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23 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
24 **FOR THE COUNTY OF SAN DIEGO**

25 JOSE GARCIA, as an individual and on
26 behalf of all others similarly situated,

27 Plaintiff,

28 vs.

TURN KEY SCAFFOLD, LLC, a California
limited liability company; and DOES 1
through 100, inclusive,

Defendants.

Case No.: 37-2020-00021177-CU-OE-CTL

[Case assigned for all purposes to the Hon.
Kenneth J. Medel, Dept. C-66]

**[PROPOSED] ORDER GRANTING FINAL
APPROVAL OF CLASS ACTION
SETTLEMENT, CLASS
REPRESENTATIVE'S SERVICE AWARD,
AND ATTORNEYS' FEES AND COSTS
AND FINAL JUDGMENT**

Date: February 18, 2022
Time: 9:30 a.m.
Dept.: C-66

Action Filed: June 19, 2020
Trial Date: None Set

ELECTRONICALLY RECEIVED
Superior Court of California,
County of San Diego

01/26/2022 at 12:07:18 PM
Clerk of the Superior Court
By Maria Acevedo, Deputy Clerk

FILED
Clerk of the Superior Court

FEB 18 2022

By: B. Orihuela, Deputy

1 This matter came on regularly for hearing before this Court on February 18, 2022, pursuant to
2 California Rule of Court 3.769 and this Court's October 8, 2021 Order Granting Preliminary Approval
3 of Class Action Settlement ("Preliminary Approval Order"). Having considered the parties' Stipulation
4 of Settlement ("Settlement")¹ and the documents and evidence presented in support thereof, and the
5 submissions of counsel, the Court hereby ORDERS and enters JUDGMENT as follows:

6 1. The conditional class certification contained in the Preliminary Approval Order is hereby
7 made final, and the Court thus certifies, for purposes of the Settlement only, a Settlement Class defined
8 as:

9 All current and former non-exempt, hourly employees of Defendant Turn Key
10 Scaffold, LLC who worked for Defendant in California at any time from April 6,
2016 through June 30, 2021.

11 2. The Class Period is defined as April 6, 2016 through June 30, 2021.

12 3. Plaintiff Marco Tapia is hereby confirmed as Class Representative, and Scott M. Lidman,
13 Elizabeth Nguyen and Milan Moore of Lidman Law, APC and Paul K. Haines of Haines Law Group,
14 APC are hereby confirmed as Class Counsel.

15 4. Notice was provided to the Settlement Class as set forth in the Settlement. The form and
16 manner of notice were approved by the Court on October 8, 2021, and the notice process has been
17 completed in conformity with the Court's Order. The Court finds that said notice was the best notice
18 practicable under the circumstances. The Class Notice provided due and adequate notice of the
19 proceedings and matters set forth therein, informed Settlement Class members of their rights, and fully
20 satisfied the requirements of California Code of Civil Procedure § 1781(e), California Rule of Court
21 3.769, and due process.

22 5. The Court finds that no Settlement Class member objected to the Settlement, that zero
23 (0) class members have opted out of the Settlement, and that the 100% participation rate in the
24 Settlement supports final approval.

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27
28 ¹ Unless otherwise indicated, all terms used in this Order shall have the same meaning as that assigned to them in the Settlement.

1 6. The Court hereby approves the settlement as set forth in the Settlement Agreement as
2 fair, reasonable, and adequate, and directs the parties to effectuate the Settlement Agreement according
3 to its terms.

4 7. For purposes of settlement only, the Court finds that (a) the members of the Settlement
5 Class are ascertainable and so numerous that joinder of all members individually is impracticable; (b)
6 there are questions of law or fact common to the Settlement Class, and there is a well-defined community
7 of interest among members of the Settlement Class with respect to the subject matter of the litigation;
8 (c) the claims of the Class Representative are typical of the claims of the members of the Settlement
9 Class; (d) the Class Representative has fairly and adequately protected the interests of the Settlement
10 Class members; (e) a class action is superior to other available methods for an efficient adjudication of
11 this controversy; and (f) Class Counsel are qualified to serve as counsel for the Class Representative and
12 the Settlement Class.

13 8. The Court orders that Defendant deposit the Gross Settlement Amount of One Hundred
14 Seventy-Five Thousand Dollars and Zero Cents (\$175,000.00) with Phoenix Settlement Administrators
15 ("Phoenix"), the Settlement Administrator as provided for in the Settlement.

16 9. The Court finds that the settlement payments, as provided for in the Settlement, are fair,
17 reasonable, and adequate, and orders the Settlement Administrator to distribute the individual payments
18 in conformity with the terms of the Settlement.

19 10. The Court finds that a service award in the amount of \$7,500.00 for Plaintiff Jose Garcia
20 is appropriate for his risks undertaken and service to the Settlement Class. The Court finds that this
21 award is fair, reasonable, and adequate, and orders that the Settlement Administrator make this payment
22 in conformity with the terms of the Settlement.

23 11. The Court finds that attorneys' fees in the amount of \$58,333.33 and litigation costs of
24 \$11,077.00 for Class Counsel, are fair, reasonable, and adequate, and orders that the Settlement
25 Administrator distribute these payments to Class Counsel in conformity with the terms of the Settlement.

1 12. The Court orders that the Settlement Administrator shall be paid \$10,000.00 from the
2 Gross Settlement Amount for all of its work done and to be done until the completion of this matter, and
3 finds that sum appropriate.

4 13. The Court finds that the payment to the California Labor & Workforce Development
5 Agency ("LWDA") in the amount of \$7,500.00 for its share of the settlement of Plaintiff's representative
6 action under the California Labor Code Private Attorneys General Act ("PAGA") is fair, reasonable,
7 and adequate, and orders the Settlement Administrator to distribute this payment to the LWDA in
8 conformity with the terms of the Settlement.

9 14. Pursuant to the terms of the Settlement, the employer's share of payroll taxes for the
10 portion of the Net Settlement Amount allocated to wages shall be paid by Defendant from the Gross
11 Settlement Amount in the amount of \$3,489.38.

12 15. Any Settlement funds that remain uncashed after 180 calendar days after they are mailed
13 shall be delivered to the California State Controller's Office – Unclaimed Property Fund in the name of
14 the Settlement Class member.

15 16. The Court finds and determines that upon satisfaction of all obligations under the
16 Settlement and this Order, all Settlement Class Members will be bound by the Settlement, will have
17 released the Released Claims as set forth in the Settlement, and will be permanently barred from
18 prosecuting against Defendant any of the Released Claims pursuant to the Settlement.

19 17. Upon satisfaction of all obligations under the Settlement and this Final Approval Order,
20 by virtue of this Judgment, Plaintiff and every member of the Settlement Class will fully and forever
21 completely release and discharge Defendant, and all of its past and present officers, directors,
22 shareholders, managers, employees, agents, principals, heirs, representatives, accountants, auditors,
23 consultants, and its respective successors and predecessors in interest, subsidiaries, affiliates, parents
24 and attorneys (collectively the "Released Parties"), from all claims, demands, rights, liabilities and
25 causes of action that were pled in the First Amended Complaint in the Action, or which could have been
26 pled in the First Amended Complaint in the Action based on the factual allegations therein, that arose
27 during the Class Period including but not limited to the following claims: (a) failure to pay all overtime
28

1 wages owed; (b) failure to pay all minimum wages owed; (c) unlawful deductions from wages; (d)
2 failure to pay all prevailing wages; (e) failure to provide meal periods, or pay premium pay for non-
3 compliant meal periods; (f) failure to authorize and permit rest periods, or pay premium pay for non-
4 complaint rest periods; (g) failure to provide accurate, itemized wage statements; (h) failure to indemnify
5 all necessary business expenditures; (i) failure to timely pay wages upon separation of employment; and
6 (j) all claims for unfair business practices that could have been premised on the facts, claims, causes of
7 action or legal theories described above (collectively, "Released Claims"). The time period for the
8 release of the Released Claims against the Released Parties shall be the same time period as the Class
9 Period.

10 18. PAGA Employees (including employees who submit a Request for Exclusion and
11 Plaintiff), will release and forever discharge all claims, demands, rights, liabilities and causes of action
12 for penalties or other remedies under California Labor Code Private Attorneys General Act of 2004
13 against the Released Parties based on (as alleged in the letter to the Labor & Workforce Development
14 Agency ("LWDA") dated June 23, 2020 and the First Amended Complaint for: (a) failure to pay all
15 overtime wages owed; (b) failure to pay all minimum wages owed; (c) unlawful deductions from wages;
16 (d) failure to pay all prevailing wages; (e) failure to provide meal periods, or pay premium pay for non-
17 compliant meal periods; (f) failure to authorize and permit rest periods, or pay premium pay for non-
18 complaint rest periods; (g) failure to provide accurate, itemized wage statements; (h) failure to indemnify
19 all necessary business expenditures; and (i) failure to timely pay wages upon separation of employment
20 (collectively, "PAGA Released Claims"). The PAGA Period and the time period of the PAGA Released
21 Claims is defined as the time period of April 6, 2019 through June 30, 2021 ("PAGA Period").

22 19. In light of the Class Representative Service Award, Plaintiff agrees to release, in addition
23 to the Released Claims described above, all claims, whether known or unknown, under federal law or
24 state law against the Released Parties. Notwithstanding the foregoing, Plaintiff understands that this
25 release includes unknown claims, which includes waiving all rights and benefits afforded by Section
26 1542 of the California Civil Code, which provides:

1 A general release does not extend to claims which the creditor or releasing
2 party does not know or suspect to exist in his or her favor at the time of
3 executing the release and that, if known by him or her, would have materially
4 affected his or her settlement with the debtor or released party.

5 20. The releases identified herein shall be null and void should the Settlement not be fully
6 funded.

7 21. The Settlement is not an admission by Defendant nor is this Order a finding of the validity
8 of any allegations or of any wrongdoing by Defendant. Neither this Order, the Settlement, nor any
9 document referred to herein, nor any action taken to carry out the Settlement, shall be construed or
10 deemed an admission of liability, culpability, or wrongdoing on the part of Defendant.

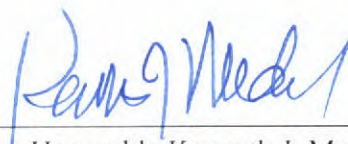
11 22. This document shall constitute a final judgment pursuant to California Rule of Court
12 3.769(h), which provides, "If the court approves the settlement agreement after the final approval
13 hearing, the court must make and enter judgment. The judgment must include a provision for the
14 retention of the court's jurisdiction over the parties to enforce the terms of the judgment. The court may
15 not enter an order dismissing the action at the same time as, or after, entry of judgment."

16 23. The Court will retain jurisdiction to enforce the Settlement, this Final Approval Order,
17 and Judgment.

18 24. The Settlement Administrator shall file a declaration regarding the disbursement of
19 Settlement funds on or before December 31, 2022.

20 **JUDGMENT IS SO ENTERED.**

21
22 Dated: 2.18.2022, 2021



Honorable Kenneth J. Medel
Judge of the Superior Court

Kenneth J. Medel