

JCL LAW FIRM, APC

Jean-Claude Lapuyade (State Bar #248676)
Sydney S. Castillo-Johnson (State Bar #343881)
5440 Morehouse Drive, Suite 3600
San Diego, CA 92121
Telephone: (619)599-8292
Facsimile: (619) 599-8291
jlapuyade@jcl-lawfirm.com
scastillo@jcl-lawfirm.com

ZAKAY LAW GROUP, APLC

Shani O. Zakay (State Bar #277924)
Jackland K. Hom (State Bar #327243)
5440 Morehouse Drive, Suite 3500
San Diego, CA 92121
Telephone: (619)255-9047
Facsimile: (858) 404-9203
shani@zakaylaw.com
jackland@zakaylaw.com

Attorneys for Plaintiff

SUPERIOR COURT OF THE STATE OF CALIFORNIA

IN AND FOR THE COUNTY OF LOS ANGELES

JAMES F. RACHAL JR., an individual, on
behalf of himself and on behalf of all persons
similarly situated,

Plaintiff,

v.

ELG METALS, INC., a Pennsylvania
Corporation; and DOES 1-50, Inclusive,

Defendants.

Case No. 20STCV45861

**[PROPOSED] ORDER GRANTING
FINAL APPROVAL**

Date: June 23, 2023

Time: 10:30 a.m.

Judge: Hon. Stuart M. Rice

Dept.: 1

1 Plaintiff's motion for an order finally approving the Class Action and PAGA Settlement
2 Agreement ("Agreement") and Motion for Class Counsel Fees, Litigation Expenses Payment and
3 Incentive Award duly came on for hearing on June 23, 2023, before the above-entitled Court. The
4 JCL Law Firm, APC, and Zakay Law Group, APLC, appeared on behalf of Plaintiff JAMES F.
5 RACHAL ("Plaintiff"). CDF Labor Law LLP appeared on behalf of Defendant ELG METALS,
6 INC. ("Defendant").

7 **I.**

8 **FINDINGS**

9 Based on the oral and written argument and evidence presented in connection with the
10 motion, the Court makes the following findings:

11 1. All terms used herein shall have the same meaning as defined in the
12 Agreement.

13 2. This Court has jurisdiction over the subject matter of this litigation pending
14 in the California Superior Court for the County of Los Angeles ("Court"), Case No.
15 20STCV45861, entitled *Rachal v. ELG Metals, Inc.*, and over all Parties to this litigation,
16 including the Class.

17 **Preliminary Approval of the Settlement**

18 3. On January 19, 2023, the Court granted preliminary approval of a class-
19 wide settlement. At this same time the court approved certification of a provisional settlement
20 class for settlement purposes only. The Court confirms this Order and finally approves the
21 settlement and the certification of the Class.

22 **Notice to the Class**

23 4. In compliance with the Preliminary Approval Order, the Notice Packet was
24 mailed by first class U.S. Mail to the Class Members at their last known addresses on February 17,
25 2023. Mailing of the Notice Packet to their last known addresses was the best notice practicable
26 under the circumstances and was reasonably calculated to communicate actual notice of the
27 litigation and the proposed settlement to the members of the Class Members. The Court finds that
28

1 the Notice Packet provided fully satisfies the requirements of California Rules of Court, rule
2 3.769.

3 5. The Response Deadline for opting out or objecting was April 3, 2023.
4 There was an adequate interval between notice and deadline to permit Class Members to choose
5 what to do and act on their decision. No Class Members objected. No Class Members requested
6 exclusion.

7 **Fairness Of The Settlement**

8 6. The Agreement provides for a Gross Settlement Amount of \$212,500.00.
9 The Agreement is entitled to a presumption of fairness. (*Dunk v. Ford Motor Co.* (1996) 48
10 Cal.App.4th 1794, 1801.)

11 a. The settlement was reached through arms-length bargaining between
12 the parties. There is no evidence of any collusion between the parties in reaching the proposed
13 settlement.

14 b. The Parties' investigation and discovery have been sufficient to
15 allow the Court and counsel to act intelligently.

16 c. Counsel for all parties are experienced in similar employment class
17 action litigation and have previously settled similar class claims on behalf of employees claiming
18 compensation. All counsel recommended approval of the Settlement.

19 d. No objections were received. No requests for exclusion were
20 received.

21 e. The participation rate is high. All Class Members will be
22 participating in the Settlement and will be sent settlement payments.

23 7. The consideration to be given to the Class Members under the terms of the
24 Agreement is fair, reasonable, and adequate considering the strengths and weaknesses of the
25 claims asserted in this Action and is fair, reasonable, and adequate compensation for the release of
26 the Released Class Claims, given the uncertainties and risks of the litigation and the delays which
27 would ensue from continued prosecution of the Action.

1 8. The Agreement is finally approved as fair, adequate, and reasonable and in
2 the best interests of the Settlement Class Members.

3 **PAGA Payment**

4 9. The Agreement provides for a payment of PAGA Payment in the amount of
5 \$5,000.00. The Court has reviewed the PAGA Payment and finds and determines that the PAGA
6 Settlement and the allocation of \$3,750.00 to LWDA and \$1,250.00 to the PAGA Group Members
7 is fair and reasonable and complies with the requirements set forth in *Moniz v. Adecco USA, Inc.*
8 (2021) 72 Cal.App.5th 56.

9 **Class Counsel Fees and Expenses Payment**

10 10. The Agreement provides for a Class Counsel Fees and Expenses Payment in
11 the amount of up to Eighty Thousand, Four Hundred Eighty Four Dollars and Eleven Cents
12 (\$80,484.11). Subject to Court approval, the Class Counsel Fee and Litigation Expenses Payment
13 consists of attorneys' fees equal to one-third (1/3) of the Gross Settlement Amount, Seventy
14 Thousand, Eight Hundred Thirty-Three Dollars and Thirty-Three Cents (\$70,833.33) and
15 reimbursement of costs and expenses in the amount of Nine Thousand, Six Hundred Fifty Dollars
16 and Seventy-Eight Cents (\$9,650.78).

17 11. A Class Counsel Fee and Litigation Expenses Payment of Eighty Thousand,
18 Four Hundred Eighty Four Dollars and Eleven Cents (\$80,484.11) comprised of attorneys' fees in
19 the amount of Seventy Thousand, Eight Hundred Thirty-Three Dollars and Thirty-Three Cents
20 (\$70,833.33) and reimbursement of costs and expenses in the amount of Nine Thousand, Six
21 Hundred Fifty Dollars and Seventy-Eight Cents (\$9,650.78) is reasonable in light of the contingent
22 nature of Class Counsel's fee, the hours worked by Class Counsel, and the results achieved by
23 Class Counsel. The requested attorneys' fee award represents one-third (1/3) of the common fund,
24 which is reasonable and at the low end of the range for fee awards in common fund cases and is
25 supported by Class Counsel's lodestar.

26 **Incentive Award**

27 12. The Agreement provides for an Incentive Award of up to \$10,000 for
28 Plaintiff, James F. Rachal, subject to the Court's approval. The Court finds that the amount of

1 \$10,000 is reasonable in light of the risks and burdens undertaken by the Plaintiff in this class
2 action litigation.

3 **Administrative Expenses**

4 13. The Agreement provides for Administrative Expenses to be paid in an
5 amount not to exceed \$6,000. The Declaration of the Settlement Administrator provides that the
6 actual claims administration expenses were \$5,628.40. The amount of this payment is reasonable
7 in light of the work performed by the Settlement Administrator.

8 **II.**

9 **ORDERS**

10 Based on the foregoing findings, and good cause appearing, IT IS HEREBY ORDERED:

11 1. The Class is certified for the purposes of settlement only. The Settlement
12 Class is hereby defined to include:

13 All non-exempt employees of Defendant in California from January 18, 2017, to
14 May 15, 2022.

15 2. There are 35 members of the Class. Every person in the Class who did not
16 opt out is a Settlement Class Member. After providing Notice to the Class, there are zero opt-outs
17 to the Settlement.

18 3. The Agreement is hereby approved as fair, reasonable, adequate, and in the
19 best interest of the Class. The Parties are ordered to effectuate the Settlement in accordance with
20 this Order and the terms of the Agreement.

21 4. Defendant shall fund the Gross Settlement Amount on the Funding Date. In
22 exchange the Class Members shall release Defendant from the "Released Class Claims" and the
23 "PAGA Group Members" shall release the "Released PAGA Claims."

24 a. The Released Class Claims are defined as all claims and theories
25 that were set forth, or that could have been set forth based on the facts alleged in the Action during
26 the Class Period, including under California Labor Code sections 201, 201.3, 202, 203, 204, 210,
27 218.5, 218.6, 223, 225.5, 226, 226(a), 226.3, 226.7, 510, 512, 558, 1174(d), 1174.5, 1194, 1197,
28 1197.1, 1197.14, 1198, 1198, 1199, 2808, and related IWC Wage Orders, based on the various

1 theories of liability, including, but not limited to, Defendant's alleged failure to: provide meal
2 periods, provide rest periods, pay for all hours worked, pay overtime wages at the correct rate, pay
3 minimum wage, provide reimbursement for business expenses, provide accurate wage statements ,
4 and timely pay all final wages at separation of employment.

5 b. The Released PAGA Claims are defined as all claims for civil
6 penalties under the PAGA, including pursuant to California Labor Code sections 2698 and 2699,
7 predicated on the theories of liability that were set forth in the Action and Plaintiff's notice to the
8 LWDA.

9 5. Class Counsel are awarded a Class Counsel Fee and Litigation Expenses
10 Payment in the amount of \$80,484.11 comprised of attorneys' fees in the amount of Seventy
11 Thousand, Eight Hundred Thirty-Three Dollars and Thirty-Three Cents (\$70,833.33) and
12 reimbursement of costs and expenses in the amount of Nine Thousand, Six Hundred Fifty Dollars
13 and Seventy-Eight Cents (\$9,650.78). Class Counsel shall not seek or obtain any other
14 compensation or reimbursement from Defendant, Plaintiff, or members of the Class.

15 6. The payment of the Incentive Award to the Plaintiff in the amount of
16 \$10,000 is approved.

17 7. The payment of \$5,628.40 to the Settlement Administrator for the
18 Administration Expenses is approved.

19 8. The PAGA Payment of \$5,000 is hereby approved as fair, reasonable,
20 adequate, and adequately protects the interests of the public and the LWDA. Further, the Court
21 finds that Plaintiff and Class Counsel negotiated the PAGA Payment at arms-length, absent of any
22 fraud or collusion.

23 9. Final Judgment is hereby entered in this action. The Final Judgment shall
24 bind each Settlement Class Member.

25 10. Final Judgment shall also bind Plaintiff, acting on behalf of the State of
26 California and all PAGA Group Members, pursuant to the California Private Attorneys' General
27 Act ("PAGA").
28

1 11. The term “PAGA Group Members” is hereby defined to include all non-
2 exempt employees of Defendant in California from September 18, 2019, through July 27, 2022.

3 12. The Court further finds and determines that Class Counsel satisfied
4 California Labor Code § 2699(l)(2) by giving the LWDA notice of the proposed Settlement of
5 claims arising under the Private Attorney General Act (“PAGA”) on October 25, 2022, and again
6 on May 30, 2023.

7 13. The Court orders Class Counsel to comply with California Labor Code §
8 2699(l)(3) by providing the LWDA a copy of this order within ten (10) calendar days of the
9 Court’s entry of this Order.

10 14. The Agreement is not an admission by Defendant, nor is this Final
11 Approval Order and Judgment a finding, of the validity of any claims in the Action or of any
12 wrongdoing by Defendant. Neither this Final Approval Order, the Settlement, nor any document
13 referred to herein, nor any action taken to carry out the Settlement is, may be construed as, or may
14 be used as an admission by or against Defendant of any fault, wrongdoing, or liability whatsoever.
15 The entering into or carrying out of the Agreement, and any negotiations or proceedings related
16 thereto, shall not in any event be construed as, or deemed to be evidence of, an admission or
17 concession with regard to the denials or defenses by Defendant and shall not be offered in
18 evidence in any action or proceeding against Defendant in any court, administrative agency or
19 other tribunal for any purpose as an admission whatsoever other than to enforce the provisions of
20 this Final Approval Order and Judgment, the Settlement, or any related agreement or release.
21 Notwithstanding these restrictions, any of the Parties may file in the Action or in any other
22 proceeding this Final Approval Order and Judgment, the Agreement, or any other papers and
23 records on file in the Action as evidence of the Settlement to support a defense of res judicata,
24 collateral estoppel, release, or other theory of claim or issue preclusion or similar defense as to the
25 claims being released by the Settlement.

26 15. Notice of entry of this Final Approval Order and Judgment shall be given to
27 Class Counsel on behalf of Plaintiff and all Class Members. It shall not be necessary to send
28 notice of entry of this Final Approval Order and Judgment to individual Class Members and the

1 Final Approval Order and Judgment shall be posted on Settlement Administrator's website as
2 indicated in the Notice Packet.

3 16. After entry of Final Judgment, the Court shall retain jurisdiction to construe,
4 interpret, implement, and enforce the Settlement, to hear and resolve any contested challenge to a
5 claim for settlement benefits, and to supervise and adjudicate any dispute arising from or in
6 connection with the distribution of settlement benefits.

7 17. If the Settlement does not become final and effective in accordance with the
8 terms of the Settlement, resulting in the return and/or retention of the Gross Settlement Amount to
9 Defendant consistent with the terms of the Settlement, then this Final Approval Order and
10 Judgment, and all orders entered in connection herewith shall be rendered null and void and shall
11 be vacated.

12 **IT IS SO ORDERED.**

13
14 DATED: _____

Hon. Stuart M. Rice
JUDGE OF THE SUPERIOR COURT