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**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES**

ERNESTO DELGADO, as individuals and on
behalf of all others similarly situated,

Plaintiffs,

vs.

KLOECKNER METALS CORPORATION,
a Delaware corporation; and DOES 1 through
50, inclusive,

Defendants.

Case No.: 20STCV22503

[Assigned to the Honorable Yvette M.
Palazuelos, Department 9]

**[PROPOSED] ORDER GRANTING
FINAL APPROVAL OF CLASS AND
REPRESENTATIVE ACTION
SETTLEMENT AND JUDGMENT**

Date: August 1, 2023

Time: 10:30 A.M.

Dept.: 9

1 Plaintiff Ernesto Delgado (“Plaintiff”) and the Defendant Kloeckner Metals Corporation
2 (“Defendant”) (together, the “Parties” or “Settling Parties”) have entered into the Second
3 Amended Stipulated Settlement Agreement and Release of Claims (“Stipulation” or “Settlement
4 Agreement”) to settle the above-captioned class action subject to the Court’s approval (the
5 “Settlement”).

6 This matter is now before the Court on Plaintiff’s Motion for Final Approval of Class and
7 Representative Action Settlement, including approval of a Service Payment for the Named
8 Plaintiff and Class Counsel’s application for attorneys’ fees and litigation costs. The Court has
9 read, heard, and considered all the pleadings and documents submitted, and the presentations
10 made in connection with the Motion which came on for hearing on August 1, 2023.

11 **I. BACKGROUND**

12 On June 10, 2020, Plaintiff filed a class action complaint in the Superior Court for the
13 State of California, County of Los Angeles, on behalf of himself and all similarly situated
14 employees (“Complaint”). The Complaint alleges claims for violation of California Labor Code
15 §§ 201-203, 212-213, 226, 226.7, 512, and 2698, *et seq.*, the Private Attorneys General Act
16 (“PAGA”), and California Business and Professions Code § 17200 *et seq.*

17 **A. The Class**

18 The “Settlement Class” is defined as “all persons employed by Defendant as an hourly
19 non-exempt employee during the Class Period.”

20 **B. Operation of the Settlement**

21 Pursuant to the Preliminary Approval Order dated February 15, 2023, this Court
22 conditionally certified the Settlement Class and granted preliminary approval to the Settlement.
23 The Preliminary Approval Order also approved of the proposed form of notice and notice plan.
24 The Court entered the Preliminary Approval Order after review and consideration of all of the
25 pleadings filed in connection herewith, and the oral presentations made by counsel at the hearing.

26 In compliance with the Preliminary Approval Order, the Notice was sent to all Settlement
27 Class Members via first class mail. The notice process was timely completed.

28 This Court finds that the Settlement appears to be the product of serious, informed, non-

collusive negotiations, has no obvious deficiencies, and does not improperly grant preferential treatment to any individuals. The Court finds that the Settlement was entered into in good faith pursuant to California Code of Civil Procedure § 877.6. The Court further finds that the Settlement is fair, reasonable, and adequate and that Plaintiff has satisfied the standards for final approval of a class action settlement under California law. Under the provisions of California Code of Civil Procedure § 382 and Federal Rule of Civil Procedure 23, as approved for use by the California state court in *Vasquez v. Superior Court*, 4 Cal. 3d 800, 821 (1971), the trial court has discretion to certify a class where:

[Q]uestions of law or fact common to the members of the class predominate over any questions affecting only individual members, and that a class action is superior to the available methods for the fair and efficient adjudication of the controversy ... Fed. R. Civ. Proc. 23.

Certification of a settlement class is the appropriate judicial device under these circumstances.

Based on the foregoing, IT IS HEREBY ORDERED, ADJUDGED, AND DECREED AS FOLLOWS:

1. The Court, for purposes of this Order, adopts all defined terms as set forth in the Settlement Agreement filed in this case.
2. The Court has jurisdiction over the subject matter of the litigation, the Class Representative, the other members of the Settlement Class, and Defendant.
3. The Court finds that the dissemination of the Notice of Proposed Class Settlement (“Notice”) as disseminated to the Settlement Class Members, constituted the best notice practicable under the circumstances to all Persons within the definition of the Settlement Class, and fully met the requirements of California law and due process under the United States Constitution.
4. The Court approves the settlement of the above-captioned action, as set forth in the Settlement Agreement, as fair, just, reasonable, and adequate as to the Settling Parties. The Settling Parties are directed to perform in accordance with the terms set forth in the Settlement Agreement.

1 5. Except as otherwise provided in the Settlement Agreement, the Settling Parties
2 are to bear their own costs and attorneys' fees.

3 6. The Court hereby certifies the following Settlement Class for settlement purposes
4 only: all persons employed by Defendant as an hourly non-exempt employee during the Class
5 Period.

6 7. With respect to the Settlement Class and for purposes of approving the settlement
7 only and for no other purpose, this Court finds and concludes that: (a) the members of the
8 Settlement Class are ascertainable and so numerous that joinder of all members is impracticable;
9 (b) there are questions of law or fact common to the Settlement Class, and there is a well-defined
10 community of interest among members of the Settlement Class with respect to the subject matter
11 of the claims in the Litigation; (c) the claims of Class Representative are typical of the claims of
12 the members of the Settlement Class; (d) the Class Representative has fairly and adequately
13 protected the interests of the members of the Settlement Class; (e) a class action is superior to
14 other available methods for an efficient adjudication of this controversy; and (f) the counsel of
15 record for the Class Representative, *i.e.*, Class Counsel, are qualified to serve as counsel for the
16 Plaintiff in his individual and representative capacity and for the Settlement Class.

17 8. The Court orders Defendant to fund \$465,000.00 of the total Gross Settlement
18 Amount, pursuant to the terms of the Settlement Agreement.

19 9. The Court approves Plaintiff's request for an award of the service payment of
20 \$10,000.00 to Plaintiff, with payments pursuant to the terms of the Settlement Agreement.

21 10. The Court approves Plaintiff's request for an award to Class Counsel for
22 \$155,000.00 in attorneys' fees and \$18,525.49 in costs with payment pursuant to the terms of the
23 Settlement Agreement. The Court finds such amounts are justified in light of the benefit obtained
24 for the Settlement Class.

25 11. The Court approves Plaintiff's request for payment of the settlement
26 administration costs to Phoenix Settlement Administrators in the amount of \$9,750.00 with
27 payment pursuant to the terms of the Settlement Agreement.

28 12. The Court approves of the Individual Settlement Amounts and PAGA Individual

1 Settlement Amounts, which will be distributed pursuant to the terms of the Settlement
2 Agreement.

3 13. Pursuant to the Order, funds and any accrued interest from uncashed checks will
4 be sent to the Unclaimed Property Division of the California State Controller's Office in the
5 names of the applicable individuals.

6 14. The Court hereby enters final judgment in this case in accordance with the terms
7 of the Settlement, Preliminary Approval Order, and this Order. Without affecting the finality of
8 the Settlement or Judgment entered, this Court shall retain exclusive and continuing jurisdiction
9 over the action and the Parties, including all Settlement Class Members, for purposes of
10 enforcing and interpreting this Order and the Settlement.

11 IT IS SO ORDERED AND ADJUDGED.

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13 Dated: _____

14 HON. YVETTE M. PALAZUELOS
15 SUPERIOR COURT JUDGE
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