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

JUN 13 2022

BY 
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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

**[PROPOSED] ORDER 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

1 **[PROPOSED] ORDER**

2 The Motion of plaintiff JOSE GABRIEL CRUZ ("Plaintiff") for Final Approval of Class
3 Action and PAGA Settlement came on regularly for hearing before this Court on May 26, 2022
4 pursuant to California Rule of Court, rule 3.769 and this Court's earlier Order Granting Preliminary
5 Approval of Class Action and PAGA Settlement ("Preliminary Approval Order"). Having considered
6 the parties' Stipulation of Settlement ("Settlement" or "Settlement Agreement") and the documents
7 and evidence presented in support thereof, and recognizing the sharply disputed factual and legal
8 issues involved in this case, the risks of further prosecution, and the substantial benefits to be received
9 by the Class Members and the California Labor Workforce Development Agency ("LWDA") pursuant
10 to the Settlement, the Court hereby makes a final ruling that the proposed Settlement is fair,
11 reasonable, and adequate, and is the product of good faith, arm's length negotiations between the
12 parties. Good cause appearing therefore, the Court hereby GRANTS Plaintiff's Motion for Final
13 Approval of Class Action and PAGA Settlement and HEREBY ORDERS THE FOLLOWING:

14 1. Final judgment is hereby entered in conformity with the Settlement and this Court's
15 Preliminary Approval Order. All terms used herein shall have the same meaning as defined in the
16 Settlement Agreement.

17 2. The conditional class certification contained in the Preliminary Approval Order is hereby
18 made final, and the Court thus certifies, for purposes of the Settlement, a Class defined as: "All current
19 and former hourly-paid, non-exempt employees who worked for Defendant at any time during the
20 Class Period (May 29, 2016 through August 21, 2021)."

21 3. Plaintiff JOSE GABRIEL CRUZ is hereby confirmed as Class Representative, and
22 Marcus J. Bradley, Esq. of BRADLEY/GROMBACHER, LLP is hereby confirmed as Class Counsel.

23 4. Notice was provided to Class Members as set forth in the Settlement Agreement, which
24 was approved by the Court on January 19, 2022, and the notice process has been completed in
25 conformity with the Court's Orders. The Court finds that said notice was the best notice practicable
26 under the circumstances. The Class Notice provided due and adequate notice of the proceedings and
27 matters set forth therein, informed Class Members of their rights, and fully satisfied the requirements
28 of California Code of Civil Procedure section 1781(e), California Rules of Court, rule 3.769, and due

1 process.

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

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

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

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

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

28 10. The Court orders that within fourteen (14) calendar days of Final Approval, Defendant

1 shall transmit the first installment amount of \$500,000.00 to ILYM Group, Inc. (the "Settlement
2 Administrator"), as provided for in the Settlement Agreement. The Court also orders that no later than
3 December 31, 2022, Defendant shall transmit the second installment of \$500,000.00 to the Settlement
4 Administrator.

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

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

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

16 14. The Court finds that attorneys' fees in the amount of \$333,333.33 and actual litigation
17 costs of ~~\$12,305.68~~ ^{\$12,000.00} for Class Counsel are fair, reasonable, and adequate, and orders that the Settlement
18 Administrator distribute these payments to Class Counsel in conformity with the terms of the
19 Settlement.

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

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

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

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

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

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

25 21. Also, by virtue of this Judgment and as of the date Defendant completely funds the
26 settlement, Plaintiff Jose Gabriel Cruz has released, in addition to the Released Claims described
27 above, all claims, whether known or unknown, under federal or state law, against the Released Parties.
28 Plaintiff understand that this release includes unknown claims and that each is, as a result, waiving all

1 rights and benefits afforded by Section 1542 of the California Civil Code, which provides: “A general
2 release does not extend to claims that the creditor or releasing party does not know or suspect to exist
3 in his or her favor at the time of executing the release and that, if known by him or her, would have
4 materially affected his or her settlement with the debtor or released party.”

5 22. As of the date Defendant completely funds the settlement, this Judgment also bars (i) any
6 and all PAGA Group Members, and (ii) the California Labor Workforce and Development Agency,
7 any other agency of the State of California, or any person acting on its behalf, from pursuing claims
8 against any Released Party for civil penalties recoverable under PAGA that arise out of or relate to
9 the PAGA Released Claims. The res judicata effect of the Judgment will be the same as that of this
10 release. The definition of PAGA Released Claims shall not be limited in any way by the possibility
11 that Plaintiff, the LWDA or PAGA Group Members may discover new facts, legal theories, or legal
12 arguments not alleged in the operative complaint in the Action but which might serve as an alternative
13 basis for pursuing the same claims, causes of action, or legal theories of relief falling within the
14 definition of PAGA Released Claims.

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

20 24. By this judgment, the Settlement Class Members shall be deemed to have, and by
21 operation of the judgment shall have, fully, finally, and forever released, relinquished and discharged
22 all Released Claims.

23 25. Plaintiff shall give notice of this Judgment to Settlement Class Members pursuant to rule
24 3.771 of the California Rules of Court, by posting an electronic copy of the Judgment on the Settlement
25 Administrator’s Website.

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

1 27. Plaintiff shall submit a copy of this Order to the LWDA within ten (10) days of entry of
2 this Order.

3 28. Pursuant to Code of Civil Procedure section 668.5, judgment shall be entered through the
4 filing of this Order and Judgment.

5
6 IT IS SO ADJUDICATED.

7
8 DATED: 6-13-22

DAVID COHN

HON. DAVID COHN
SAN BERNARDINO SUPERIOR COURT