

ENDORSED
FILED
ALAMEDA COUNTY

JAN 14 2019

CLERK OF THE SUPERIOR COURT



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Attorneys for Plaintiffs

IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF ALAMEDA
(UNLIMITED JURISDICTION)

FRANCISCO ZAMORA, MANUEL
RODRIGUEZ, and SANTIAGO
MACIAS,

Plaintiffs,

vs.

SCHNITZER STEEL INDUSTRIES,
INC.; SECA EQUIPMENT REMOVAL &
DISMANTLING, INC. and DOES 1-50,
INCLUSIVE,

Defendants.

Case No.: RG 16833438

STIPULATION AND
[PROPOSED] ORDER APPROVING
SETTLEMENT OF PRIVATE
ATTORNEY GENERAL ACT (PAGA)
PENALTIES SOUGHT AS PART OF
INDIVIDUAL SETTLEMENT
AGREEMENT

1 WHEAREAS:

2 1. Plaintiffs Francisco Zamora, Manuel Rodriguez, and Santiago Macias and
3 Defendants Schnitzer Steel Industries, Inc. and Seca Equipment Removal & Dismantling, Inc.
4 attended mediation on November 20, 2018 with experienced mediator Hon. David A. Garcia
5 (Ret.) at JAMS in San Francisco and subsequently were able to reach an agreement.

6 2. The crux of Plaintiffs' Complaint in this action was for alleged Fair Employment
7 and Housing Act (FEHA) claims, but it also included Labor Code violations which were ancillary
8 claims.

9 3. Plaintiffs' Complaint in this action seeks the recovery of penalties available under
10 the law, including claims for penalties under the Private Attorney General Act (PAGA). The
11 PAGA letter submitted to the Labor Workforce Development Agency (LWDA) on February 26,
12 2016 only included the three Plaintiffs. *See* Declaration of Enrique Martinez in Support of
13 Unopposed Motion For Approval Of Private Attorney General Act (PAGA) Penalties Sought as
14 Part of Individual Settlement Agreement ("Martinez Dec."), ¶ 3 and Exhibit 1, filed herewith. To
15 that effect, the Parties agreed that only the Plaintiffs' PAGA claims are being released.

16 4. In the course of this litigation, and without admitting liability, Defendant SECA
17 sent Plaintiffs checks for the alleged meal period violations in an amount of \$6,166.50, which
18 Plaintiffs did not cash because they alleged a higher amount. *See* Martinez Dec., ¶¶ 5, 8. Again,
19 however, the primary claims of Plaintiffs' complaint involved alleged FEHA violations, and not
20 Labor Code violations. The Parties attributed a settlement value of \$1,500 to Plaintiffs'
21 individual PAGA claim. Of this amount, 75% will be paid to the Labor Workforce Development
22 Agency with the remainder to be paid to Plaintiffs. These payments shall be made within two
23 weeks of the issuance of this Order.

24 5. Under Labor Code section 2699(l), "[t]he Superior Court shall review and approve
25 any penalties sought as part of a proposed settlement agreement pursuant to this part." Thus, the
26 Parties seek court approval of the settlement of the PAGA claims.

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THEREFORE, the Parties jointly hereby stipulate to entry of an order approving settlement of Plaintiffs' penalty claims under the Private Attorney General Act (i.e. Labor Code section 2698, et seq.), and respectfully request the court accept this stipulation and enter such order.

Dated: January 11, 2019

By: Enrique Martinez
Enrique Martinez
Attorney for Plaintiffs

Dated: January 11, 2019

By: Richard T. Bowles
Richard T. Bowles
Attorney for Defendant

ORDER

GOOD CAUSE APPEARING, the Court hereby orders that the settlement is approved, with a PAGA payment of \$1,125.00 to the LWDA, and that this Stipulation shall be the order of the Court.

Hon. Julia Spain

Dated: _____, 2019

JUDGE OF THE SUPERIOR COURT

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PROOF OF SERVICE
STATE OF CALIFORNIA, COUNTY OF ALAMEDA

I declare that I am employed in the County of Alameda, State of California. I am over the age of eighteen (18) years and not a party to the within cause. My business address is Sundeen & Salinas, 428 Thirteenth Street, 8th Floor, Oakland, California 94612. On this day, I served the following Document(s):

- **DECLARATION OF ENRIQUE MARTINEZ IN SUPPORT OF UNOPPOSED MOTION FOR APPROVAL OF PRIVATE ATTORNEY GENERAL ACT (PAGA) PENALTIES SOUGHT AS PART OF INDIVIDUAL SETTLEMENT AGREEMENT;**
- **STIPULATION AND [PROPOSED] ORDER APPROVING SETTLEMENT OF PRIVATE ATTORNEY GENERAL ACT (PAGA) PENALTIES SOUGHT AS PART OF INDIVIDUAL SETTLEMENT AGREEMENT.**

☒ By Mail to the parties in said action, as addressed below, in accordance with Code of Civil Procedure §1013(a), by placing a true copy thereof enclosed in a sealed envelope in a designated area for outgoing mail. At Sundeen & Salinas, mail placed in that designated area is given the correct amount of postage and is either picked up or deposited that same day, in the ordinary course of business in a United States mailbox in the City of Oakland, California.

Richard T. Bowles
Bowles & Verna LLP
California Plaza
2121 N. California Blvd., Suite 875
Walnut Creek, CA 94596
Attorneys for Defendants

☐ By Overnight Delivery to the parties in said action, as addressed above, in accordance with Code of Civil Procedure §1013(c), by placing a true and correct copy thereof enclosed in a sealed envelope, with delivery fees prepaid or provided for by delivering the items by FedEx Overnight.

I declare under penalty of perjury that the foregoing is true and correct. Executed in Oakland, California, on this date, January 14, 2019.



Diana Lopez