

PRIVATE ATTORNEYS GENERAL ACT
SETTLEMENT AGREEMENT AND RELEASE

This Private Attorneys General Act Settlement Agreement and Release (“Agreement”) is made by and between Plaintiff EDWARD ORDEZ (collectively, “Plaintiff”), individually, and on behalf of all other aggrieved employees (the “Aggrieved Employees,” as described below), and as a private attorney general on behalf of the State of California pursuant to Labor Code section 2699, *et seq.*, the Private Attorneys General Act (“PAGA”) on the one hand, and Defendant SCHUFF STEEL COMPANY (“Defendant”), on the other hand. Plaintiff and Defendant are collectively referred to herein as “the Parties.”

This Agreement, and the settlement embodied herein, shall be binding on Plaintiff, the LWDA (together with any predecessor or successor agency of the State of California with responsibility for enforcing the provisions of the PAGA), the Aggrieved Employees he represents, and Defendant, subject to the approval of the Court.

WHEREAS, on November 5, 2020, Plaintiff filed a class action complaint (“Complaint”) in the Superior Court of California, San Joaquin County entitled *Ordez v. Schuff Steel Company*, Case No. STK-CV-UOE-2020-0009361 (the “Lawsuit”). On January 12, 2021, Plaintiff filed his First Amended Complaint adding an eighth cause of action for civil penalties under PAGA. On January 27, 2021, Plaintiff filed an application to dismiss Plaintiff’s causes of action one through seven against Defendant without prejudice, since Plaintiff signed an arbitration agreement that appeared enforceable. Plaintiff then proceeded with a single cause of action for civil penalties under PAGA. The Lawsuit asserts representative claims for civil penalties payable to himself, other aggrieved employees, and the State of California pursuant to PAGA, based on allegations that Defendant: (1) failed to pay minimum and regular rate wages; (2) failed to pay overtime compensation; (3) failed to provide meal periods; (4) failed to authorize and permit rest breaks; (5) failed to timely pay final wages at termination; and (6) failed to furnish accurate itemized wage statements. Specifically, the Representative PAGA Claims are PAGA claims asserted or which could have been asserted in the Lawsuit and both or either of Plaintiff’s Complaints and/or PAGA Notice filed with the LWDA, including all PAGA claims stated expressly or by implication in the Notice filed with the LWDA or that could have been alleged based on the facts and circumstances set forth therein. The applicable PAGA Notice related to the Lawsuit is attached hereto as **Exhibit A** (all of the foregoing is collectively referred to as Plaintiff’s “Representative PAGA Claims”).

WHEREAS, Plaintiff timely sent notice to the LWDA of his intent to pursue representative actions pursuant to PAGA, on behalf of himself, other aggrieved employees, and the State of California (the notice by Plaintiff to the LWDA is referred to as the “PAGA Notice” herein).

WHEREAS, during the pendency of the Lawsuit, the Parties conducted significant investigation of the facts and law and engaged in an informal discovery exchange prior to mediation. In response to Plaintiff’s Counsel’s informal discovery requests, Defendant provided Plaintiff’s Counsel with information and documents pertaining to Plaintiff and the Aggrieved Employees, and the claims in the Lawsuit, including time punch and payroll data, to provide Plaintiff’s

Counsel the opportunity to investigate Plaintiff's allegations and the Representative PAGA Claims.

WHEREAS, on April 26, 2022, the Parties attended a full day mediation with experienced wage-and-hour mediator Steven Rottman, Esq. As a result, the Parties agreed to settle Plaintiff's Representative PAGA Claims, taking into account all known facts and circumstances including the difficulty of proving some of Plaintiff's claims, potential defenses asserted by Defendant, the uncertainty associated with litigation, the risks of significant delay, and numerous potential appellate issues.

WHEREAS, for purposes of this Settlement, the Aggrieved Employees are defined as: "(1) all persons employed by Defendant in a non-exempt position in the State of California at any time during the PAGA Period that were not subject to a Collective Bargaining Agreement and (2) all persons employed by Defendant in a non-exempt position in the State of California subject to a Collective Bargaining Agreement at any time between November 5, 2019 and July 1, 2020."

WHEREAS, for purposes of this Settlement, PAGA Period is defined as the period from November 5, 2019 through the date of entry of order for PAGA settlement approval.

WHEREAS, the Parties understand, acknowledge, and agree that this PAGA settlement constitutes a compromise of Plaintiff's Representative PAGA Claims, and that it is the desire and intention of the Parties to effect a final and complete resolution of the Representative PAGA Claims that Plaintiff, both for himself and as private attorney general acting for the LWDA, and the Aggrieved Employees have or may have against Defendant as well as all its current or former agents, officers, directors, managers, shareholders, members, owners, subsidiaries, parent companies, related companies, insurers, employees, representatives, attorneys, and all persons acting by, through, under or in concert with any of them, and each of their respective heirs, successors, and assigns, and /or any individual or entity which could be jointly liable with Defendant for the claims alleged (collectively, the "Released Parties"). The Parties further acknowledge that this Agreement is a compromise of disputed claims and that nothing in this Agreement shall be construed as an admission by Defendant or the Released Parties of any wrongdoing or liability. Specifically, Defendant and the Released Parties deny any liability or wrongdoing of any kind associated with the claims alleged in the Lawsuit and the PAGA Notice. Defendant and the Released Parties, among other things, contend that they have complied at all times with the California Labor Code and all applicable California laws.

WHEREAS, the Parties believe and agree that this Agreement provides for a fair, adequate, and reasonable resolution of the Representative PAGA Claims, and have arrived at the settlement after extensive, arms-length negotiations, taking into account all relevant factors, present and potential.

WHEREAS, California Labor Code § 2699(k)(2) requires Court review and approval of any settlement of a civil action filed pursuant to PAGA.

WHEREAS, based on their own independent investigations and evaluations, Defendant and

Plaintiff and their respective counsel are of the opinion that the amount and terms of the Settlement are fair, reasonable, and adequate and are in the best interests of the Plaintiff, the Aggrieved Employees, and Defendant in light of all known facts and circumstances and the risks inherent in litigation, including the potential appellate issues. Further, counsel for Plaintiff and the Aggrieved Employees, Moon & Yang, APC believes that the settlement amount entered into is in the best interests of the Aggrieved Employees and that the settlement for each Aggrieved Employee is fair, reasonable, and adequate, given the inherent risk of litigation.

WHEREAS, the Parties: (1) believe and agree that this Agreement provides for a fair, adequate, and reasonable resolution of the Representative PAGA Claims, (2) have investigated the facts relevant to this settlement and this Agreement, and all matters pertaining thereto, and (3) have arrived at the settlement through extensive, arms-length negotiations, taking into account all relevant factors, present and potential.

WHEREAS, the Parties recognize that in accordance with Labor Code section 2699(l), Court approval is required in the event of a settlement of a PAGA action on a representative basis. However, as explained in *Arias v. Superior Court*, 46 Cal. 4th 969 (2009), the Parties are not obligated to follow the class action procedural rules in PAGA cases and therefore need not obtain approval of the PAGA settlement through a motion for preliminary or final approval. *See also Mendoza v. Nordstrom, Inc.*, 2 Cal. 5th 1074 (2017) (“PAGA authorizes a representative action without the need for class certification”); *Baumann v. Chase Inv. Servs. Corp.*, 747 F.3d 1117, 1123 (9th Cir. 2014) (“a PAGA suit is fundamentally different than a class action” in that PAGA has no notice requirements for unnamed aggrieved employees, nor may such employees opt out of a PAGA action); *Williams v. Sup. Ct.*, 3 Cal. 5th 531, 546-47 (2017) (“PAGA does not make other potentially aggrieved employees parties or clients of plaintiff’s counsel, does not impose on a plaintiff or counsel any express fiduciary obligations, and does not subject a plaintiff or counsel to scrutiny with respect to the ability to represent a large class”).

Therefore, in consideration of the promises and agreements contained herein, and to avoid the uncertainty, risks, costs, and delays associated with further litigation, the Parties agree and covenant as follows:

1. Effective Date. The effective date (“Effective Date”) of this Agreement shall mean the following: (a) the date of entry of the order of the court approving this Agreement and the PAGA Settlement if no objections are filed to this settlement or if all objections are withdrawn prior to the Court ruling on them and if no individual attempts to intervene in the Lawsuit; or (b) sixty-five (65) days after the date of entry of the settlement approval order if objections are filed and overruled and no appeal is taken from the order approving the settlement; or (c) if a timely appeal is made, ten (10) business days after the final resolution of that appeal if the appeal is unsuccessful, the settlement is upheld, and the settlement approval order is no longer subject to further judicial review. If there is an intervenor, but no appeal is filed, the expiration date of the time for filing or noticing any appeal of the Judgment shall be the date the Settlement is Final. If there is no intervenor in the action, the date the Court enters an order approving this Settlement shall be the date the Settlement is Final.

2. PAGA Released Claims/Effect of Judgment on Aggrieved Employees and LWDA. The Parties agree and acknowledge that, to the maximum extent permitted by law, the final judgment entered pursuant to this settlement will bind all those who would be bound by a judgment if the action had been brought by the LWDA, including Plaintiff, the LWDA, and the Aggrieved Employees, with respect to the recovery of civil penalties under the California Private Attorneys General Act, California Labor Code § 2698, *et. seq.* only, against the “Released Parties” (defined above). It is expressly understood and agreed that this settlement only includes a full release of the Representative PAGA Claims. As a result of this release, the Aggrieved Employees will be unable to bring a claim under, or recover in any other claim brought under, the California Private Attorneys General Act, California Labor Code § 2698 *et seq.*, for any violations of the Representative PAGA Claims that took place during the PAGA Period. In addition, Plaintiff shall execute a general release of all claims as part of the terms of the Agreement. With the exception of Plaintiff, this settlement shall not impact Aggrieved Employees’ ability to assert claims other than PAGA claims arising from the alleged foregoing violations of the Labor Code.

3. General Release. Subject to the court approval, and in exchange for a general release and services provided by Plaintiff as PAGA representative, Defendant will not object to Plaintiff’s counsel’s application for an additional payment of up to \$7,500 to Plaintiff for service as a PAGA representative and general release of all Plaintiff’s claims (“General Release Payment”) which shall come out of the Gross Settlement Amount (defined below). General release means Plaintiff’s irrevocable and unconditional release, acquittal, and discharge of the Released Parties from any and all Representative PAGA Claims defined in the Recitals and any and all existing claims, demands, suits, actions, causes of action, obligations, agreements, contracts, promises, liabilities, debts, compensation, damages, losses, costs, expenses, and attorneys’ fees, of any and every kind, nature or character, known or unknown, suspected or unsuspected, actual or potential, absolute or contingent, pending or anticipated, including but not limited to those arising under any federal, state, or local law, regulation or ordinance, contract, quasi-contract, the common law, public policy, or any constitution, such as, without limitation, the California Constitution; the California Labor Code, including Labor Code section 132a; Family and Medical Leave Act; California Family Rights Act; Title VII of the Civil Rights Act of 1964; the Civil Rights Act of 1991; the California Fair Employment and Housing Act; the Private Attorneys General Act of 2004; Americans with Disabilities Act; Older Workers Benefit Protection Act; Age Discrimination in Employment Act; Consolidated Omnibus Budget Reconciliation Act of 1985; Employee Retirement Income Security Act of 1974; Immigration Reform and Control Act; the Workers Adjustment and Retraining Notification Act; The Occupational Safety and Health Act; The Sarbanes-Oxley Act of 2002; The Fair Credit Reporting Act; the Equal Pay Act; The Genetic Information Nondiscrimination Act of 2008; Statutory Provision Regarding the Confidentiality of AIDS Information – Cal. Health & Safety Code § 120775; California Confidentiality of Medical Information Act; California Civil Code section 51 *et seq.*; Wage Orders of the California Industrial Welfare Commission; the California Code of Regulations; the California Business and Professions Code; Fair Labor Standards Act; and claims of intentional infliction of emotional distress; defamation and/or libel, or any other damage to reputation claims; breach of implied contract;

breach of the covenant of good faith and fair dealing, as well as any other express or implied covenant; or any other statute or common law principle of similar effect, known or unknown, which Plaintiff now has, owns, or holds, or claims to have, own or hold, or which Plaintiff at any time heretofore had, owned, or held, or claimed to have, own, or hold or which Plaintiff at any time hereinafter may have, own, or hold, or claim to have, own, or hold, against each or any of the Released Parties, arising from acts, events, or circumstances occurring on or before the effective date of this Agreement. Plaintiff's worker's compensation claims and any other claims which cannot be released by law are not released by this Agreement. With respect to claims released in this Section, Plaintiff expressly waives the benefits of California Civil Code section 1542. Civil Code section 1542 provides:

A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS THAT THE CREDITOR OR RELEASING PARTY DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE AND THAT, IF KNOWN BY HIM OR HER, WOULD HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR OR RELEASED PARTY.

Notwithstanding the provisions of section 1542, and for the purpose of implementing a complete release and discharge of the claims in the General Release, Plaintiff expressly acknowledges that this Agreement is intended to include in its effect all claims he does not know of or suspect to exist in his favor at the time of execution hereof and that this Agreement contemplates the extinguishment of all such claims.

4. Notice to LWDA. Pursuant to California Labor Code § 2699(k)(2), the Parties shall submit to the LWDA a copy of this Agreement at the same time that the Parties submit it to the Court for approval.

5. No Right to Opt Out. The Parties agree that there is no statutory right for any Aggrieved Employee to opt out or otherwise exclude him or herself from the Settlement.

6. Gross Settlement Amount. Defendant agrees to pay, in accordance with the terms set forth herein, the total sum of \$413,400.00 as the non-reversionary gross settlement amount (the "Gross Settlement Amount") in full settlement of the Lawsuit. The Gross Settlement Amount is a maximum payment by Defendant (subject to the Escalator Clause described below), and will be allocated as follows:

- a. PAGA Counsel's attorneys' fees and costs request of up to 35% of the Gross Settlement Amount ((\$144,690.00) ("PAGA Counsel's Fees")) and PAGA Counsel's separate request for reasonable litigation costs incurred in this matter ("PAGA Counsel's Costs") not to exceed \$16,000.00. Defendant will not oppose these requests provided that they do not exceed the aforesaid maximums. To the extent that the Court approves less than the amount of attorney's fees and costs that PAGA Counsel requests, any reduced amount shall revert to the PAGA Fund (defined below).

- b. Administration costs, initially estimated not to exceed \$20,000.00, to be paid to the Settlement Administrator (“Administration Costs”). If the Administration Costs are less than \$20,000, the difference shall be included within the PAGA Fund. If the Administration Costs are greater than \$20,000, any additional fees shall be deducted from the Gross Settlement Amount. ILYM Group, Inc. has been selected to be the Settlement Administrator, based upon a bid of \$8,990.00.
- c. In exchange for Plaintiff’s release of all claims defined in Paragraph 3 of this Agreement (General Release), and in addition to his individual PAGA settlement allocation as an Aggrieved Employee, PAGA Counsel will request \$7,500.00 be paid to Plaintiff as a General Release Payment (“General Release Payment”) for his efforts in bringing and prosecuting this Lawsuit and for general release of all potential claims against Defendant as defined in Paragraph 3. Defendant will not oppose the General Release Payment provided that it does not exceed \$7,500.00. To the extent the Court awards a lesser amount for the General Release Payment, the difference between the requested and awarded amounts shall be included in the PAGA Fund.
- d. The remainder of the Gross Settlement Amount (the “PAGA Fund”) after deducting items (a), (b) and (c) is approximately \$236,220.00, and shall be designated as PAGA Penalties to be allocated between the LWDA and the Aggrieved Employees pursuant to Labor Code section 2699(i), with 75% paid to the LWDA (the “LWDA PAGA Portion”) and 25% paid to the Aggrieved Employees (the “Aggrieved Employees’ PAGA Portion”) on a pro-rata basis as set forth in Paragraph 12 below.

7. **Allocation Adjustment.** The parties agree that should the Court deny approval of the Gross Settlement Amount and / or the PAGA Fund the parties agree to renegotiate the allocation of funds in good faith in an effort to obtain approval of the settlement; provided, however, that Defendant’s obligations under this Section shall be limited to negotiating in good faith and shall not be construed as requiring that Defendant agree to pay an amount exceeding the Gross Settlement Amount, or any amount in particular.

8. **Allocation and Calculation of the PAGA Penalties.** Each Aggrieved Employee shall receive a portion of the Aggrieved Employees’ PAGA Portion of the PAGA Fund on a pro-rata basis based on their Individual Weeks Worked during the PAGA Period. The Individual Weeks Worked Defendant will calculate both: (1) the “Total Weeks Worked” which will be the total number of weeks worked by all Aggrieved Employees for Defendant in California in non-exempt positions not subject to a Collective Bargaining Agreement during the PAGA Period and in non-exempt positions subject to a Collective Bargaining Agreement between November 5, 2019 and July 1, 2020 and (2) the “Individual Weeks Worked” by each individual Aggrieved Employee which will be the total number of weeks worked by an individual Aggrieved Employee for Defendant in California in a non-exempt position not

subject to a Collective Bargaining Agreement during the PAGA Period or in a non-exempt position subject to a Collective Bargaining Agreement between November 5, 2019 and July 1, 2020. To determine each Aggrieved Employee's payment from the Aggrieved Employees' PAGA Portion, Defendant will use the following formula: Settlement Payment = Aggrieved Employees' PAGA Portion $\times$ [Individual Weeks Worked of the Aggrieved Employee $\div$ Total Weeks Worked by All Aggrieved Employees].

9. Escalator Clause: Defendant estimates there were approximately 28,000 total weeks worked by all Aggrieved Employees for Defendant in California in non-exempt positions not subject to a Collective Bargaining Agreement from November 5, 2019 through April 26, 2022 and in non-exempt positions subject to a Collective Bargaining Agreement between November 5, 2019 and July 1, 2020, and this estimate serves as the basis for Plaintiff's accepting the settlement. If the actual number of such work weeks exceeds 15% of the estimated work weeks (*i.e.*, exceeds 32,200 work weeks), the GSF will be increased proportionately over the 15% margin (*i.e.*, if the work weeks are 16% higher than 28,000, the GSF will be increased by 1%). Aside from the terms set forth in this paragraph, under no circumstances will Defendant be required to pay any additional monies in order to receive the release of claims as set forth herein.

10. Tax Treatment of Settlement Amounts. With regard to settlement payments to Aggrieved Employees, IRS Form 1099s will be issued by the Settlement Administrator, if applicable. IRS Form 1099s are used for payments of miscellaneous income that is not considered wages, such as the penalty payments at issue in this Settlement. Nothing in this Settlement is intended to constitute legal advice regarding federal, state, and/or local tax obligations. Defendant, their counsel and Plaintiff's and the Aggrieved Employees' counsel are not responsible for any employee tax obligations regarding the allocation of the settlement payments. Payment of the portion allocated to PAGA Counsel's fees and costs will be reflected in a Form 1099 to PAGA Counsel, who shall assume full responsibility and liability for the payment of taxes due on such payments.

11. Circular 230 Disclaimer. EACH PARTY TO THIS AGREEMENT (FOR PURPOSES OF THIS SECTION, THE "ACKNOWLEDGING PARTY" AND EACH PARTY TO THIS AGREEMENT OTHER THAN THE ACKNOWLEDGING PARTY, AN "OTHER PARTY") ACKNOWLEDGES AND AGREES THAT (1) NO PROVISION OF THIS AGREEMENT, AND NO WRITTEN COMMUNICATION OR DISCLOSURE BETWEEN OR AMONG THE PARTIES OR THEIR ATTORNEYS AND OTHER ADVISERS, 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 ACKNOWLEDGING PARTY (A) HAS RELIED EXCLUSIVELY UPON HIS OR ITS OWN, INDEPENDENT LEGAL AND TAX ADVISERS FOR ADVICE (INCLUDING TAX ADVICE) IN CONNECTION WITH THIS AGREEMENT, (B) HAS NOT ENTERED INTO THIS AGREEMENT BASED UPON THE RECOMMENDATION OF ANY OTHER PARTY OR ANY ATTORNEY OR ADVISOR TO ANY OTHER PARTY, AND (C) IS NOT ENTITLED TO RELY UPON ANY

COMMUNICATION OR DISCLOSURE BY ANY ATTORNEY OR ADVISER TO ANY OTHER PARTY TO AVOID ANY TAX PENALTY THAT MAY BE IMPOSED ON THE ACKNOWLEDGING PARTY; AND (3) NO ATTORNEY OR ADVISER TO ANY OTHER PARTY HAS IMPOSED ANY LIMITATION THAT PROTECTS THE CONFIDENTIALITY OF ANY SUCH ATTORNEY'S OR ADVISER'S TAX STRATEGIES (REGARDLESS OF WHETHER SUCH LIMITATION IS LEGALLY BINDING) UPON DISCLOSURE BY THE ACKNOWLEDGING PARTY OF THE TAX TREATMENT OR TAX STRUCTURE OF ANY TRANSACTION, INCLUDING ANY TRANSACTION CONTEMPLATED BY THIS AGREEMENT.

12. PAGA Settlement Payment Procedures.

- a. Within 14 calendar days of the Effective Date, Defendant shall provide the Settlement Administrator with a list of all Aggrieved Employees with each listed employee's full name, last known mailing address, social security number, their applicable Individual Weeks Worked. The Settlement Administrator shall run all the addresses of Aggrieved Employees through the United States Postal Service NCOA database to obtain current address information.
- b. Within 21 calendar days of the Effective Date, Defendant shall deposit the Gross Settlement Amount of \$413,400.00 with the Settlement Administrator.
- c. Within 14 calendar days from the date the Gross Settlement Amount has been deposited with the Settlement Administrator, the Settlement Administrator shall:
 - i. Distribute a total of Twenty-Five percent (25%) of the PAGA Fund to the Aggrieved Employees, along with the Notice of PAGA Representative Action Settlement (attached hereto as **Exhibit B**). Aggrieved Employees shall not be required to make claims to receive their share of the PAGA settlement. The payment checks shall be sent to each Aggrieved Employee by U.S. First Class mail to the Aggrieved Employee's last known mailing address with directions to the Postmaster to forward the payment checks and return all undeliverable payment checks to the Settlement Administrator. It will be conclusively presumed that an Aggrieved Employee's individual settlement payment check was received if the payment check has not been returned within thirty (30) days of the original mailing. All uncashed settlement checks shall be sent to the California State Controller's Unclaimed Property division.
 - ii. Distribute a total of Seventy-Five percent (75%) of the PAGA Fund to the LWDA.
 - iii. Distribute PAGA Counsel's fees and costs, as approved by the Court.

- iv. Distribute General Release Payment to Plaintiff, as approved by the Court.
- v. Distribute payment to itself for services as Settlement Administrator, as approved by the Court.
- d. Settlement Checks issued to Aggrieved Employees pursuant to this Agreement will expire one hundred and eighty (180) days from the date they are mailed by the Settlement Administrator. All money represented by uncashed settlement checks shall be sent to the California State Controller's Unclaimed Property division in the name of the individual(s) who did not negotiate a settlement check during the negotiation period.
- e. The Parties and their counsel shall not bear any liability for lost or stolen checks, forged signatures on checks, or unauthorized negotiation of checks. Unless responsible by its own acts of omission or commission, the same is true for the Settlement Administrator.

13. Settlement Administrator. The Settlement Administrator shall be responsible for sending notices, calculating settlement payments, preparing all checks and mailings, and complying with all requirements set forth herein. As noted above, the costs of the Settlement Administrator shall be paid out of the Gross Settlement Amount, and the Parties agree to use ILYM Group, Inc. as the Settlement Administrator.

14. Plaintiff's Duties Related to Approval. Promptly upon execution of this Agreement, Plaintiff shall file his motion for approval of the proposed Settlement and for the entry of an order approving this Settlement as required by Labor Code section 2699(l). The approval motion will request Court approval of the following: (1) the terms of this Agreement, (2) PAGA Counsel's Fees and PAGA Counsel's Costs, (3) payments to Aggrieved Employees and the LWDA, (4) payment to the Settlement Administrator, and (5) Final Judgment. In conjunction with the approval motion, Plaintiff shall submit a proposed Final Judgment to the Court.

15. Interim Stay of Proceedings. The Parties agree to refrain from further litigation of this matter, except such proceedings necessary to implement and obtain Final Judgment.

16. Invalid without Court Approval. In the event this Agreement is not approved by the Court, it shall be deemed null and void, of no force and effect, and of no probative or evidentiary value, and the Parties hereto represent, warrant, and covenant that it will not be used or referred to for any purpose whatsoever. In the event that the Agreement does not become final for any reason, this Agreement shall be null and void and any order entered by the Court in furtherance thereof shall be treated as void ab initio. In such a case, the Parties shall return to the status quo as if they had not entered into this Agreement. The Settlement Administrator shall incur no costs prior to the Effective Date, it being understood and agreed that no Party shall be

obligated to make any payment whatsoever on account of this Agreement until and unless the Court has entered judgment approving the Settlement and said judgment has become final.

17. No Publicity. Plaintiff and PAGA Counsel agree that they will not issue any press releases, initiate any contact with the press, respond to any press inquiry or have any communication with the press about this case and/or the fact, amount or terms of the Settlement. In addition, Plaintiff and PAGA Counsel agree that they will not engage in any advertising or distribute any marketing materials relating to the Settlement, including but not limited to any postings on any websites maintained by PAGA Counsel; provided, however, that PAGA Counsel may state that it has settled a PAGA claim against a company so long as neither Defendant nor the Plaintiff is identified and the Parties' identities are not reasonably inferable based on the content of PAGA Counsel's statement.

18. Non-Admission of Wrongdoing. The Parties agree that this Agreement does not constitute an admission by Defendant or any Released Party, of any of the matters alleged in the Lawsuit or of any violation by any of them of any federal, state or local law, ordinance or regulation, or of any violation of any policy or procedure, or of any liability or wrongdoing whatsoever. Neither this Agreement nor anything in this Agreement shall be construed to be or shall be admissible in any proceeding as evidence of liability or wrongdoing by Plaintiff, Defendant or the Released Parties.

19. Waiver and Amendment. The Parties may not waive, amend, or modify any provision of this Agreement except by a written agreement signed by all of the Parties, and subject to any necessary Court approval. A waiver or amendment of any provision of this Agreement will not constitute a waiver of any other provision.

20. Covenants and Representations. Plaintiff represents and warrants he has not assigned or transferred or purported to assign or transfer, to any person or entity, any claim, right, liability, demand, obligation, expense, action, or causes, or portion thereof, or interest therein, which is or may be subject to this Settlement. Plaintiff acknowledges he has read this Settlement, fully understands his rights, privileges, and duties under the Settlement, and enters into this Settlement freely and voluntarily, and without duress. Plaintiff further acknowledges he had the opportunity to consult with his attorney to explain the terms of this Settlement and the consequences of signing this Settlement.

21. Termination of Settlement. If the LWDA objects to the Settlement or the Court does not approve the Settlement or does not enter judgment as provided for in this Settlement or if appellate review is sought and, on such review, the Court's approval of the Settlement is materially modified or reversed, or, except as otherwise set forth herein, if one or more material terms of the Settlement is not approved or is materially modified or reversed or found to be invalid, then either of the Parties shall have the right within ten (10) days of written notice thereof to elect to terminate the Settlement, in which case the Settlement shall have no force or effect, and the Parties shall be deemed to have reverted to their respective status as of the date and time immediately prior to the execution of this Settlement and neither this Agreement nor any of the related negotiations or proceedings shall be of any force or effect.

22. Enforcement. The Parties agree that following entry of the Final Judgment, this Agreement shall be enforceable by the Court and the Court shall retain exclusive and continuing jurisdiction of the Lawsuit over all parties and the Aggrieved Employees to interpret and enforce the terms, conditions, and obligations of the Agreement pursuant to California Code of Civil Procedure section 664.6. In the event that one or more of the Parties to this Settlement institutes any legal action or other proceeding against any other party or parties to enforce the provisions of this Settlement or to declare rights and/or obligations under this Settlement, the successful party or parties shall be entitled to recover from the unsuccessful party or parties reasonable attorney's fees and costs, including expert witness fees incurred in connection with any enforcement actions.

23. Non-Evidentiary Use. Whether or not the Effective Date occurs, neither this Agreement nor any of its terms nor the Settlement itself shall be: (a) construed as, offered, or admitted in evidence as, received as, or deemed to be evidence for any purpose adverse to Defendant or any other of the Released Parties, including but not limited to, evidence of a presumption, concession, indication, or admission by any of the Released Parties of any liability, fault, wrongdoing, omission, concession, or damage, or (b) disclosed, referred to, or offered in evidence against any of the Released Parties in any further proceeding in the Lawsuit, or any other civil, criminal, or administrative action or proceeding except for the purposes of effectuating the Settlement pursuant to this Agreement or for Defendant to establish that an Aggrieved Employee has resolved any of his/her claims released through this Agreement.

24. Costs and Fees. The Parties shall each bear their own costs, attorneys' fees, expert fees, mediator fees, and other fees incurred in connection with this Settlement, the Lawsuit and Plaintiff's claims, except as otherwise set forth specifically herein.

25. Entire Agreement. This Agreement contains the entire agreement between the Parties with respect to the transactions contemplated hereby, and supersedes all negotiations, presentations, warranties, commitments, offers, contracts and writings prior to the date hereof relating to the subject matters hereof. Any representation, promise or agreement not specifically included in this Agreement shall not be binding upon or enforceable against either Party. This is a fully integrated agreement. No other promises or agreements shall be binding or shall modify this Agreement unless in writing and signed by the Parties.

26. Severability. If any provision of this Agreement or the application thereof is held invalid, the invalidity shall not affect other provisions or applications of the Agreement that can be given effect without the invalid provisions or application, and to this end, the provisions of this Agreement are declared to be severable. Notwithstanding the foregoing, no portion of any release contained herein may be deemed severed or deleted from this Agreement, except upon waiver in writing by the applicable Released Party.

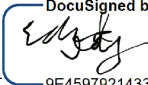
27. No Construction Against the Drafter. Each Party has cooperated in the drafting and preparation of this Agreement. Hence, in any construction to be made of this Agreement, the same shall not be construed against any Party on the basis that the Party was the drafter.

28. Choice of Law. This Agreement shall be deemed to have been executed and delivered within the State of California, and the rights and obligations of the parties hereunder shall be construed and enforced in accordance with, and governed by, the laws of the State of California without regard to principles of conflict of laws.

29. Counterparts. This Agreement may be executed by one or more of the Parties on any number of separate counterparts and delivered electronically, and all of said counterparts taken together shall be deemed to constitute one and the same instrument.

30. Cooperation. Each Party, on behalf of themselves, and their respective business entities, heirs, executors, and assigns, agrees that they will abide by this Agreement and will do all such acts, and prepare, execute, and deliver all such documents, as may be reasonably required to carry out the stated objectives of this Agreement.

Dated: 6/9/2022

DocuSigned by:

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Plaintiff Edward Ordez

Dated: _____, 2022

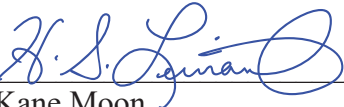
Defendant Schuff Steel Company

By: _____
Its: _____

APPROVED AS TO FORM AND CONTENT:

Dated: June 12, 2022

MOON & YANG, APC

By: 
Kane Moon
H. Scott Leviant
Mariam Ghazaryan

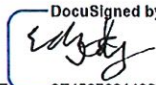
Attorneys for Plaintiff Edward Ordez, and
Aggrieved Employees

28. **Choice of Law.** This Agreement shall be deemed to have been executed and delivered within the State of California, and the rights and obligations of the parties hereunder shall be construed and enforced in accordance with, and governed by, the laws of the State of California without regard to principles of conflict of laws.

29. **Counterparts.** This Agreement may be executed by one or more of the Parties on any number of separate counterparts and delivered electronically, and all of said counterparts taken together shall be deemed to constitute one and the same instrument.

30. **Cooperation.** Each Party, on behalf of themselves, and their respective business entities, heirs, executors, and assigns, agrees that they will abide by this Agreement and will do all such acts, and prepare, execute, and deliver all such documents, as may be reasonably required to carry out the stated objectives of this Agreement.

Dated: 6/9/2022

DocuSigned by:

9E4597921433428...
Plaintiff Edward Ordez

Dated: June 15, 2022


Defendant Schuff Steel Company

By: SCOTT D. SHERMAN
Its: Vice-President and General Counsel

APPROVED AS TO FORM AND CONTENT:

Dated: June 12, 2022

MOON & YANG, APC

By: 
Kane Moon
H. Scott Leviant
Mariam Ghazaryan

Attorneys for Plaintiff Edward Ordez, and
Aggrieved Employees

Exhibit “A”

MOON & YANG, APC

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Kane Moon, Esq.
Kane.moon@moonyanglaw.com

November 2, 2020

VIA ONLINE SUBMISSION

Labor & Workforce Development Agency
Attn. PAGA Administrator
1515 Clay Street, Ste. 801
Oakland, CA 94612

VIA CERTIFIED MAIL

Schuff Steel Company
2324 Navy Drive
Stockton, CA 95206

Notice of Labor Code Violations and PAGA Penalties

Re: ***Edward Ordez v. Schuff Steel Company***

To Whom It May Concern:

Please be advised that my office has been retained by Edward Ordez (“Plaintiff”) to pursue a Labor Code Private Attorney General Act (PAGA) representative action (Cal. Lab. Code §§ 2699, *et seq.*) against his former employer, Schuff Steel Company (“Defendant”). The purpose of this letter is to comply with PAGA and set forth the facts and theories of California Labor Code violations which we allege Defendant engaged in with respect to Plaintiff and all of Defendant’s aggrieved employees.

Plaintiff wishes to pursue a PAGA representative action on behalf of himself as an aggrieved employee, on behalf of the State of California, and on behalf of all other current and former aggrieved employees who worked for Defendant in California as an hourly paid, non-exempt employee at any time within the applicable statutory period (hereafter, the “Aggrieved Employees”).

Plaintiff and the Aggrieved Employees of Defendant suffered the Labor Code violations described below.

Factual Background Regarding Plaintiff's Employment with Defendant

Defendant owns and operates an industry, business, and establishment within the State of California, including San Joaquin County. As such, Defendant is subject to the California Labor Code and the Wage Orders issued by the Industrial Welfare Commission ("IWC").

Plaintiff worked for Defendant as an expeditor from approximately 2014 to March 2020, primarily in San Joaquin County. Defendant classified Plaintiff as non-exempt from overtime. During the time period that Plaintiff was employed by Defendant, Plaintiff typically worked 5 days per week, and in excess of 8 hours each workday.

Throughout Plaintiff's employment, Defendant committed numerous labor code violations under state law. As discussed below, Plaintiff's experience working for Defendant was typical and illustrative.

Failure to Pay for All Hours Worked, Including Overtime

Under California law, an employer must pay for all hours worked by an employee. "Hours worked" is the time during which an employee is subject to the control of an employer, and includes all the time the employee is suffered or permitted to work, whether or not required to do so.

In addition, Labor Code § 510 provides that employees in California shall not be employed more than eight (8) hours in any workday or forty (40) hours in a workweek unless they receive additional compensation beyond their regular wages in amounts specified by law.

Labor Code §§ 1194 and 1198 also provide that employees in California shall not be employed more than eight hours in any workday unless they receive additional compensation beyond their regular wages in amounts specified by law. Additionally, Labor Code § 1198 states that the employment of an employee for longer hours than those fixed by the Industrial Welfare Commission is unlawful.

Throughout the statutory period, Defendants maintained a policy and practice of not paying Plaintiff and the Aggrieved Employees for all hours worked, including all overtime wages. Defendants regularly use a system of time rounding in a manner that resulted, over a period of time, in failing to compensate Plaintiff and the Aggrieved Employees properly for all the time they have actually worked, even though the realities of Defendants' operations are such that it is possible, practical, and feasible to count and pay for work time to the minute. Also throughout the statutory period, Plaintiff and the Aggrieved Employees earned non-discretionary bonuses, in the form of safety bonuses paid through \$50 gift cards with the writing "Safety Award" and "Schuff Steel" and "We make safety happen" on those cards. However, these bonus gift cards were not included in the wage statements, and Defendants to include these non-discretionary

bonuses earned by Plaintiff and the Aggrieved Employees for calculating the regular rate of pay for purposes of paying overtime compensation at the correct rate of pay. In maintaining a practice of not paying all wages owed, Defendants failed to maintain accurate records of the hours Plaintiff and the Aggrieved Employees worked.

As a result, Defendant is liable to Plaintiff and the Aggrieved Employees for the civil penalties provided for in Labor Code §§ 210, 558, 1197.1, and 2699(f)(2) for failing to pay for all hours worked, including overtime.

Failure to Provide Meal Periods

Under California law, employers have an affirmative obligation to relieve employees of all duty in order to take their first 30-minute, duty-free meal periods no later than the start of sixth hour of work in a workday, and to allow employees to take their second 30-minute, duty-free meal period no later than the start of the eleventh hour of work in the workday. Further, employees are entitled to be paid one hour of additional wages for each workday they were not provided with all required meal period(s).

Despite these legal requirements, Defendant wrongfully failed to provide Plaintiff and the Aggrieved Employees with legally compliant meal periods. Defendant regularly required Plaintiff and the Aggrieved Employees to work in excess of five consecutive hours a day without providing a 30-minute, continuous and uninterrupted, duty-free meal period for every five hours of work, or without compensating Plaintiff and the Aggrieved Employees for meal periods that were not provided by the end of the fifth hour of work or tenth hour of work. Defendant did not adequately inform Plaintiff and the Aggrieved Employees of their right to take a meal period by the end of the fifth hour of work, or, for shifts greater than 10 hours, by the end of the tenth hour of work. Moreover, Defendant did not have adequate written policies or practices providing meal periods for Plaintiff and the Aggrieved Employees, nor did Defendant have adequate policies or practices regarding the timing of meal periods. Defendant also did not have adequate policies or practices to verify whether Plaintiff and the Aggrieved Employees were taking their required meal periods. Accordingly, Defendant's policy and practice was to not provide meal periods to Plaintiff and the Aggrieved Employees in compliance with California law.

Plaintiff and the Aggrieved Employees are thus entitled to be paid one hour of additional wages for each workday he or she was not provided with all required meal period(s). Defendant, however, regularly failed to pay Plaintiff and the Aggrieved Employees the additional wages to which they were entitled for meal periods and that were not provided.

As a result, Defendant is liable to Plaintiff and the Aggrieved Employees for the civil penalties provided for in Labor Code §§ 210, 558, and 2699(f)(2) for failing to provide meal periods and pay meal period premium wages.

Failure to Authorize and Permit Rest Periods

Employers are required by California law to authorize and permit breaks of 10 uninterrupted minutes for each four hours of work or major fraction of four hours (i.e. more than two hours). Thus, for example, if an employee's work time is 6 hours and ten minutes, the employee is entitled to two rest breaks. Each failure to authorize rest breaks as so required is itself a violation of California's rest break laws.

Defendant, however, wrongfully failed to authorize and permit Plaintiff and the Aggrieved Employees to take timely and duty-free rest periods. Defendant regularly required Plaintiff and the Aggrieved Employees to work in excess of four consecutive hours a day without Defendant authorizing and permitting them to take a 10 minute, continuous and uninterrupted, rest period for every four hours of work (or major fraction of four hours), or without compensating Plaintiff and the Aggrieved Employees for rest periods that were not authorized or permitted. Defendant did not adequately inform Plaintiff and the Aggrieved Employees of their right to take a rest period. Moreover, Defendant did not have adequate policies or practices permitting or authorizing rest periods for Plaintiff and the Aggrieved Employees, nor did Defendant have adequate policies or practices regarding the timing of rest periods. Defendant also did not have adequate policies or practices to verify whether Plaintiff and the Aggrieved Employees were taking their required rest periods. Further, Defendant did not maintain accurate records of employee work periods, and therefore Defendant cannot demonstrate that Plaintiff and the Aggrieved Employees took rest periods during the middle of each work period. Accordingly, Defendant's policy and practice was for Plaintiff and the Aggrieved Employees to work through rest periods and to not authorize or permit them to take any rest periods.

Plaintiff and the Aggrieved Employees are thus entitled to be paid one hour of additional wages for each workday he or she was not authorized and permitted to take all required rest period(s). Defendant, however, regularly failed to pay Plaintiff and the Aggrieved Employees the additional wages to which they were entitled for rest periods and that they were not authorized and permitted to take.

As a result, Defendant are liable to Plaintiff and the Aggrieved Employees for the civil penalties provided for in Labor Code §§ 210, 558, and 2699(f)(2) for failing to authorize and permit rest periods and pay rest period premium wages.

Failure to Maintain Accurate Records of Hours Worked and Meal Periods

Plaintiff seeks penalties under Labor Code § 1174(d). Pursuant to Labor Code § 1174.5, any person, including any entity, employing labor who willfully fails to maintain accurate and complete records required by Labor Code § 1174 is subject to a penalty under § 1174.5. Pursuant to the applicable IWC Order § 7(A)(3), every employer shall keep time records

showing when the employee begins and ends each work period. Meal periods and total hours worked daily shall also be recorded.

Defendant, however, failed to maintain accurate records of hours worked and all meal periods taken or missed by Plaintiff and the Aggrieved Employees.

Defendant's failure to provide and maintain records required by the Labor Code IWC Wage Orders deprived Plaintiff and the Aggrieved Employees the ability to know, understand and question the accuracy and frequency of meal periods, and the accuracy of their hours worked stated in Defendant's records. Therefore, Plaintiff and the Aggrieved Employees had no way to dispute the resulting failure to pay wages, all of which resulted in an unjustified economic enrichment to Defendant. As a direct result, Plaintiff and the Aggrieved Employees have suffered and continue to suffer, substantial losses related to the use and enjoyment of such wages, lost interest on such wages and expenses and attorney's fees in seeking to compel Defendant to fully perform its obligation under state law, all to their respective damage in amounts according to proof at trial. As a result of Defendant's knowing failure to comply with the Labor Code and applicable IWC Wage Orders, Plaintiff and the Aggrieved Employees have also suffered an injury in that they were prevented from knowing, understanding, and disputing the wage payments paid to them.

As a result, Defendant is liable to Plaintiff and the Aggrieved Employees for the civil penalties provided for in Labor Code § 1174.5 for failing to maintain accurate records of hours worked and meal periods.

Failure to Timely Pay All Wages at Termination

Labor Code §§ 201 and 202 provide that if an employer discharges an employee, the wages earned and unpaid at the time of discharge are due and payable immediately, and that if an employee voluntarily leaves his or her employment, his or her wages shall become due and payable not later than seventy-two (72) hours thereafter, unless the employee has given seventy-two (72) hours previous notice of his or her intention to quit, in which case the employee is entitled to his or her wages at the time of quitting.

Within the applicable statute of limitations, the employment of Plaintiff and many other Aggrieved Employees ended, i.e. was terminated by quitting or discharge, and the employment of others will be. However, during the relevant time period, Defendant failed, and continues to fail to pay Plaintiff and terminated Aggrieved Employees, without abatement, all wages required to be paid by Labor Code sections 201 and 202 either at the time of discharge, or within seventy-two (72) hours of their leaving Defendant's employ. These unpaid wages include wages for unpaid work time (including minimum and straight time wages), missed meal periods, and missed rest periods.

Defendant's conduct violates Labor Code §§ 201 and 202. Labor Code § 203 provides that if an employer willfully fails to pay wages owed, in accordance with sections 201 and 202, then the wages of the employee shall continue as a penalty wage from the due date, and at the same rate until paid or until an action is commenced; but the wages shall not continue for more than thirty (30) days.

Accordingly, Plaintiff and the Aggrieved Employees are entitled to recover from Defendant their additionally accruing wages for each day they were not paid, at their regular hourly rate of pay, up to 30 days maximum pursuant to Labor Code § 203.

Moreover, Defendant is liable to Plaintiff and the Aggrieved Employees for the civil penalties provided for in Labor Code § 2699(f)(2) for failing to timely pay all wages at termination.

Failure to Furnish Accurate Itemized Wage Statements

Labor Code § 226(a) provides that every employer shall furnish each of his or her employees an accurate itemized wage statement in writing showing nine pieces of information, including: (1) gross wages earned, (2) total hours worked by the employee, (3) the number of piece-rate units earned and any applicable piece rate if the employee is paid on a piece-rate basis, (4) all deductions, provided that all deductions made on written orders of the employee may be aggregated and shown as one item, (5) net wages earned, (6) the inclusive dates of the period for which the employee is paid, (7) the name of the employee and the last four digits of his or her social security number or an employee identification number other than a social security number, (8) the name and address of the legal entity that is the employer, and (9) all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee. An employee is presumed to suffer an injury if this information is missing. (Lab. Code § 226(e)(2)(B)(iii).)

The statute further provides: "An employee suffering injury as a result of a knowing and intentional failure by an employer to comply with subdivision (a) is entitled to recover the greater of all actual damages or fifty dollars (\$50) for the initial pay period in which a violation occurs and one hundred dollars (\$100) per employee for each violation in a subsequent pay period, not to exceed an aggregate penalty of four thousand dollars (\$4,000), and is entitled to an award of costs and reasonable attorney's fees." (Lab. Code § 226(e)(1).)

Defendant intentionally and willfully failed to provide employees with complete and accurate wage statements. The deficiencies include, among other things, the failure to correctly identify hourly rates, the failure to correctly list gross wages earned, and the failure to list the true net wages earned, including wages for meal periods that were not provided in accordance with California law, wages for rest periods that were not authorized and permitted to take in accordance with California law, and correct wages earned for all hours worked.

As a result of Defendant violating Labor Code § 226, Plaintiff and similarly Aggrieved Employees suffered injury and damage to their statutorily protected rights.

Accordingly, Plaintiff and similarly Aggrieved Employees are entitled to recover from Defendant the greater of their actual damages caused by Defendant's failure to comply with Labor Code § 226(a), or an aggregate penalty not exceeding \$4,000 dollars per employee.

Moreover, Defendant is liable to Plaintiff and the Aggrieved Employees for the civil penalties provided for in Labor Code § 226.3 for failing to furnish accurate itemized wage statements.

Failure to Provide Safe Working Conditions

Throughout the statutory period, Defendants required that Plaintiff and the Aggrieved Employees work in extreme temperatures inside a warehouse/building facility without providing training, air conditioned areas, air ventilation, nor sufficient water among other things, in violation of California law and relevant wage orders and labor codes.

Action for Civil Penalties Under PAGA

In light of the above, Plaintiff alleges that Defendant violated the following provisions of the Labor Code with respect to the Aggrieved Employees:

1. Labor Code § 204, 510, 1194, 1197, and 1198 by failing to pay for all hours worked, including minimum wages, straight time wages and overtime wages;
2. Labor Code § 226.7, 512 and applicable Wage Orders by failing to provide meal periods;
3. Labor Code § 226.7 and applicable Wage Orders by failing to authorize and permit rest periods;
4. Labor Code § 1174.5 and applicable Wage Orders by failing to maintain accurate records of hours worked and meal periods taken or missed;
5. Labor Code §§ 201 to 203 by willfully failing to pay all wages owed at termination;
6. Labor Code § 226 by failing to provide accurate itemized wage statements; and
7. Labor Code § 204 by failing to pay all earned wages two times per month.

Therefore, on behalf of all Aggrieved Employees, Plaintiff seeks applicable penalties related to the violations alleged above pursuant to the PAGA. These include, but are not limited to, penalties under Labor Code §§ 210, 226.3, 558, 1174.5, 1197.1, and 2699(f)(2).

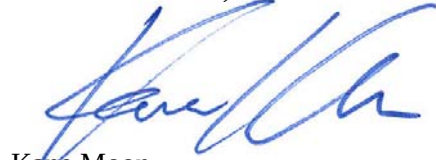
LWDA
Notice of Labor Code Violations and PAGA
November 2, 2020
Page 8 of 8

Plaintiff has placed Defendant on notice by mailing a certified copy of this correspondence to its corporate address, as indicated on the first page.

Thank you for your attention to this matter. If you have any questions, please do not hesitate to contact me.

Sincerely,

MOON & YANG, APC



Kane Moon
Attorney at Law

Exhibit “B”

NOTICE OF PRIVATE ATTORNEYS GENERAL ACT (PAGA) REPRESENTATIVE ACTION SETTLEMENT

Ordez v. Schuff Steel Company, Case No. STK-CV-UOE-2020-0009361

This is not a solicitation by a lawyer. You are not being sued.

IF YOU ARE OR WERE EMPLOYED AS A NON-EXEMPT EMPLOYEE BY DEFENDANT SCHUFF STEEL COMPANY (“DEFENDANT”) DURING THE PAGA PERIOD (November 5, 2019 through [date of entry of PAGA approval order]), THIS PAGA SETTLEMENT AFFECTS YOUR RIGHTS.

A settlement (the “Settlement”) has been reached in the lawsuit entitled *Ordez v. Schuff Steel Company*, Case No. STK-CV-UOE-2020-0009361 (the “Action”), asserting claims under the Labor Code Private Attorneys General Act of 2004, Labor Code § 2698, *et seq.* (“PAGA”). The purpose of this Notice is to advise you as to why you have received a portion of the Settlement proceeds. The Settlement resolves the Action.

Who is affected by this proposed Settlement?

The Court has designated, for settlement purposes only, the following persons as “Aggrieved Employees”:

(1) All persons employed by Defendant in a non-exempt position in the State of California at any time during the PAGA Period that were not subject to a Collective Bargaining Agreement and (2) all persons employed by Defendant in a non-exempt position in the State of California subject to a Collective Bargaining Agreement at any time between November 5, 2019 and July 1, 2020. (the “PAGA Period” refers to the period from November 5, 2019 through [date of entry of PAGA approval order]).

According to Defendant’s records, you are one of the Aggrieved Employees.

What is this case about?

In the Action, Plaintiff Edward Ordez asserted claims that Defendant violated provisions of the Labor Code giving rise to civil penalty liability under the Labor Code Private Attorneys General Act of 2004 (“PAGA”) [Lab. Code § 2699, *et seq.*].

Defendant denies all liability and is confident that it has strong legal and factual defenses to these claims. However, both Plaintiff and Defendant (the “Parties”) recognized the risks, distractions, and costs associated with continued litigation and reached the Settlement as a compromise after good faith, arm’s length negotiations between Plaintiff and Defendant, through their attorneys and with the assistance of a professional third-party mediator. The Settlement is not an admission of liability on the part of Defendant.

The Court has not ruled on the merits of Plaintiff’s claims or Defendant’s defenses but did approve the Settlement.

What are the Settlement terms?

Defendant will pay \$413,400.00 (the “Gross Settlement Amount”) to resolve the Action. The “Net Settlement Amount” is defined as the amount remaining after the attorneys’ fees and litigation costs (discussed below), settlement administration costs (discussed below), and general release payment to Plaintiff (discussed below) are all deducted from the Gross Settlement Amount. The Parties have agreed to distribute the Gross Settlement Amount as follows: (a) \$177,165.00 will be paid to the Labor and Workforce Development Agency (“LWDA”) as its 75% share of Net Settlement Amount, as required by the PAGA; (b) \$59,055.00 will be placed into a fund for distribution to Aggrieved Employees as their 25% share of the Net Settlement Amount, as required by the PAGA, (c) \$144,690.00 for attorneys’ fees and \$16,000 for litigation costs incurred by the attorneys who prosecuted the Action on behalf of Plaintiff and the Aggrieved Employees; (d) \$8,990.00 in settlement administration costs to the Settlement Administrator; and, (e) a general release payment of \$7,500 to Plaintiff.

By operation of the Settlement’s terms, all Aggrieved Employees will release Defendant and its current or former agents, officers, directors, managers, shareholders, members, owners, subsidiaries, parent companies, related companies, insurers, employees, representatives, attorneys, and all persons acting by, through, under or in concert with any of them, and each of their respective heirs, successors, and assigns, and /or any individual or entity which could be jointly liable with Defendant for the claims alleged (collectively, the “Released Parties”) from all PAGA claims based on allegations that Defendant: (1) failed to pay minimum and/or regular rate wages; (2) failed to pay overtime compensation; (3) failed to provide meal periods; (4) failed to authorize and permit rest breaks; (5) failed to timely pay final wages at termination; and (6) failed to furnish accurate itemized wage statements. The Aggrieved Employees are also releasing Defendant and the Released Parties from any other PAGA claims which were asserted or which could have been asserted in the Lawsuit and both or either of Plaintiff’s Complaint and/or PAGA Notice filed with the LWDA, including all PAGA claims stated expressly or by implication in the Notice filed with the LWDA or that could have been alleged based on the facts and circumstances set forth therein (the “Representative PAGA Claims”).

The settlement payments to Aggrieved Employees will be reported on IRS Form 1099-MISC, if required. Your share was calculated based on the number of weeks you worked during the PAGA Period.

All checks will remain valid and negotiable for one hundred eighty (180) days from the date of the checks’ issuance and shall thereafter automatically be void if not cashed within that time. Uncashed checks will be sent to the California State Controller’s Unclaimed Property division, in the name of the Aggrieved Employee.

PLEASE DO NOT CONTACT THE COURT FOR INFORMATION REGARDING THIS SETTLEMENT.