

Bryan Cave LEIGHTON PAISNER LLP
1920 Main St., Suite 1000
Irvine, California 92612-4414

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
mbradley@bradleygrombacher.com
kgrombacher@bradleygrombacher.com
lking@bradleygrombacher.com

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

[Additional Counsel Listed on Next Page]

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,

Plaintiffs,

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 SETTLEMENT
AGREEMENT AND
STIPULATION**

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

1 Allison C. Eckstrom, California Bar No. 217255
2 Christopher J. Archibald, California Bar No. 253075

3 **BRYAN CAVE LEIGHTON PAISNER LLP**

4 1920 Main Street, Suite 1000

5 Irvine, California 92614-7276

6 Telephone: (949) 223-7000

7 Facsimile: (949) 223-7100

8 E-Mail: allison.eckstrom@bclplaw.com

9 christopher.archibald@bclplaw.com

10
11 Attorneys for Defendant SCHULTZ STEEL COMPANY
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

Bryan Cave Leighton Paisner LLP
1920 Main St., Suite 1000
Irvine, California 92612-4414

IT IS HEREBY STIPULATED AND AGREED, by and between the **Parties**,¹ subject to the approval of the **Court**, that the **Action** shall be settled and fully resolved pursuant to the terms and conditions set forth in this Class Action Stipulation of Settlement (the “**Stipulation**”) and Exhibit A hereto:

I. THE ACTION AND REASONS FOR STIPULATED SETTLEMENT

A. On May 13, 2020, **Plaintiff** Hector Avina (“**Plaintiff**”) initiated a putative class action against Shultz Steel Company (“**Defendant**”) in the Superior Court for the County of Los Angeles, Case No. 20STCV18569. On August 24, 2020, Plaintiff filed a First Amended Complaint (“**Complaint**”). **Plaintiff’s Complaint** alleges nine (9) causes of action for: (1) failure to pay all wages in violation of California Labor Code §§ 204, 1194, 1194.2, 1197, and 1197.1; (2) failure to provide meal breaks in violation of California Labor Code §§ 200, 226.7, and 512; (3) failure to provide rest breaks in violation of California Labor Code §§ 200, 226.7, and 512; (4) failure to pay all accrued vacation; (5) failure to furnish accurate, itemized wage statements in violation of California Labor Code § 226; (6) failure to pay all wages owed at termination in violation of California Labor Code § 203; (7) failure to provide one day of rest in seven days worked in violation of California Labor Code §§ 551 and 552; (8) violations of Business & Professions Code §§ 17200 et seq.; and (9) penalties pursuant to Labor Code § 2699 et seq. (“**PAGA**”). **Plaintiff** seeks to represent a class of persons who are or were employed by Defendant as non-exempt hourly employees in the State of California during the **Class Period**.

B. **Defendant** denies the allegations in the **Complaint**, and continues to deny any liability or wrongdoing of any kind associated with any of the claims alleged in the **Complaint**.

C. After the filing of the **Action**, the **Parties** engaged in informal discovery. **Defendant** provided **Plaintiff** with copies of his time and payroll records, time and payroll records and other data for the **Class**, and copies of relevant written policies.

D. Counsel for the **Parties** engaged in extensive discussions about the respective strengths and weaknesses of the claims and defenses. The **Parties** and their attorneys of record participated in a mediation session with Steve Pearl, an experienced and respected mediator. On

¹ The definition for all capitalized, bold terms can be found in Part II.

Bryen Cave LEIGHTON PAISNER LLP
1920 Main St., Suite 1000
Irvine, California 92612-4414

July 13, 2021, the **Parties** reached agreement on the material terms of settlement of this **Action**.

E. **Plaintiff** and **Plaintiff's Attorneys**, after evaluation of the sharply disputed factual and legal issues relating to the **Parties'** respective positions in the **Action** and taking into account the risks, uncertainties, and expense of continued litigation, as well as the substantial benefits to be received pursuant to the compromise reached by the **Parties** and other relevant considerations, have concluded that a settlement of this **Action** on the terms and conditions set forth in this **Stipulation** is fair, adequate and reasonable, and in the best interests of **Plaintiff** and the **Class**. It provides a fair, flexible, speedy, cost-effective, and assured procedure for providing a monetary settlement to **Plaintiff** and the **Class**.

F. **Defendant** and its counsel, taking into account the risks, uncertainties, disruptions and expense involved in the **Action**, and its desire to put this controversy to rest, has concluded that a settlement of the **Action** on the terms and conditions set forth in this **Stipulation** is in the best interest of **Defendant** because it will end and encompass all pending, threatened, or possible litigation or claims by **Plaintiff** or the **Settlement Class** against **Defendant** that involve or allege the claims that have been asserted in the **Action**.

G. **Defendant** denies any and all wrongdoing and liability alleged in the **Action** and the **Parties** specifically agree that neither **Defendant's** execution of the **Stipulation**, nor anything referred to herein, nor any action taken to carry out this **Stipulation**, is or may be construed as an admission by or against **Defendant** or deemed to be evidence: (i) of the validity of any of the claims made by **Plaintiff** or of any liability to **Plaintiff** or to any **Class Member**; (ii) that **Defendant** violated California law; or (iii) that this **Action** (or any other action) is properly maintainable as a class action or properly certifiable by the **Court** under California Code of Civil Procedure section 382.

II. DEFINITIONS

These definitions are applicable to this **Stipulation**.

A. "**Action**" means the lawsuit, entitled *Avina v. Schultz Steel Co.*, filed on May 13, 2020 in Los Angeles County Superior Court, Case No. 20STCV18569.

B. "**Agreement**" means this **Stipulation** and Exhibit A attached hereto.

Bryan Cave LEIGHTON PAISNER LLP
1920 Main St., Suite 1000
Irvine, California 92612-4414

C. “**Claims Administrator**” means, ILYM Group, Inc., the third-party administrator, as mutually designated by the **Parties**, to effectuate the processing and payment of **Claims**.

D. “**Class**” or “**Class Members**” means any and all persons who are or were non-exempt employees employed by Defendant in California at any time during the **Class Period**.

E. “**Class Period**” means October 26, 2018 to the **Preliminary Approval Date**.

F. “**Class Release**” means the full and final release of the **Settlement Class Released Claims** contained in the **Notice**, substantially in the form attached as Exhibit A to be sent to **Class Members**.

G. “**Class Representative Enhancement**” means the additional sum to be paid to **Plaintiff** as compensation for his role as class representative, and for the risks and work attendant to that role.

H. “**Complaint**” means the First Amended Class Action Complaint filed by **Plaintiff** in the **Action**.

I. “**Court**” means the Superior Court of the State of California for the County of Los Angeles.

J. “**Day**” means calendar day, unless expressly stated to be otherwise.

K. “**Defendant**” means Defendant Shultz Steel Company.

L. “**Final Judgment**” means the order approving the **Settlement** and this **Stipulation**, and the final determination of the rights of the **Parties** in the **Action** entered pursuant to California Code of Civil Procedure Section 664.6 and California Rules of Court rule 3.769(h), as contemplated in Part III.D.

M. “**Final Settlement Date**” means the date on which the **Final Judgment** approving this **Stipulation** becomes final. For purposes of this definition, the **Final Judgment** shall become final:

1. If no appeal is taken, on the date on which the time to appeal has expired;
2. If any appeal is taken, on the date on which an appeal, including a petition for rehearing or reargument, petition for review and petition for *certiorari* or any other form of review, has been finally disposed of in a manner resulting in affirmance of the **Final Judgment**;

1 or

2 3. On a date after entry of the **Final Judgment**, which date counsel for the
3 **Parties** agree to in writing.

4 N. "**Final Settlement Hearing**" means the hearing to be conducted by the **Court** to
5 determine whether to enter the **Final Judgment**.

6 O. "**Gross Settlement Amount**" means the non-reversionary, total settlement amount
7 of four hundred twenty five thousand dollars (\$425,000), and includes everything that could be
8 payable to resolve the entire case including, by example, **Settlement Payments** to each and every
9 **Settlement Class Member**, the **LWDA Payment**, the **Class Representative Enhancement**,
10 **Plaintiff's Attorneys' Fees**, **Plaintiff's Expenses**, and the **Settlement Administration Costs**.

11 This is a non-reversionary settlement. The **Gross Settlement Amount** excludes **Defendant's**
12 **FICA/FUTA** payments and any other payroll taxes owing by **Defendant** on the **Gross Settlement**
13 **Amount**. The **FICA/FUTA** payments and any other payroll taxes owing by **Defendant** on the
14 portion of the **Settlement Payments** that are allocated to wages shall be paid by Defendant
15 separately from the **Gross Settlement Amount**.

16 P. "**LWDA**" means the California Labor & Workforce Development Agency.
17 "**LWDA Payment**" means the payment of \$18,750 to be made to the **LWDA** which is 75% of
18 \$25,000.

19 Q. "**Net Settlement Amount**" means the figure that shall be determined by deducting
20 the maximum amounts awarded for **Plaintiff's Attorneys' Fees**, **Plaintiff's Expenses**, the **Class**
21 **Representative Enhancement**, **Settlement Administration Costs** and the **LWDA Payment**
22 from the **Gross Settlement Amount**.

23 R. "**Notice**" means the Notice of Pendency of Class Action, Proposed Settlement and
24 Final Hearing, in English and Spanish, substantially in the form attached as Exhibit A.

25 S. "**Objection/Exclusion Deadline Date**" means the date forty-five (45) **Days** from
26 the date the **Claims Administrator** mails the **Notice**. It is the date by which **Class Members**
27 must: (i) mail to the **Claims Administrator** a written statement objecting to the **Settlement**, or
28 (ii) mail to the **Claims Administrator** a written request for exclusion if they wish to be excluded

1 from the **Settlement Class**.

2 T. “**PAGA**” means the California Labor Code Private Attorneys General Act of 2004,
3 California Labor Code sections 2698, *et seq.*

4 U. “**Parties**” means **Plaintiff** and **Defendant**.

5 V. “**Payment Date**” means ten (10) calendar days after the **Claims Administrator**
6 receives the **Gross Settlement Amount** from **Defendant**.

7 W. “**Plaintiff**” means Plaintiff Hector Avina, individually, and in his capacity as the
8 party seeking to act as class representative.

9 X. “**Plaintiff’s Attorneys**” means Bradley/Grombacher, LLP and Law Offices of
10 Sahag Majarian II.

11 Y. “**Plaintiff’s Attorneys’ Fees**” means the amount awarded to the **Plaintiff’s**
12 **Attorneys** by the **Court** for prosecuting the **Action**.

13 Z. “**Plaintiff’s Released Claims**” means the **Claims** released by **Plaintiff** in Part
14 III.C.3, including claims for **Plaintiff’s Attorneys’ Fees** and **Plaintiff’s Expenses**.

15 AA. “**Plaintiff’s Expenses**” means all of those expenses and costs incurred in
16 connection with the **Action** by or on behalf of **Plaintiff** or **Plaintiff’s Attorneys**, excluding
17 **Settlement Administration Costs**.

18 BB. “**Preliminary Approval Date**” means the date of entry of the **Court’s** order
19 granting preliminary approval of the **Settlement** according to the terms established in Part III of
20 this **Stipulation**.

21 CC. “**Released Parties**” means the **Defendant** and its former and present parents,
22 subsidiaries, affiliates, divisions, corporations in common control, predecessors, successors, and
23 assigns, as well as all past and present officers, directors, employees, partners, shareholders and
24 agents, attorneys, insurers, and any other successors, assigns, or legal representatives, if any.

25 DD. “**Settlement**” means the complete settlement and conclusion of the **Action** and all
26 related **Settlement Class Released Claims** and **Plaintiff’s Released Claims** effectuated by this
27 **Stipulation**.

28 EE. “**Settlement Administration Costs**” means the fees and costs of any type incurred

Bryan Cave LEIGHTON PAISNER LLP
1920 Main St., Suite 1000
Irvine, California 92612-4414

1 or charged by the **Claims Administrator** in connection with the execution of its duties under this
2 **Stipulation** including, but not limited to: fees and costs associated with preparing, issuing and/or
3 monitoring notice, translating the notice into Spanish, computing payments and taxes made under
4 this **Stipulation**, handling inquiries about the calculation of payments, and preparing and filing
5 any tax returns and information returns and any other filings required by any governmental taxing
6 authority or governmental agency. The Settlement Administration Costs shall not exceed
7 \$15,000.

8 FF. “**Settlement Class**” or “**Settlement Class Member**” means those persons who are
9 members of the **Class** who have not properly and timely opted out of the **Action**.

10 GG. “**Settlement Class Released Claims**” means the claims released by the
11 **Settlement Class Members** in Part III.C.1 of the **Stipulation**.

12 HH. “**Settlement Payments**” means the amounts to be paid to individual **Settlement**
13 **Class Members**.

14 III. SETTLEMENT TERMS

15 The **Parties** enter into this **Stipulation** and agree as follows:

16 The **Settlement** described herein will resolve fully and finally all claims raised or that
17 could have been raised on behalf of **Settlement Class Members**, based on the same facts alleged,
18 in the **Complaint**, including without limitation, all claims of the **Settlement Class Members** for
19 the alleged failure to failure to pay wages, failure to provide meal breaks, failure to provide rest
20 breaks, failure to pay all accrued vacation, failure to furnish accurate, itemized wage statements,
21 failure to pay all wages owed at termination, failure to provide one day of rest in seven days
22 worked, unfair competition, and related representative claims under the **PAGA** while they
23 worked for **Defendant** in California during the **Class Period**.

24 A. Class Certification

25 For the purposes of this **Stipulation** only, the **Parties** have agreed to the certification of a
26 conditional **Class** to facilitate class settlement. The designation of the **Class** is expressly made
27 solely for this proposed **Stipulation** and is without prejudice to the issues of whether this lawsuit
28 can properly be maintained as a class action. The **Parties** specifically reserve the right, should

Bryan Cave LEIGHTON PAISNER LLP
1920 Main St., Suite 1000
Irvine, California 92612-4414

1 this **Stipulation** become inoperative for any reason, to raise and litigate any and all issues as to
2 whether this **Action** can properly be maintained as a class action. The certification of the **Class**
3 shall be effective only with respect to the **Settlement** of the **Action**. In the event that the
4 **Stipulation** is terminated pursuant to its terms or the **Final Settlement Date** does not occur for
5 any reason, the certification of the **Class** shall be vacated, and the **Action** shall proceed as it
6 existed prior to execution of this **Stipulation**. The fact that the **Parties** were willing to stipulate
7 to class certification as part of the **Settlement** shall have no bearing on, or be admissible in
8 connection with, the issue of whether the **Class** could be certified in a non-settlement context or
9 be considered admissible for any other purpose.

10 **B. Settlement Consideration**

11 1. This **Settlement** requires **Defendant** to pay a total settlement amount of
12 four hundred twenty five thousand dollars (\$425,000) for: (i) all costs for **Notice** regardless of
13 media (*e.g.*, publication, letter, web-site, *etc.*); (ii) cash **Settlement Payments** according to a
14 formula set forth in Part III.G.2; (iii) **Plaintiff's Attorneys' Fees** not to exceed one-third (1/3) of
15 \$425,000 (*i.e.*, \$141,666.66); (iv) **Plaintiff's Expenses** in an amount not to exceed \$15,000; (v)
16 **Plaintiff's Class Representative Enhancement** as set forth in Part III.I in an amount not to
17 exceed \$10,000; (vi) an allocation of \$25,000 to penalties under the **PAGA**, \$18,750 of the
18 **PAGA** amount shall be paid to the **LWDA**, the remaining \$6,250 shall be part of the **Net**
19 **Settlement Amount** to be distributed to the **Settlement Class Members**; (vii) **Settlement**
20 **Administration Costs**, not to exceed \$15,000; and (viii) any other amount necessary to perform
21 this **Settlement**.

22 2. It is agreed that **Defendant's** maximum and total liability under the
23 **Agreement** is four hundred twenty five thousand dollars (\$425,000). Other than the **Gross**
24 **Settlement Amount** and their employer-side tax obligations for the wage portion of the
25 **Settlement Payments**, **Defendant** shall not be called upon or required to contribute additional
26 monies under any circumstances whatsoever. All costs and expenses arising out of or in
27 connection with the performance of this **Stipulation** shall be paid from the total consideration
28 unless expressly provided otherwise herein.

Bryan Cave LEIGHTON PAISNER LLP
1920 Main St., Suite 1000
Irvine, California 92612-4414

1 C. Release of Claims

2 1. For and in consideration of the mutual promises contained herein, **Plaintiff**
3 and the **Settlement Class Members** fully and finally release, as of the **Final Settlement Date**,
4 the **Released Parties** from all claims under state, and local law that were alleged in the Action or
5 could have been asserted based on the facts and allegations made in the Action, and any
6 amendments thereto, including the following claims: (a) failure to pay all wages in violation of
7 California Labor Code §§ 204, 1194, 1194.2, 1197, and 1197.1; (b) failure to provide meal breaks
8 in violation of California Labor Code §§ 200, 226.7, and 512; (c) failure to provide rest breaks in
9 violation of California Labor Code §§ 200, 226.7, and 512; (d) failure to pay all accrued vacation;
10 (e) failure to furnish accurate, itemized wage statements in violation of California Labor Code §
11 226; (f) failure to pay all wages owed at termination in violation of California Labor Code § 203;
12 (g) failure to provide one day of rest in seven days worked in violation of California Labor Code
13 §§ 551 and 552; (h) all claims for unfair business practices under California Business &
14 Professions Code Section 17200 *et seq.* that could have been premised on the claims, causes of
15 action or legal theories of relief described above in (a)-(g); (i) all claims under PAGA that could
16 have been premised on the claims, causes of action or legal theories described above in (a)-(g);
17 and (j) all damages, including, but not limited to, liquidated damages, civil and statutory
18 penalties, interest and other amounts recoverable under said claims, causes of action or legal
19 theories of relief identified above in (a)-(i). The definition of the released claims shall not be
20 limited in any way by the possibility that **Plaintiff** or the **Settlement Class Members** may
21 discover new facts or legal theories or legal arguments not alleged in the operative pleadings in
22 the **Action** but which might serve as an alternative basis for pursuing the same claims, causes of
23 action, or legal theories of relief falling within the definition of the **Settlement Class Released**
24 **Claims**.

25 2. Further, as a condition of receiving a **Settlement Payment**, each
26 **Settlement Class Member** shall receive, in the **Notice**, substantially in the form attached hereto
27 as Exhibit A, a **Class Release**, and by not timely submitting a written request for exclusion, will
28 be deemed to have accepted and agreed to the terms of the **Class Release**. The terms of the **Class**

1 **Release** shall be approved by the **Court**, and consistent with Part III.C.1.

2 3. In exchange for the consideration recited in this **Stipulation, Plaintiff**,
3 solely on behalf of himself, does hereby and forever release, acquit, and discharge and covenant
4 not to sue the **Released Parties** for any and all lawsuits, charges, claims, complaints, liabilities,
5 obligations, promises, agreements, controversies, damages, actions, omissions, claims for relief,
6 suits, rights, demands, costs, lawsuits, and expenses (including attorneys' fees and costs) of any
7 nature whatsoever, known or unknown, suspected or unsuspected, which **Plaintiff** now has or
8 claims to have, or which **Plaintiff** at any time heretofore had or claimed to have, or which
9 **Plaintiff** at any time hereafter may have or claim to have against each or any of the **Released**
10 **Parties**, arising out of or related to any matter, event, fact, act, omission, cause or thing which
11 existed, arose or occurred on or prior to the date of the execution of this **Stipulation**, including
12 without limitation, any claim for wages, compensation, overtime, bonuses, meal or rest period
13 premiums, business expense reimbursement, penalties, interest, attorneys' fees or costs; any claim
14 under Title VII of the Civil Rights Act of 1964, the Age Discrimination in Employment Act, the
15 California Fair Employment and Housing Act, the Family and Medical Leave Act, the Americans
16 with Disabilities Act, the California Labor Code, the IWC Wage Orders, the Fair Labor Standards
17 Act, the California Business and Professions Code, the Consolidated Omnibus Budget
18 Reconciliation Act of 1985, and the Employee Retirement Income Security Act of 1974, or any
19 federal, state or local law or regulation prohibiting employment discrimination or regulating
20 employment. This release also includes, but is not limited to, any claim for negligent or
21 intentional infliction of emotional distress, conversion, violation of public policy, wrongful
22 termination, retaliation, breach of contract, unfair business practices or any other claim, however
23 styled, relating to or arising out of **Plaintiff's** employment with, or separation of employment
24 from, the **Defendant**.

25 4. Except for the obligations expressly provided for in this **Stipulation**,
26 **Plaintiff** fully and finally releases, as of the **Final Settlement Date**, the **Released Parties** from
27 any and all claims in favor of **Plaintiff's Attorneys** arising from the **Action**, including by way of
28 example only, any and all claims for attorneys' fees, costs, consultant's fees, expert witness fees,

1 interest, or any other expenses incurred by **Plaintiff** or on behalf of the **Class Members** or
2 **Plaintiff's Attorneys** in connection with or related in any manner to the **Action**, the **Settlement**
3 of the **Action** or the administration of the **Settlement**.

4 5. **Plaintiff**, with respect to **Plaintiff's Released Claims**, shall be deemed to
5 have, and by operation of the **Final Judgment** shall have, expressly waived and relinquished, to
6 the fullest extent permitted by law, the provisions, rights and benefits of section 1542 of the
7 California Civil Code, that provides:

8 A general release does not extend to claims that the creditor or releasing
9 party does not know or suspect to exist in his or her favor at the time of
10 executing the release and that, if known by him or her, would have
11 materially affected his or her settlement with the debtor or released party.

12 Thus, even if **Plaintiff** may hereafter discover facts in addition to or different from those
13 which he now knows or believes to be true with respect to the subject matter of **Plaintiff's**
14 **Released Claims**, **Plaintiff** shall be deemed to have and by operation of the **Final Judgment**
15 shall have, fully, finally, and forever settled and released any and all of **Plaintiff's Released**
16 **Claims** on the **Final Settlement Date**. This is true whether such claims are known or unknown,
17 suspected or unsuspected, contingent or non-contingent whether or not concealed or hidden,
18 which now exist, or heretofore have existed upon any theory of law or equity now existing or
19 coming into existence in the future, including, but not limited to, conduct which is negligent,
20 intentional, with or without malice, or a breach of any duty, law, or rule, without regard to the
21 subsequent discovery or existence of such different or additional facts.

22 **D. Approval of Settlement**

23 1. As soon as practicable, the **Parties** shall execute and file this **Stipulation**
24 including the attached Exhibit A; and **Plaintiff** shall file motion for preliminary approval and
25 supporting papers with the **Court** that requests that the **Court** enter a proposed **Preliminary**
26 **Approval Order**, establishing a procedure for obtaining final approval of the **Settlement**. Any
27 dispute regarding forms of notices and other documents necessary to implement the **Settlement**
28 contained in the **Stipulation**, if not timely resolved among the **Parties**, shall be referred to the
Court.

Bryan Cave LEIGHTON PAISNER LLP
1920 Main St., Suite 1000
Irvine, California 92612-4414

2. If preliminary approval is granted, a **Final Settlement Hearing** to determine final approval of the **Settlement** shall be scheduled as soon as practicable, subject to the calendar of the **Court**, after the **Preliminary Approval Date**. Upon final approval of the **Settlement** by the **Court** at or after the **Final Settlement Hearing**, the **Parties** shall seek and obtain from the **Court** a **Final Judgment**. The **Final Judgment** shall comply with section 664.6 of the California Code of Civil Procedure and all applicable California Rules of Court, including rule 3.769(h).

3. After entry of the **Final Judgment**, the **Court** shall have continuing jurisdiction over the **Action** solely for purposes of: (i) entering an order acknowledging satisfaction of the **Final Judgment**; (ii) enforcing this **Stipulation**; (iii) addressing settlement administration matters; and (iv) addressing such post-**Final Judgment** matters as may be appropriate under **Court** rules or applicable law.

4. Should the **Court** decline to approve this **Stipulation** or fail to enter the **Final Judgment**, the **Stipulation** shall be voidable by any of the **Parties** by written notice to the attorneys of record for the other **Parties** served in a manner authorized by California Code of Civil Procedure section 1013, no later than fifteen (15) **Days** after entry of any such order or after service of an applicable notice of ruling, whichever occurs later, or if no such order is entered or notice of ruling served, within 90 **Days** after the **Final Settlement Hearing**. This right to void the **Stipulation** does not apply to the **Court's** award of **Plaintiff's Attorney's Fees, Plaintiff's Expenses** or the **Class Representative Enhancement**, provided any such awards do not exceed the amounts set forth in Parts III.H.3 and III.I. Should the **Court** award less than the maximum amount sought for **Plaintiff's Attorneys' Fees, Plaintiff's Expenses** or the **Class Representative Enhancement**, the reduced award shall not be grounds to void the settlement.

E. Notice to Class Members

1. The **Notice** substantially in the form attached hereto as Exhibit A, and as approved by the **Court**, shall be provided to the **Class** using the procedures in this Part III.E.

2. Within fifteen (15) calendar days after the **Preliminary Approval Date**, the **Defendant** shall provide the **Claims Administrator** with the names, most current mailing

Bryan Cave LEIGHTON PAISNER LLP
1920 Main St., Suite 1000
Irvine, California 92612-4414

addresses, total workweeks worked by each **Class Member** during the **Class Period**, and Social Security numbers for the **Class** from the records maintained by **Defendant**. This information shall remain strictly confidential and shall not be disclosed to anyone, including **Plaintiff's Attorneys**, except as necessary for the **Claims Administrator** to carry out the reasonable efforts described in this Part III.E, or pursuant to express written authorization by the **Defendant** or by order of the **Court**.

3. Within seven (7) calendar days of receipt of the mailing address information, the **Claims Administrator** shall, using the information provided by the **Defendant** along with any updated information obtained from the National Change of Address database which the **Claims Administrator** shall use to confirm mailing information, mail the **Notice** to all identified **Class Members** by first-class, regular U.S. Mail to the most recent address known for each **Class Member**. For **Notices** returned as undeliverable, the **Claims Administrator** shall conduct one or more skip traces, then send additional **Notices** to any new address identified. Upon completion of these steps by the **Claims Administrator**, the **Parties** shall be deemed to have satisfied their obligation to provide the **Notice** to the **Class**.

F. Objection and Exclusion Procedures

1. The **Notice** shall provide that **Class Members** who wish to object to the **Settlement** may either submit to the **Claims Administrator** a written statement objecting to the **Settlement** or appear at the **Final Settlement Hearing** and orally object to the **Settlement** without first providing a written objection to the **Claims Administrator**. In the case of a written objection, the objection must be signed by the **Class Member** and state: (a) the full name of the **Class Member**; (b) the dates of employment of the **Class Member**; (c) the last four digits of the **Class Member's** Social Security number and/or the Employee ID number; (d) contain a statement of the **Class Member's** objections; and (e) the name of the case and case number, *Avina vs. Schultz Steel Company* Case No. 20STCV18569. Such written statement must be mailed and postmarked to the **Claims Administrator** on or before the **Objection/Exclusion Deadline Date**. The **Claims Administrator** shall email a copy of the written statement objecting to the **Settlement** to **Class Counsel** and defense counsel forthwith. **Class Counsel** shall lodge a

Bryan Cave LEIGHTON PAISNER LLP
1920 Main St., Suite 1000
Irvine, California 92612-4414

1 copy of the written statement objecting to the Settlement with the Court. Any written statement
2 objecting to the **Settlement** that is not postmarked to the **Claims Administrator** on or before the
3 **Objection/Exclusion Deadline Date** shall be of no force and effect under any circumstance.
4 **Class Members** who fail to timely mail to the **Claims Administrator** written objections in the
5 manner specified above or who fail to appear at the **Final Settlement Hearing** and orally object
6 to the **Settlement**, shall be deemed to have waived any objections and shall be foreclosed from
7 making any objection (whether by appeal or otherwise) to the **Settlement**.

8 2. The **Notice** also shall provide that **Class Members** who wish to exclude
9 themselves from the **Settlement Class** must submit to the **Claims Administrator** a written,
10 signed statement expressing his or her desire to be excluded from the **Settlement**, and any such
11 statement shall include the name (and former names, if any), current address, telephone number
12 and the last four (4) digits of Social Security number of the **Class Member** and stating "I wish to
13 be excluded from the *Avina v. Schultz Steel Company* settlement. I understand by excluding
14 myself, I will not receive any money from the settlement reached in this matter." The written
15 request for exclusion must be mailed to and received by the **Claims Administrator** and must be
16 postmarked on or before the **Objection/Exclusion Deadline Date**. Any written request for
17 exclusion not received by the **Claims Administrator** or postmarked after the
18 **Objection/Exclusion Deadline Date** shall be of no force and effect under any circumstance.
19 **Class Members** who fail to mail to the **Claims Administrator** a valid and timely written request
20 for exclusion on or before the **Objection/Exclusion Deadline Date** shall be deemed a **Settlement**
21 **Class Member** and bound by all terms of the **Settlement** and any **Final Judgment** entered in the
22 **Action** if the **Settlement** is approved by the **Court**, regardless of whether they have objected to
23 the **Settlement**. Any **Class Member** who timely mails a valid written request for exclusion that
24 is received by the **Claims Administrator** will not be a **Settlement Class Member**, will not
25 receive a **Settlement Payment**, and will not have standing to object to the **Settlement**.

26 3. If more than five percent (5%) of the persons in the **Class** file timely
27 written requests for exclusion, then **Defendant** shall have the option to declare this **Stipulation**
28 null and void if, within 15 **Days** after the **Objection/Exclusion Deadline Date**, **Defendant** serves

Bryan Cave LEIGHTON PAISNER LLP
1920 Main St, Suite 1000
Irvine, California 92612-4414

1 written notice of the exercise of this option on **Plaintiff's Attorneys** in a manner provided for in
2 California Code of Civil Procedure section 1013. If **Defendant** voids this **Agreement**, it shall
3 pay any expenses of the **Notice** or claims administration which the **Claims Administrator** has
4 incurred.

5 4. The **Parties'** counsel shall receive a copy of all valid and timely written
6 objections and requests for exclusion from the **Claims Administrator** within three (3) **Days** of
7 the **Claims Administrator's** receipt. No later than ten (10) **Days** before the **Final Settlement**
8 **Hearing**, the **Claims Administrator** shall provide the **Parties** with a complete and accurate list
9 of names of all **Class Members** who have properly requested exclusion from the **Settlement**
10 **Class** or who have submitted timely objections and all written objections to the **Settlement** and or
11 notices of intention to appear and object that have been received.

12 5. The **Parties** agree that neither they nor their counsel will solicit or
13 otherwise encourage directly or indirectly any **Class Member** to request exclusion from the
14 **Settlement Class**, object to the **Settlement**, or appeal from the **Court's Final Judgment**.

15 **G. Claims Administration and Payment of Claims**

16 1. **Settlement Class Members** are not required to submit a claim form as a
17 condition of receiving a **Settlement Payment**. Instead, **Settlement Class Members** shall
18 automatically receive a pro rata share of the **Net Settlement Amount**.

19 2. In consideration for the **Settlement** and release of the **Settlement Class**
20 **Released Claims**, the **Defendant** shall deliver to the **Claims Administrator** and the **Claims**
21 **Administrator** shall pay, pursuant to an agreement with the **Plaintiff's Attorneys**, to each
22 **Settlement Class Member** cash compensation from the **Net Settlement Amount** according to
23 the procedures set forth in this Part III.G.2. The identified **Settlement Class Members** shall
24 receive a pro rata share of the **Net Settlement Amount**. The individual **Settlement Class**
25 **Member's** payment shall be calculated by the **Claims Administrator** by dividing the **Net**
26 **Settlement Amount** distributable to the **Settlement Class** by the total workweeks that have
27 accrued for the **Settlement Class** during the **Class Period** and multiplying that amount by the
28 number of workweeks worked by the individual **Settlement Class Member** during the **Class**

Bryan Cave LEIGHTON PAISNER LLP
1920 Main St., Suite 1000
Irvine, California 92612-4414

1 **Period.** Workweeks will be separately and distinctly calculated for each **Settlement Class**
2 **Member.** Only **Settlement Class Members** who can be identified by the **Claims**
3 **Administrator** will receive a **Settlement Payment.** No **Settlement Payments** will be sent to
4 any **Settlement Class Member** for whom a current address has not been identified.

5 3. If any **Settlement Class Member** does not cash his/her settlement check
6 within one hundred eighty (180) **Days** after the **Claims Administrator** mails the **Settlement**
7 **Payment** to the **Settlement Class Member**, the unclaimed funds shall be distributed to the
8 California State Controller's Office's Unclaimed Property Fund in the name of the Settlement
9 Class Member.

10 4. The **Claims Administrator** shall regularly and accurately report to the
11 **Parties'** counsel, in written form when requested, the substance of the work performed, including
12 the amounts paid to **Settlement Class Members**, and the total amount of **Settlement Payments.**
13 The **Claims Administrator** shall respond to questions from **Class Members** and perform other
14 duties as necessary to carry out its responsibilities under this **Stipulation.**

15 5. All **Settlement Payments** paid to Settlement Class Members shall be
16 allocated as follows: one-third (1/3) to wages, subject to applicable withholdings, to be reported
17 on a W-2 form; one-third (1/3) to interest, not subject to withholdings and reported on a 1099
18 form to be issued by the **Claims Administrator**; and one-third (1/3) to penalties, not subject to
19 withholdings and reported on a 1099 form to be issued by the **Claims Administrator.** The
20 **Parties** agree that no taxes will be withheld or paid by **Defendant** with respect to the **Settlement**
21 **Payments** allocated to interest or penalties. Each individual **Settlement Class Member** shall be
22 responsible for his/her share of taxes due on the portion of his or her **Settlement Payment.** The
23 **Parties** further agree that no taxes will be withheld or paid by **Defendant** with respect to
24 payments of the **Settlement Administration Costs, Class Representative Enhancement,**
25 **Plaintiff's Attorneys' Fees and Plaintiff's Expenses.** Any taxes due thereon shall be
26 respectively the responsibility of **Class Administrator, Plaintiff** and **Plaintiff's Attorneys.** The
27 **Parties** acknowledge and agree that proper information reporting will be made to the appropriate
28 taxing authorities regarding all payments made pursuant to this **Stipulation.**

Bryan Cave LEIGHTON PAISNER LLP
1920 Main St., Suite 1000
Irvine, California 92612-4414

6. Each **Party** to this **Stipulation** and each **Class Member** acknowledges and agrees that (1) no provision of this **Stipulation**, and no written communication or disclosure between or among the **Parties** or their attorneys and other advisors, is or was intended to be, nor shall any such communication or disclosure constitute or be construed or be relied upon as, tax advice within the meaning of United States Treasury Department Circular 230 (31 CFR Part 10, as amended); (2) the **Parties** and **Class Members** (a) have relied exclusively upon their own independent legal and tax advisors for advice (including tax advice) in connection with this **Stipulation**, (b) have not entered into this **Stipulation** based upon the recommendation of any other party or any attorney or advisor to any other party, and (c) are not entitled to rely upon any communication or disclosure by an attorney or advisor to any other party to avoid any tax penalty that may be imposed on either party; and (3) no attorney or advisor to any party has imposed any limitation that protects the confidentiality of any such attorneys' or advisor's tax strategies (regardless of whether such limitation is legally binding) upon disclosure by the parties of the tax treatment or tax structure of any transaction, including any transaction contemplated by this **Stipulation**.

7. **Defendant** will not use the **Settlement Payments** to calculate any additional benefits including, by example but not limitation, vacation, holiday pay or 401(k) plan contributions. The **Settlement Payments** do not represent any modification of previously-credited hours of service or other eligibility criteria under any employee pension or employee welfare benefit plan sponsored by **Defendant**, nor are the **Settlement Payments** "compensation" for purposes of determining eligibility for, or benefit accrual within, an employee pension benefit plan or employee welfare benefit or other plan sponsored by **Defendant** or its predecessors, subsidiaries or successors.

8. **Defendant** agrees to deliver the **Gross Settlement Amount** to the **Claims Administrator** within twenty (20) calendar days after the **Final Settlement Date**. The **Claims Administrator** shall disburse the **Settlement Payments** to each identified **Settlement Class member** on the **Payment Date**.

H. Plaintiff's Attorneys' Fees and Plaintiff's Expenses

Bryan Cave Leighton Paisner LLP
1920 Main St, Suite 1000
Irvine, California 92612-4414

1. For the purposes of settlement only, **Defendant** agrees that **Plaintiff's Attorneys** are entitled to an award of reasonable attorneys' fees and costs. **Defendant** also acknowledge that the **Class** possesses a potential claim for reasonable attorneys' fees and costs pursuant to, *inter alia*, the California Labor Code. The **Parties** agree that any and all such claims for reasonable attorneys' fees and costs have been settled in this **Stipulation**. **Plaintiff's Attorneys' Fees** are to compensate **Plaintiff's Attorneys** for all work already performed in this **Action**, and all remaining work to be performed in documenting the **Settlement**, securing **Court** approval of the **Settlement**, making sure the **Settlement** is fairly administered and implemented, and obtaining the **Final Judgment**.

2. The **Parties** agree that the **Gross Settlement Amount** includes all costs, fees, expenses to be incurred in giving **Notice** to the **Class** and all of the costs, fees, and expenses of administering the disbursement of the **Settlement Payments**.

3. **Defendant** understands that **Plaintiff's Attorneys** will apply to the **Court** for an award of **Plaintiff's Attorneys' Fees** and **Plaintiff's Expenses**, which will be scheduled for determination at the **Final Settlement Hearing** or as the **Court** directs. **Defendant** will not oppose **Plaintiff's Attorneys'** application for a reasonable award of **Plaintiff's Attorneys' Fees** in a total amount not to exceed one-third (1/3) of \$425,000 (*i.e.*, \$141,666.66) and **Plaintiff's Expenses** not to exceed \$15,000. **Plaintiff** and the **Settlement Class** shall not seek payment of attorneys' fees or reimbursement of costs or expenses from **Defendant** except as set forth herein. **Plaintiff's Attorneys' Fees** and **Plaintiff's Expenses** shall be paid on the **Payment Date**.

I. Class Representative Enhancement

Defendant will not oppose a request that **Plaintiff** be paid a **Class Representative Enhancement** in an amount not to exceed ten thousand dollars (\$10,000). The **Class Representative Enhancement** shall be paid on the **Payment Date**.

J. Additional Terms

1. **Defendant** denies they have engaged in any unlawful activity, have failed to comply with the law in any respect, or have any liability to anyone under the claims asserted in the **Action**. **Plaintiff** acknowledges that his claims against **Defendant** have been amicably

Bryan Cave LEIGHTON PAISNER LLP
1920 Main St., Suite 1000
Irvine, California 92612-4414

resolved. The **Parties** expressly acknowledge that this **Stipulation** is entered into for the purpose of compromise of highly disputed claims and that nothing herein is an admission of liability, wrongdoing or certification of a class for purposes of determination on the merits by **Defendant**. Neither the **Stipulation** nor any document prepared in connection with the **Settlement** may be admitted in any proceeding as an admission by **Defendant**, **Plaintiff**, or any person within the definition of the **Class**. However, this paragraph and all other provisions of this **Stipulation** notwithstanding, any and all provisions of this **Stipulation** may only be admitted in evidence and otherwise used in any and all proceedings to enforce any or all terms of this **Stipulation**, or in defense of any claims released or barred by this **Stipulation**.

2. **Plaintiff and Plaintiff's Attorneys** shall only disclose the **Settlement** or its terms in papers filed with the **Court**, in accordance with **Court** approved notice procedures, in response to any inquiries from any **Settlement Class Members** or if required by legal process. **Plaintiff and Plaintiff's Attorneys** shall not publicize the **Settlement** or the **Action**, directly or indirectly, to any representative of any form of mass or social media, including, but not limited to, speeches, press conferences, press releases, interviews, television, print, radio, or internet media. **Plaintiff and Plaintiff's Attorneys** shall not make any public statement or release, including, but not limited to, on any website, which specifically references the **Action** or **Released Parties**. **Defendant** may make such disclosures as required under its contractual and legal obligations.

3. Unless otherwise specifically provided herein, all notices, demands or other communications given hereunder shall be in writing and shall be deemed to have been duly given as of the third business day after mailing by United States mail, addressed as follows:

To the **Class** or the **Plaintiff**:

BRADLEY/GROMBACHER, LLP

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

To **Defendant Shultz Steel Company**:

**BRYAN CAVE LEIGHTON
PAISNER LLP**

Allison C. Eckstrom
Christopher J. Archibald
1920 Main St., Suite 1000
Irvine, California 92614-7276
Telephone: (949) 223-7000
Facsimile: (949) 223-7100
allison.eckstrom@bclplaw.com
christopher.archibald@bclplaw.com

lking@bradleygrombacher.com

**LAW OFFICES OF SAHAG
MAJARIAN II**

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

4. Except as expressly provided in this **Stipulation, Plaintiff**, individually and as class representative, **Defendant**, all attorneys for **Plaintiff** and the **Class**, and all attorneys for **Defendant**, hereby waive any and all rights to appeal, this waiver being contingent upon the **Court** entering the **Final Judgment**. This waiver includes waiver of all rights to any post-judgment proceeding and appellate proceeding, including but not limited to, motions for relief from judgment and motions to amend or alter the judgment.

5. After this **Stipulation** is fully executed by all **Parties** and their attorneys of record, this **Stipulation** and its attached Exhibit A shall constitute the entire agreement relating to settlement of this **Action** and the causes of action and defenses asserted therein, and it shall then be deemed that no oral representations, warranties or inducements have been made to any party concerning this **Stipulation** or its Exhibit A other than the representations, warranties and covenants expressly stated in this **Stipulation** and its Exhibit A. In the event this **Stipulation** is canceled, rescinded, terminated, voided or nullified, however that may occur, or this **Stipulation** is barred by operation of law, or invalidated, or ordered not to be carried out by a court of competent jurisdiction, this **Stipulation** shall be null and void for all purposes and neither **Plaintiff** nor **Defendant** shall be bound by any of its terms. If such an event were to occur, the **Parties** shall revert to the position they were in immediately preceding the execution of this **Stipulation**.

6. After this **Stipulation** is fully executed by all **Parties** and their attorneys of record, all litigation in the **Action** shall be stayed, and no **additional Court** filings shall be made by the **Parties** except as specifically provided for herein and as are necessary to enforce the terms

Bryan Cave LEIGHTON PAISNER LLP
1920 Main St., Suite 1000
Irvine, California 92612-4414

of this **Stipulation** or as ordered by the **Court**.

7. **Plaintiff's Attorneys** unconditionally warrant and represent that they are authorized by **Plaintiff** for whom they are attorneys of record, and the attorneys of record for **Defendant** warrant and represent that they are authorized by **Defendant**, to take all appropriate action required or permitted to be taken by such **Parties** pursuant to this **Stipulation** to effectuate its terms, and to execute any other documents required to effectuate the terms of this **Stipulation**. The **Parties** and their counsel will cooperate with each other and use their best efforts to effect the implementation of the **Settlement**. In the event the **Parties** are unable to reach agreement on the form or content of any document needed to implement the **Stipulation**, or on any supplemental provisions that may become necessary to effectuate the terms of this **Stipulation**, the **Parties** agree to first seek the assistance of mediator Steve Serratore. If the **Parties** are unable to reach an agreement with the mediator's assistance, they will seek the assistance of the **Court**. In all cases all such documents, supplemental provisions and assistance of the mediator and the **Court** shall be consistent with this **Stipulation**.

8. **Plaintiff's Attorneys** shall be permitted to retain a copy of all confidential documents produced by **Defendant** in the **Action** for a period of not more than five (5) years from the date of entry of Judgment. **Plaintiff's Attorneys** shall not be permitted to use any confidential documents produced by **Defendant** in the **Action**, except in a proceeding for malpractice against **Plaintiff's Attorneys**.

9. This **Stipulation** may be amended, modified, changed, or waived only by an express written instrument signed by all **Parties** or their successors-in-interest.

10. This **Stipulation** shall be binding upon, and inure to the benefit of, the successors of each of the **Parties**.

11. All **Settlement** documents, including form of notice, preliminary approval and final approval must be acceptable to both **Parties** prior to being filed with the **Court**.

12. All terms of this **Stipulation** and its Exhibit A shall be governed by and interpreted according to the laws of the State of California, without giving effect to any conflict of law principles or choice of law principles.

Bryan Cave LEIGHTON PAISNER LLP
1920 Main St., Suite 1000
Irvine, California 92612-4414

13. The **Parties** have cooperated in the drafting and preparation of this **Stipulation**. This **Stipulation** shall not be construed against any party on the basis that the party was the drafter or participated in the drafting.

14. This **Stipulation** may be executed in one or more counterparts. All executed counterparts and each of them shall be deemed to be one and the same instrument. Facsimile signatures or electronic signature may be used for the same purposes as an original. Any executed counterpart shall be admissible in evidence to prove the existence and contents of this **Stipulation**.

15. **Plaintiff** and **Defendant** believe this is a fair, reasonable and adequate **Settlement** and have arrived at this **Settlement** through arms-length negotiations, taking into account all relevant factors, present and potential.

16. The descriptive headings of any paragraph or sections of this **Stipulation** are inserted for convenience of reference only and do not constitute a part of this **Stipulation**.

Dated: 11-12, 2021

Hector Avina

DocuSigned by:

Hector Avina

A07F0E4009454E5...

Hector Avina

Dated: _____, 2021

SHULTZ STEEL COMPANY

By: _____

Name: _____

Title: _____

1 13. The **Parties** have cooperated in the drafting and preparation of this
2 **Stipulation**. This **Stipulation** shall not be construed against any party on the basis that the party
3 was the drafter or participated in the drafting.

4 14. This **Stipulation** may be executed in one or more counterparts. All
5 executed counterparts and each of them shall be deemed to be one and the same instrument.
6 Facsimile signatures or electronic signature may be used for the same purposes as an original.
7 Any executed counterpart shall be admissible in evidence to prove the existence and contents of
8 this **Stipulation**.

9 15. **Plaintiff** and **Defendant** believe this is a fair, reasonable and adequate
10 **Settlement** and have arrived at this **Settlement** through arms-length negotiations, taking into
11 account all relevant factors, present and potential.

12 16. The descriptive headings of any paragraph or sections of this **Stipulation**
13 are inserted for convenience of reference only and do not constitute a part of this **Stipulation**.

14
15
16 Dated: _____, 2021

Hector Avina

17
18 _____
19 Hector Avina

20
21 Dated: 11/9 _____, 2021

SHULTZ STEEL COMPANY

22 By: Colette Koby

23 Name: Colette Koby

24 Title: Senior Employment Counsel
25
26
27
28

Bryan Cave LEIGHTON PAISNER LLP
1920 Main St., Suite 1000
Irvine, California 92612-4414

1 APPROVED AS TO FORM ONLY:

2 Dated: November 9, 2021

BRYAN CAVE LEIGHTON PAISNER LLP

Allison C. Eckstrom

Christopher J. Archibald

By:



Allison C. Eckstrom

Attorneys for Defendant

SHULTZ STEEL COMPANY

9 Dated: November 9, 2021

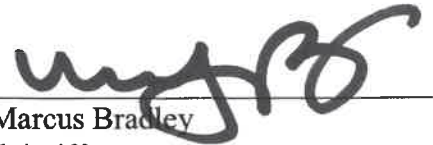
BRADLEY/GROMBACHER, LLP

Marcus J. Bradley

Kiley L. Grombacher

Lirit A. King

By:



Marcus Bradley

Attorneys for Plaintiff

HECTOR AVINA

16 Dated: November 9, 2021

LAW OFFICES OF SAHAG MAJARIAN II

Sahag Majarian II

DocuSigned by:



3142D9828E6E4A2

By:

Sahag Majarian II

Attorneys for Plaintiff

HECTOR AVINA