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12 SUPERIOR COURT OF CALIFORNIA
13 COUNTY OF SAN JOAQUIN
14

15 SAMUEL NUDELMAN, on behalf of himself
and all others similarly situated and the general
16 public,

17 Plaintiff,

18 v.

19 HEARTLAND STEEL PRODUCTS WEST
LLC, a California Limited Liability Company
20 and DOES 1 to 100,

21 Defendants.
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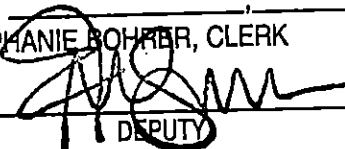
) CASE NO. STK-CV-UOE-2022-0003348
) Hon. Jayne Lee
) Dept. 10C

) CLASS ACTION

) ~~PROPOSED~~ ORDER GRANTING
) PLAINTIFF'S MOTION FOR
) PRELIMINARY APPROVAL OF CLASS
) ACTION AND PAGA SETTLEMENT

) Date: TBD
) Time: 9:00 a.m.
) Dept.: 10C

) Action filed: May 4, 2022
)
)

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OCT 19 2023
Filed
STEPHANIE BOHNER, CLERK
By  DEPUTY

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

OCT 18 2023

1 WHEREAS, this Action is pending before this Court as a putative class action lawsuit
2 brought by Samuel Nudelman the Named Plaintiff ("Plaintiff" or "Named Plaintiff") against
3 Defendant Heartland Steel Products West, LLC. (hereinafter referred to as "Defendant" or "HSP");
4 and

5 WHEREAS, Class Counsel applied to this Court for an order preliminarily approving the
6 settlement of the Action in accordance with the Class Action and PAGA Settlement Agreement
7 (the "Settlement Agreement"), which, together with the exhibits annexed thereto, sets forth the
8 terms and conditions for a proposed Settlement and final resolution of the Action upon the terms
9 and conditions set forth therein; and the Court having read and considered the Settlement
10 Agreement and the exhibits annexed thereto;

11 NOW, THEREFORE, IT IS HEREBY ORDERED:

12 1. This Order incorporates by reference the definitions in the Settlement Agreement,
13 and all terms defined therein shall have the same meaning in this Order as set forth in the
14 Settlement Agreement. Per the Parties' Settlement Agreement, the Court hereby conditionally
15 certifies the following Settlement Class: All non-exempt hourly employees who worked for
16 Defendant in California at least one (1) day at any time from May 4, 2018 through August 23,
17 2023.

18 2. Upon Final Approval, and subject to Defendant's payment of all sums required
19 herein, the claims released by the Qualified Settlement Class Members will include the Claims set
20 forth in the *Nudelman* Class Action Lawsuit for periods of time during employment with Defendant
21 in California as non-exempt hourly employees during the *Nudelman* Settlement Class Period,
22 including, but not limited to:

23 a. Failure to pay all minimum and overtime wages due; failure to provide meal
24 and rest breaks and/or associated premiums; failure to reimburse necessary
25 business expenses; knowing and intentional failure to comply with itemized
26 employee wage statement provisions; violation of Business and Professions Code
27 §§ 17200-17208, *et seq.*; and those state or federal claims (FLSA) predicated on the
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1 same or similar facts and/or allegations in the *Nudelman* Class Action Lawsuit,
2 including claims for interest, and penalties (including but not limited to waiting
3 time penalties), as well as any claims under the California Labor Code, specifically
4 for violations of Labor Code sections 201-202, 201.3, 201.5, 201.6, 201.9, 226(a),
5 226(a)(1), 226(a)(2), 226(a)(5), 226(a)(9), 226(e), 226(h), 226.3, 510, 558, 1194,
6 and 1194.2;

7 b. Any claims for injunctive relief, declaratory relief, restitution that have been
8 alleged or that could have been alleged under the facts, allegations and/or claims
9 pleaded in the Complaint filed as part of the *Nudelman* Class Action Lawsuit.

10 c. Each PAGA Representative Action Member, irrespective of whether he or
11 she opts out of the settlement, shall be deemed to release the Released Parties from
12 any and all claims, known or unknown, for civil penalties under California Labor
13 Code section 2698 et seq. (PAGA) that: were asserted in any and/or all of the
14 complaints in the Action and/or any of Plaintiff's letters to the LWDA (including
15 any subsequently amended complaints or letters) or that could have been asserted
16 based on the facts alleged therein. This release includes, but is not limited to,
17 claims for PAGA civil penalties premised on: Labor Code sections 201, 202, 203,
18 204, 210, 226, 226.3, 510, 512, 558, 1174, 1174.5, 1194, 1197, and 1198; failure to
19 pay overtime; failure to pay for all hours worked/compensation due for services;
20 calculation of the regular rate of pay, including failure to include all remuneration
21 into the regular rate for overtime, meal period premiums; failure to provide meal
22 periods; failure to pay meal period premiums, including the calculation of the meal
23 period premium pay; failure to provide accurate itemized wage statements; and
24 failure to timely pay wages at termination; The release shall run through August 23,
25 2023.

26 Released Parties include Defendant and any of its past, present and future direct or indirect
27 parents, subsidiaries, predecessors, successors, as well as each of their past, present and future
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1 officers, directors, employees, partners, members, shareholders and agents, attorneys, insurers,
2 reinsurers, and any individual or entity which could be jointly liable with Defendant.

3 In addition, as to the claims of Named Plaintiff, the Released Claims further include, for the
4 duration of the *Nudelman* Settlement Class Period through the Effective Date, without limitation,
5 any and all claims whatsoever regarding Named Plaintiff's respective employment, including, but
6 not limited to his individual PAGA claims pursuant to the correspondence sent to the LWDA on
7 February 11, 2022, any claims for wages, bonuses, severance pay, vacation pay, penalties,
8 employment benefits, , violation of any personnel policy, any claims based on discrimination,
9 harassment, unlawful retaliation, violation of public policy, or damages of any kind whatsoever,
10 arising out of any common law torts, contracts, express or implied, any covenant of good faith and
11 fair dealing, any theory of wrongful discharge, any theory of negligence, any theory of retaliation,
12 any legal restriction on any Defendant's right to terminate the employment relationship, or any
13 federal, state, or other governmental statute, executive order, regulation or ordinance, or common
14 law, or any other basis whatsoever, to the fullest extent provided by law.

15 Named Plaintiff shall be deemed to have, and by operation of the Judgment shall have,
16 expressly waived and relinquished to the fullest extent permitted by law the provisions, rights, and
17 benefits of Section 1542 of the California Civil Code, or any other similar provision under federal
18 or state law that purports to limit the scope of a general release. Named Plaintiff, for himself, has
19 read Section 1542 of the Civil Code of the State of California, which provides as follows:

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

26 Plaintiff understands that Section 1542 gives the right not to release existing claims of
27 which he is not now aware, unless Plaintiff voluntarily chooses to waive this right. Having been so
28 apprised, Plaintiff nevertheless voluntarily waives the rights described in Section 1542, and elects
to assume all risks for claims that now exist in his favor, known or unknown. The release of the
claims of Plaintiff as set forth in this Paragraph is a condition precedent to the Settlement
Agreement.

1 Named Plaintiff shall release all of his individual claims, including his individual PAGA
2 claims, with prejudice. The Released Claims expressly exclude any PAGA claims for aggrieved
3 employees other than the Named Plaintiff, and such claims will be dismissed without prejudice
4 upon Final Approval of the Settlement.

5 3. Named Plaintiff is hereby appointed and designated, for all purposes, as the
6 representative of the Class and Representative Action, and the following attorneys are hereby
7 appointed and designated as counsel for the Named Plaintiff, the Class Representatives and the
8 Class: Janelle Carney of Janelle Carney – Attorney at Law, APC and Robert Starr, Emmanuel M.
9 Starr, and Theodore Tang of Frontier Law Center (“Class Counsel”). Class Counsel are authorized
10 to act on behalf of Participating Class Members with respect to all acts or consents required by, or
11 which may be given pursuant to, the Settlement, and such other acts reasonably necessary to
12 consummate the Settlement. Any Objecting Class Member may enter an appearance through
13 counsel of such Class Member’s own choosing and at such Class Member’s own expense.

14 4. The Court finds on a preliminary basis that the Settlement appears to be fair,
15 reasonable and adequate, and one that would merit, ultimately, final approval by this Court. The
16 Court has reviewed the Settlement and recognizes the value thereof to the Class Members. The
17 Court finds, on a preliminary basis, that the Settlement is fair, adequate and reasonable as to all
18 Class Members when balanced against the potential outcomes of further litigation relating to
19 liability and damages issues. The Court further finds that the Settlement has been reached as the
20 result of serious and non-collusive, arms-length negotiations by Defendants and Plaintiff (the
21 “Settling Parties”).

22 5. A hearing (the “Settlement Hearing”) shall be held before this Court, located at 180
23 E. Weber Ave., Stockton, CA 95202, on January 8, 2024 ^{9, 2024 at 9:00 AM} ~~at 4:00 p.m.~~, in Department 10C, to
24 determine all necessary matters concerning the Settlement, including: whether the proposed
25 settlement of the Action should be finally approved by the Court; whether a Judgment, as provided
26 in the Settlement Agreement, should be entered herein; whether the plan of allocation contained in
27 the Settlement Agreement should be approved as fair, adequate and reasonable to the Class
28 Members; and to finally approve Class Counsel’s Fees Award and Cost Award, the Class

1 Representative's Enhancement award, payment to the Labor and Workforce Development Agency
2 and the Settlement Administration Costs.

3 6. The Court hereby approves, as to form and content, the Notice, attached as Exhibit
4 A to the Settlement Agreement. The Court finds that distribution of the Notice, substantially in the
5 manner and form set forth in the Settlement Agreement and this Order, meets the requirements of
6 due process, is the best notice practicable under the circumstances, and will constitute due and
7 sufficient notice to all persons entitled thereto.

8 7. The Court hereby appoints Rust Consulting, Inc. as Settlement Administrator and
9 hereby directs the Settlement Administrator to simultaneously mail or cause to be mailed to Class
10 Members the Notice (Exhibit A) by first class mail at their last known address within fourteen (14)
11 days of receiving a Class Information from Defendants.

12 8. Any Class Member (as defined by the Settlement Agreement) may choose to opt-out
13 of the Settlement or object to the Settlement as provided in the Notice by following the instructions
14 for requesting exclusion from the Settlement Class or objecting to the settlement. Class Members
15 will have forty-five (45) days from the date of mailing of the Notice in which to postmark
16 objections or a notice of opting out. Prior to the initial mailing, the Settlement Administrator will
17 check all Class Member addresses against the National Change of Address database and shall
18 update any addresses before mailing. All Class Members who do not timely and properly notify
19 the Settlement Administrator of their desire to opt-out of the Settlement, shall become bound by all
20 determinations of the Court, the Settlement Agreement and Judgment.

21 9. Any Class Member who did not opt-out may appear at the Settlement Hearing and
22 may object or express his/her views regarding the Settlement and may present evidence and file
23 briefs or other papers that may be proper and relevant to the issues to be heard and determined by
24 the Court as provided in the Notice. However, if a Class Member requests exclusion, the Class
25 Member shall not be heard or entitled to object, and no papers or briefs submitted by any such
26 person shall be received or considered by the Court. To object to the settlement a Class Member
27 must file with the Court and serve on the Settlement Administrator and Counsel for the Settling
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1 Parties, not later than forty-five (45) calendar days after the date that the Settlement Administrator
2 first mails the Class Notice, a written statement objecting to the Settlement and setting forth the
3 grounds for the objection. The written statement of objection must indicate whether the Class
4 Member intends to appear and object to the Settlement at the Final Approval Hearing. The Court
5 retains final authority with respect to the consideration and admissibility of any Class Member
6 objections. Counsel for the Parties shall file any response to the objections submitted by objecting
7 Class Members at least five (5) court days before the date of the Final Fairness and Approval
8 Hearing.

9 10. As of the date this Order is signed, all dates and deadlines associated with the
10 Action shall be stayed, other than those pertaining to the administration of the Settlement of the
11 Action.

12 11. In the event the Settlement does not become effective in accordance with the terms
13 of the Settlement Agreement, or the Settlement is not finally approved, or is terminated, canceled
14 or fails to become effective for any reason, this Order shall be rendered null and void and shall be
15 vacated and the Parties shall revert to their respective positions as of before entering into the
16 Settlement Agreement.

17 The Court reserves the right to adjourn or continue the date of the Settlement Hearing and
18 all dates provided for in the Settlement Agreement without further notice to Class Members and
19 retains jurisdiction to consider all further applications arising out of or connected with the proposed
20 Settlement.

21 Dated: OCT 19 2023



JUDGE OF THE SUPERIOR COURT
Jayne C. Lee

23 The CMC re: Dismissal scheduled
24 12/14/23 at 8:30am in 10C is
25 vacated.
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PROOF OF SERVICE

STATE OF CALIFORNIA, COUNTY OF SAN BERNARDINO

I am employed in the County of San Bernardino, State of California. I am over the age of eighteen (18) and not a party to the within action; my business address is 14758 Pipeline Avenue, Suite E, Second Floor, Chino Hills, CA 91709-6025.

On October 18, 2023, I served the foregoing document described as:

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

on INTERESTED PARTIES in this action by placing a copy thereof enclosed in a sealed envelope addressed as stated below:

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Calabasas, CA 91302

XX BY E-MAIL: I served the above-mentioned document by serving electronically to each of the above recipients at their respective e-mail addresses and simultaneously sending for electronic filing. My e-address is: Jerin@JanelleCarneyLaw.com.

Executed on October 18, 2023 at Chino Hills, California.

I declare under penalty of perjury under the laws of the State of California that the above is true and correct.


Jerin Wilkinson