

BRADLEY/GROMBACHER, LLP

Marcus J. Bradley, Esq. (SBN 174156)
Kiley L. Grombacher, Esq. (SBN 245960).
Lirit A. King, Esq. (SBN 252521)
31365 Oak Crest Drive, Suite 240
Westlake Village, California 91361
Telephone: (805) 270-7100
Facsimile: (805) 270-7589
E-Mail: mbradley@bradleygrombacher.com
kgrombacher@bradleygrombacher.com
lking@bradleygrombacher.com

FILED
Superior Court of California
County of Los Angeles

2-17-22

Sheri R. Carter, Executive Officer/Clerk
By Marisela Fregoso Deputy

LAW OFFICES OF SAHAG MAJARIAN II

Sahag Majarian II, Esq. (SBN 146621)
18250 Ventura Boulevard
Tarzana, California 91356
Telephone: (818) 609-0807
Facsimile: (818) 609-0892
E-mail: sahagii@aol.com

Attorneys for Plaintiff, HECTOR AVINA,
individually and on behalf of other individuals
similarly situated

**SUPERIOR COURT FOR THE STATE OF CALIFORNIA
COUNTY OF LOS ANGELES – SPRING STREET**

HECTOR AVINA, an individual, on his own
behalf and on behalf of all others similarly
situated,

Plaintiff,

v.

SHULTZ STEEL COMPANY, a California
corporation; and DOES 1 through 100,
inclusive,

Defendant.

CASE NO. 20STCV18569

*[Assigned for all purposes to the Hon. Elihu M.
Berle, Department SS6]*

CLASS ACTION

**[PROPOSED] ORDER GRANTING
PLAINTIFF'S MOTION FOR PRELIMINARY
APPROVAL OF CLASS ACTION
SETTLEMENT**

Date: February 17, 2022
Time: 1:30 PM
Department: SS6

Complaint Filed: May 13, 2020
Trial Date: None Set

1 Plaintiff Hector Avina ("Plaintiff"), on behalf of himself and the proposed Settlement
2 Class, have filed an unopposed motion asking the Court to: a) grant preliminary approval of the
3 Amended Class Action Settlement Agreement and Stipulation ("Amended Settlement" or
4 "Amended Settlement Agreement") entered into by and between Plaintiff and Defendant Shultz
5 Steel Company ("Defendant"); b) requesting the Court set a deadline for Plaintiff to file their
6 Motion for Approval of Class Counsel's Attorneys' Fees and Costs, and Class Representative
7 Enhancement Payments; and c) also requesting the Court set a final approval hearing to determine
8 the fairness of the Amended Settlement.

9 The Court heard the preliminary approval motion on February 17, 2022 and counsel for
10 the Parties were present at the hearing. The Court has considered the Parties' Amended Settlement
11 Agreement, along with Plaintiff's unopposed Motion for Preliminary Approval of the Class Action
12 and PAGA Settlement and the Memorandum of Points and Authorities, Declaration of Marcus J.
13 Bradley, Declaration of Sean Hartranft, Declaration of Hector Avina, and other documents filed in
14 support thereof and in this Action and finds good cause for issuing an Order preliminarily approving
15 the Parties' Settlement.

16 **NOW THEREFORE, IT IS HEREBY ORDERED:**

17 1. The Court GRANTS the request for Preliminary Approval of the Class Action and
18 PAGA Settlement. All defined terms contained herein shall have the same meanings as set forth in
19 the Settlement;

20 2. The Class Representative and Defendant, through their counsel of record, have
21 reached an agreement to settle all claims pending in this Action on behalf of the entire Settlement
22 Class and Aggrieved Employees;

23 3. Pursuant to Code of Civil Procedure, Section 382, the Court further GRANTS the
24 Parties' request for certification of the Settlement Class for the sole and limited purpose of
25 implementing the terms of the Amended Settlement Agreement, subject to this Court's final
26 approval:

27 Class Members: Any and all persons who are or were non-exempt employees
28 employed by Defendant in California at any time during October 26, 2018 to Preliminary

1 Approval Date.

2 Aggrieved Employees: any and all persons who are or were non-exempt employees
3 employed by Defendant in California at any time during June 20, 2019 to the Preliminary
4 Approval Date

5 4. The Court recognizes that certification under this Order is for settlement purposes
6 only and shall not constitute or be construed as an admission by Defendant that this action is
7 appropriate for class treatment for litigation purposes. Entry of this Order is without prejudice to
8 the rights of Defendant to oppose certification of a class in this action should the proposed
9 settlement not be granted final approval.

10 5. The Court appoints and designates: (a) Plaintiff Hector Avina as the Class
11 Representative; and (b) the firm of Bradley/Grombacher, LLP as Class Counsel for the Class. Class
12 Counsel is authorized to act on behalf of the Class Members and Aggrieved Employees with respect
13 to all acts or consents required by, or which may be given, pursuant to the Amended Settlement,
14 and such other acts necessary to finalize the Amended Settlement Agreement and its terms. Any
15 Settlement Class Member may opt out of the Settlement and enter an appearance through his or his
16 own counsel at such Class Member's own expense. Any Settlement Class Member who does not
17 opt out will be represented by Class Counsel.

18 6. The Court hereby approves the terms provided for in the Amended Settlement,
19 finding them to be fair, adequate, and reasonable and in the best interests of the Settlement Class
20 Members and Aggrieved Employees.

21 7. The Court hereby preliminarily approves the Gross Settlement Amount of
22 \$425,000.00, with the Net Settlement Amount being calculated by subtracting the following from
23 the Gross Settlement Amount: (1) Class Counsel's attorneys' fees (not to exceed one-third (1/3) of
24 the Maximum Settlement Amount or \$141,666.66; (2) Class Counsel's Costs (not to exceed
25 \$15,000.00); (3) Class Representative Enhancement Payment to be paid to Representative Hector
26 Avina of \$10,000.00; (4) \$25,000 to be allocated to claimed PAGA penalties with 75% (or
27 \$18,750.00) to be paid to the California LWDA and with 25% (or \$6,250.00) going into Aggrieved
28 Employee PAGA share; and (5) the Settlement Administration Costs to the Settlement

1 Administrator, ILYM Group not to exceed \$15,000.00. The Net Settlement Amount remaining for
2 paying Individual Settlement Payments to the Participating Class Members is anticipated to be
3 approximately \$218,333.34. The Court further preliminarily approves the formulas provided in the
4 Settlement for calculating Individual Settlement Payments and Aggrieved Employees Payment,
5 ~~and Notice Deadline within 45 days after the mailing of Notice Packets to the Class Members.~~
6 Additionally, Defendant's employer share of payroll taxes (e.g. UI, ETT, Social Security and
7 Medicare taxes) on Individual Settlement Payments paid to the Participating Class Members will
8 be paid in addition to and apart from the Gross Settlement Amount.

9 8. The Court finds on a preliminary basis that the Settlement, including the Class
10 Representative Enhancement Payment, Class Counsel Fees and Costs, the Settlement
11 Administration Costs, the proposed allocation of Individual Settlement Payments to Participating
12 Class Members, and Aggrieved Employee Payments to Aggrieved Employees appears to be within
13 the range of reasonableness of a settlement that could ultimately be given final approval by this
14 Court. It appears to the Court on a preliminary basis that the settlement is fair, adequate and
15 reasonable as to all potential Settlement Class Members and Aggrieved Employees when balanced
16 against the probable outcome of further litigation relating to certification, liability and damages
17 issues. It also appears that extensive investigation, research and Court proceedings have been
18 conducted so that counsels for the Parties have been able to reasonably evaluate their respective
19 positions. It appears to the Court that settlement at this time will avoid substantial additional costs
20 by all Parties, as well as avoid the delay and risks that would be presented by the further prosecution
21 of this Action. It also appears that settlement has been reached because of intensive, serious and
22 non-collusive, arms-length negotiations, including via a full-day mediation with a third-party
23 neutral.

24 9. A final approval hearing shall be held before this Court on
25 6-10-22 at 10:00 a.m. in Dept. SS6 of Los Angeles Superior Court to determine all
26 necessary matters concerning the Settlement, including whether the proposed Settlement of the
27 Action on the terms and conditions provided for in the Settlement are fair, adequate and reasonable
28 and should be finally approved by the Court and whether a Judgment should be entered herein. At

1 that time, a hearing on Class Counsel's Motion for Attorneys' Fees and Costs and the Class
2 Representative's Enhancement Payment shall also be held.

3 10. The Court hereby approves, as to form and content, the Notice of Class Action and
4 PAGA Settlement ("Notice") to be sent to Settlement Class Members and Aggrieved Employees.
5 The Court finds that distribution of the Notice to the Settlement Class Members and Aggrieved
6 Employees substantially in the manner and form set forth in the Amended Settlement is the best
7 notice practicable under the circumstances and meets the requirements of due process, and shall
8 constitute due and sufficient notice to all parties entitled thereto. The Notice to be sent to all
9 Settlement Class Members and Aggrieved Employees is deemed sufficient to inform Settlement
10 Class Members and Aggrieved Employees of the terms of the Amended Settlement, their rights
11 under the Amended Settlement, their rights to object to or comment on the settlement, their right to
12 receive an Individual Settlement Payment and Aggrieved Employee Payment without having to
13 take any action, their right to exclude themselves and not participate in the settlement, and the
14 processes for doing so, and the date and location of the Final Approval Hearing, and the Notice are
15 therefore approved..

16 11. The Court appoints and designates ILYM Group. as the third-party Settlement
17 Administrator. The Court hereby directs the Settlement Administrator to provide the approved
18 Notice to Settlement Class Members and Aggrieved Employees, and administer the settlement in
19 accordance with the procedures set forth in the Amended Settlement herein, including in
20 conformance with the administration and Final Approval Hearing schedule as set forth below.

21 12. Any Settlement Class Member may choose to opt out of and be excluded from the
22 Settlement as provided in the Amended Settlement and Notice of Class Action and PAGA
23 Settlement and by following the instructions for requesting exclusion. Any Class Member who
24 timely and properly excludes themselves from the settlement will not be bound by it or have any
25 right to object, appeal or comment thereon. Any Request for Exclusion must be signed by each
26 such Settlement Class Member and comply with the requirements for exclusion set forth in the
27 Settlement. Settlement Class Members who have not timely submitted a Request for Exclusion
28 shall be bound by all determinations of the Court, the Amended Settlement and the Judgment. If

1 both an opt-out and an objection are received from the same Settlement Class Member, the Class
2 Member will be deemed to have opted out.

3 13. Members of the Settlement Class may object to the terms of the settlement.
4 Settlement Class Members who object to the proposed Amended Settlement may appear and
5 present such objections at the Final Approval Hearing in person or by counsel, provided that any
6 objecting Settlement Class Member submit a written statement containing the basis of that person's
7 objections, together with a notice of the intention to appear, if appropriate, which must be sent to
8 the Settlement Administrator and postmarked no later than forty-five (45) calendar days from the
9 date on which the Notices are first sent out by the Settlement Administrator. No person shall be
10 heard at the Final Approval Hearing, and no briefs or papers shall be received or considered, unless
11 the foregoing documents have been filed and served as provided in this Order, except as this Court
12 may permit for good cause shown.

13 14. The Motion for Final Approval of the Settlement, Attorneys' Fees and Litigation
14 Costs, Class Representative Enhancements, and Administration Costs shall be filed by no later than
15 sixteen (16) court days before the Final Approval Hearing.

16 15. Upon Final Approval and completion of the Settlement Administration process, all
17 Class Members who have not submitted timely Requests for Exclusion, Aggrieved Employees and
18 the Class Representative will be deemed to have forever released and discharged the Released
19 Claims applicable to them. The Class Representative will have waived his rights under California
20 Civil Code § 1542 for the applicable Released Claims, as set forth and defined in the preliminarily
21 approved Settlement Agreement.

22 16. The Court reserves the right to change or otherwise continue or advance the date of
23 the Final Approval Hearing and all dates provided for in the Settlement without further notice to
24 the Class and retains jurisdiction to consider further applications concerning the Stipulation.

25 17. The Court orders the following schedule of dates and administration milestones for
26 the specified actions and further proceedings in this matter as agreed under the terms of the
27 Amended Settlement:
28

Event	Timing	Proposed Date
Last day for Defendant to provide Settlement Administrator the Class List	15 Days from Preliminary Approval	March 4, 2022
Notice-last day for Settlement Administrator to mail the Notice Packet to Class Members	7 Days Following Receipt of Class List from Defendant	March 11, 2022
Last day for Settlement Class Members to Request for Exclusion or Object	45 Days from Notice Packet Mailing	April 25, 2022 May 11, 2022
Last day to file Motion for Final Approval and Motion for Approval of Class Counsel's Attorneys' Fees and Costs, Class Representative Enhancement Payment, and Third-Party Administration Fees	16 Court Days Prior to Hearing for Final Approval and Fee Motion	April 11, 2022
Final Approval Hearing		June 10, 2022 10:00 a.m.

IT IS SO ORDERED.

DATED: 2-17-22



Elihu M. Berle

The Honorable Elihu M. Berle
Judge of the Superior Court of California
Elihu M. Berle / Judge