 of the California Rules of Court, by posting an electronic copy of the Judgment on the Settlement  
17 Administrator's Website.

18 28. Pursuant to Code of Civil Procedure section 664.6, the Court shall retain continuing  
19 jurisdiction over the Parties to this action to ensure effectuation of the Settlement in accordance with  
20 the terms of the Settlement and this Order and Judgment.

21 29. Plaintiff shall submit a copy of this Order to the LWDA within ten (10) days of entry of  
22 this Order.

23 30. Pursuant to Code of Civil Procedure section 668.5, judgment shall be entered through the  
24 filing of this Order and Judgment.

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IT IS SO ADJUDICATED.

DATED: 8-10-23

DAVID COHN  
HON. DAVID COHN  
SAN BERNARDINO SUPERIOR COURT