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ENDORSED
FILED
ALAMEDA COUNTY
FEB 28 2014

5 Attorneys for Representative Plaintiff individually,
and on behalf of all those similarly situated

CLERK OF THE SUPERIOR COURT
By AN Kanae, Deputy

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8 IN AND FOR THE SUPERIOR COURT OF THE
9 STATE OF CALIFORNIA, COUNTY OF ALAMEDA,

10 ROBERTO RODRIGUEZ, individually and on)
behalf of all others similarly situated,)
11 Plaintiffs,)
12 v.)
13 PACIFIC STEEL CASTING COMPANY,)
14 and DOES 1 to XX,)
15 Defendants,)
16 _____)

Case No. **RG11 609595**
CLASS ACTION
ASSIGNED FOR ALL PURPOSES TO:
JUDGE FRANK ROESCH, DEPT. 24
[proposed] ORDER:
(1) GRANTING PRELIMINARY
APPROVAL OF THE SETTLEMENT
AGREEMENT;
(2) APPOINTING SETTLEMENT
ADMINISTRATOR;
(3) APPROVING THE CLASS NOTICE,
SETTLEMENT ESTIMATE AND
CHALLENGE FORM; OPT-OUT FORM;
(4) SETTING DATE FOR FAIRNESS
HEARING AND FINAL APPROVAL

Date: February 28, 2014
Time: 2:00 p.m.
Dept.: 24
Reservation no.: R-1485785

Complaint filed: December 23, 2011
Trial Date: February 18, 2014 vacated

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23 The Representative Plaintiff's Motion for Preliminary Approval of the Settlement
24 Agreement, Appointment of Settlement Administrator, and Approval of the Class Notice,
25 Settlement Estimate and Challenge Form, and Opt-Out form was noticed, filed and came on for
26 hearing at 2:00 p.m. on February 28, 2013, Timothy Rumberger of the Law Offices of Timothy
27 Rumberger appearing as counsel for Plaintiffs and the Class, and Michael Brewer and Anne-Marie
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1 Waggoner of Littler Mendelson, appearing as counsel for Defendant Pacific Steel Casting
2 Company.

3 The Court, having carefully considered the briefs, argument of counsel and all matters
4 presented to the Court and good cause appearing, **HEREBY ORDERS THE FOLLOWING:**

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6 1. The Court grants preliminary approval of the Settlement Agreement submitted to the
7 Court based upon the terms set forth therein. The Settlement appears to be fair, adequate and
8 reasonable.

9 2. The Court approves, as to form and content, the Notice of Proposed Class Action
10 Settlement and Final Approval Hearing (**Exhibit A**), the Settlement Estimate and Challenge Forms
11 (**Exhibit B**), and Opt-Out Form (**Exhibit C**), attached hereto to be sent to only those Class
12 Members who previously opted out of the case (~18 individuals).

13 The Court approves, as to form and content, the Notice of Proposed Class Action
14 Settlement and Final Approval Hearing (**Exhibit D**), the Settlement Estimate and Challenge Forms
15 (**Exhibit E**), attached hereto to be sent to all Class Members *except* those Class Members who
16 previously opted out of the case (~18 individuals).

17 3. Class members will not be required to submit claims in order to recover through the
18 Settlement Administrator, and no part of the Settlement will revert to Defendant.

19 4. The claims released by Class members shall include all claims alleged in the
20 operative First Amended Complaint, or that could have been alleged based on facts pled, through
21 the date of preliminary approval, excepting nonwaivable statutory rights and those within Civil
22 Code §1542.

23 5. If a Class Member does not deposit his or her check within 180 days from the date of
24 issuance, the Settlement Administrator shall cause that settlement check to be canceled. In such
25 event, this Agreement nevertheless will be binding upon the Class Member to the same extent as if
26 the Class Member had received and timely cashed or deposited the settlement check. Half of any
27 unclaimed monies from the net settlement amount in the form of settlement checks not cashed
28 within 180 days after distribution shall escheat to the State by being sent to the California
Department of Industrial Relations Unpaid Wages Fund, at which the Labor Commissioner acts as a

1 trustee for these funds. Once the money is sent to the California Department of Industrial Relations
2 Unpaid Wages Fund, class members may request payment through the State by writing to: Division
3 of Labor Standards Enforcement, Unpaid Wages Fund , 2031 Howe Ave, Suite 100, Sacramento,
4 CA 95825. These unclaimed funds represent those Class Members’ “wage” portion of the
5 Settlement.

6 6. The other half of any unclaimed monies from the net settlement amount represents
7 “penalties and interest.” All interim interest earned on the fund together with the remaining balance
8 of any unclaimed monies from the net settlement amount in the form of settlement checks not
9 cashed within 180 days after distribution shall be paid by the Claims Administrator as a *cy pres*
10 award to the nonprofit Impact Fund or such other *cy pres* designee(s) as the parties may agree
11 subject to Court approval, to be used on behalf of the rights of California employees.

12 7. The Court finds that the dates and methods selected for the mailing and distribution
13 of the Class Notice Packet, as set forth in the proposed Notice meet the requirements of due process
14 and provide the best notice practicable under the circumstances and shall constitute due and
15 sufficient notice to all persons entitled thereto.

16 8. The Court appoints Gilardi & Co. as Settlement Administrator.

17 9. The Court orders the attached schedule of dates for further proceedings, subject to
18 unforeseen delays which may be occasioned by bankruptcy proceedings anticipated by the parties.

19 10. Pacific Steel shall reconfirm the Class Member contact information and number of
20 workweeks worked by each class member within the first week following preliminary approval,
21 providing the Settlement Administrator with a database containing each Class Member’s name,
22 social security number or date of birth (if known), last-known address, last known phone number(s),
23 the dates of his or her employment during the Class Period, and the number of workweeks worked.

24 11. Within 18 days of preliminary approval, the Settlement Administrator shall send the
25 appropriate Notice of Proposed Class Action Settlement and Final Approval Hearing, the Settlement
26 Estimate and Challenge Form, (and the Opt-Out Form where applicable) to each Class Member¹, in

27 ¹ Draft copies of the proposed “Notice of Proposed Class Action Settlement and Final Approval Hearing”(Exhibit A
28 and Exhibit D), the “Settlement Estimate and Challenge Form” (Exhibit B and Exhibit E), and the Opt-Out Form
(Exhibit C) and are attached hereto.

1 both English and Spanish, showing the computation for his or her settlement share or “Individual
2 Settlement Amount.”

3 12. The Class Notice shall apprise each Class Member that he or she may challenge the
4 stated number of workweeks worked within forty (40) days of the date the Class Notice Packet is
5 originally mailed to Class Members, by faxing or mailing in the postage-prepaid envelope, the
6 Challenge Form (postmarked by 4/28/14 if mailed 3/18/14; Notice ¶15). The Settlement
7 Administrator will resolve any challenge, in consultation with Counsel, and make a final and
8 binding determination based on information provided by the Class Member and Pacific Steel’s
9 records.

10 13. Any Class Members may object to the proposed Settlement within forty (40) Days
11 from the date the original Class Notice Package is mailed by submitting a written objection to the
12 Settlement Administrator, counsel and the court. (postmarked by 4/28/14 if mailed 3/18/14; Notice
13 ¶16).

14 14. Any of the Class Members who previously Opted-Out of the Class in response to the
15 prior Notices issued in 2013 (~18 Class Members) may Opt-Out of the proposed Settlement within
16 forty (40) Days from the date the original Class Notice Package is mailed by submitting a signed
17 Opt-Out Form to the Settlement Administrator by registered or certified mail. (postmarked by
18 4/28/14 if mailed 3/18/14; Notice ¶17)

19 15. The Settlement Administrator will use available telephone numbers, skip tracing and
20 National Change of Address searches to reasonably maximize delivery of the Notice, and ensure
21 that the broadest possible number of class members can participate in the settlement.

22 16. The Settlement Administrator will provide the parties’ counsel with regular reports
23 listing the names, contact information and amounts of all settlement payments to be mailed to Class
24 Members, a list by name and contact information of all Class Members who timely submit
25 Challenge Forms, and a list by name and contact information of any Class Members who timely
26 object, and a list by name and *last-known* contact information for all Class Members for whom
27 Settlement Packages are not received (returned undeliverable mail).
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1 17. The Settlement Administrator shall provide all counsel with a declaration and report
2 summarizing the foregoing information within 7 days following the close of the Notice period, by
3 May 5, 2014, assuming original Settlement Packages are mailed as anticipated by March 18, 2014.

4 18. The Final Approval Hearing shall be held June 12, 2014, at 3:45 p.m. in Department
5 24 of this Court, located at 1225 Oak Street, Oakland, California 94612, to determine whether the
6 proposed Settlement is fair, adequate, reasonable, and should be approved. The hearing on final
7 approval may be adjourned or continued without further notice to the class.

8 19. Class counsel shall provide sufficient information for a lodestar analysis, and the
9 Court recommends that counsel provide contemporaneous time records and task-based summaries.
10 Class counsel should also provide admissible evidence supporting the hourly fee requested
11 including, if applicable, whether Class counsel charges fee-paying clients the same rates. (*Robbins*
12 *v. Alibrandi* (2005) 127 Cal.App.4th 438, 450-451.) Funds not paid to counsel as fees will be
13 distributed to the class pro rata. The court anticipates requiring 10% of any fee award to be kept in
14 the administrator's trust fund until the completion of the distribution process and court approval of a
15 final accounting.

16 20. The plaintiff must provide admissible evidence regarding the nature of his
17 participation in the action, e.g. the number of hours of service provided, the nature of the work
18 performed, risks he faced in prosecuting this lawsuit, including any actual retaliation, and/or other
19 evidence demonstrating the need for an incentive payment. (*Clark v. American Residential Services*
20 *LLC* (2009) 175 Cal.App.4th 785, 804-807.) Funds not paid to Representative Plaintiff as a service
21 award will be distributed to the class pro rata.

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ATTENTION: THIS IS A NEW COURT-ORDERED NOTICE WITH NEW INFORMATION!
PLEASE READ IT CAREFULLY. YOUR RIGHTS DEPEND ON IT.

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ALAMEDA COUNTY SUPERIOR COURT FOR THE STATE OF CALIFORNIA

21. Plaintiffs' papers in support of the Settlement, and any application for award of attorneys' fees, costs, reimbursement of claims administration expenses, and any application for the service award for the Representative Plaintiff shall be filed with the Court at least 16 court days prior to the Final Approval Hearing.

IT IS SO ORDERED.

DATED: February 28, 2014 BY: Frank Roesch
The Honorable Frank Roesch
Alameda County Superior Court Judge

CONSISTENT WITH PACIFIC STEEL'S POLICIES AND THE LAW,
I WILL BE NO RETALIATION OR ADVERSE ACTION TAKEN AGAINST ANY
CLASS MEMBER WHO RECEIVES A PORTION OF THE SETTLEMENT