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Attorneys for Plaintiff

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF ORANGE

JOSE JIMENEZ, as an individual and on behalf
of all others similarly situated,

Plaintiff,

vs.

FENCEWORKS, INC., a California Corporation;
and DOES 1 through 100,

Defendants.

Case No. 30-2018-01034150-CU-OE-CXC

CLASS ACTION

*[Assigned for all purposes to the Hon.
William D. Claster; Dept. CX104]*

**DECLARATION OF PAUL K. HAINES
IN SUPPORT OF PLAINTIFF'S
SUPPLEMENTAL BRIEF**

Date: October 16, 2020
Time: 9:00 a.m.
Dept.: CX104

Complaint Filed: November 26, 2018
Trial Date: None.

1 I, PAUL K. HAINES, declare as follows:

2 1. I am a shareholder and principal of Haines Law Group, APC, and counsel for the
3 named Plaintiff Jose Jimenez (“Plaintiff”) and the proposed Settlement Class in the above-
4 captioned matter. I am a member in good standing of the bar of the State of California and am
5 admitted to practice in this Court. I have personal knowledge of the facts stated in this declaration
6 and could testify competently to them if called upon to do so.

7 2. This declaration is submitted in support of Plaintiff’s Supplemental Brief in
8 Support of Plaintiff’s Motion for Preliminary Approval of Class Action Settlement.

9 3. Following the Court’s Minute Order dated September 11, 2020 (“Minute Order”),
10 my firm has worked diligently with defense counsel to amend the Stipulation of Settlement
11 (“Settlement Agreement”) and the Notice of Pendency of Class Action and Proposed Settlement
12 (“Class Notice”) in accordance with the Court’s Minute Order.

13 4. Attached hereto as **Exhibit 1** is the fully executed amended Settlement Agreement.
14 Attached hereto as **Exhibit 2** is the final version of the Class Notice. Attached hereto as **Exhibit**
15 **3** is a red-line version of the amended Settlement Agreement reflecting all changes. Attached
16 hereto as **Exhibit 4** is a red-line version of the amended Class Notice reflecting all changes.

17 5. As to the second item listed on the Court’s Minute Order, prior to mediation,
18 Plaintiff served Special Interrogatories to Defendant Fenceworks, Inc. (“Defendant”) asking for,
19 among other items, the total number of non-exempt field employees employed by Defendant in
20 California during the putative class period. Defendant issued a verified response to this
21 interrogatory, thereby confirming the size of the putative class prior to mediation. With respect
22 to the average rate of pay, in connection with mediation, Defendant produced a sampling of
23 payroll records for the putative class in addition to providing relevant data points, including the
24 average rates of pay during the putative class period. As part of Plaintiff’s analysis for mediation,
25 Plaintiff independently developed an average rate of pay for putative class members by analyzing
26 the payroll records produced for mediation. Plaintiff’s findings with respect to the average rate of
27 pay were consistent with Defendant’s representations.

28 6. In response to the third item listed on the Court’s Minute Order, in connection with

1 mediation, Defendant provided a random sampling of timekeeping and payroll data for
2 approximately 10% of the putative class. Defendant represents that the sampled employees were
3 selected as follows: Defendant created a class list containing all putative class members, the list
4 was sorted alphabetically, and then every 10th employee was selected for the sampling. Defendant
5 further confirmed that the sampling included both current employees and former employees.
6 Plaintiff contends that a 10% sampling of records is statistically significant and reliable. The
7 “Weekly Time Card Detail” (timekeeping data) and “Compensation Reports” (payroll data)
8 produced for mediation were generated from uniform electronic timekeeping and payroll systems,
9 which allowed Plaintiff to extrapolate his findings with confidence.

10 7. In response to the sixth item listed on the Court’s Minute Order, in connection
11 with Plaintiff’s Motion for Final Approval of Class Action Settlement, Plaintiff will submit Class
12 Counsel’s billing records for attorneys’ fees and costs.

13 8. In response to the seventh item listed on the Court’s Minute Order, in connection
14 with Plaintiff’s Motion for Final Approval of Class Action Settlement, Plaintiff will provide a
15 declaration from the Settlement Administrator which contains records supporting settlement
16 administrative costs.

17 9. As to the eighth item listed on the Court’s Minute Order, in connection with
18 Plaintiff’s Motion for Final Approval of Class Action Settlement, Plaintiff will provide a
19 declaration addressing the enhancement factors identified by the Court and case law, and a
20 declaration from the Settlement Administrator addressing the high and low individual settlement
21 payments, and Plaintiff’s net individual payment.

22 I declare under penalty of perjury under the laws of the State of California that the
23 foregoing is true and correct. Executed on October 7, 2020, at El Segundo, California.

24 

25 _____
26 Paul K. Haines
27
28

EXHIBIT 1

STIPULATION OF SETTLEMENT

This Stipulation of Settlement (“Settlement Agreement”) is reached by and between Plaintiff Jose Jimenez, individually and on behalf of all members of the Settlement Class (defined below), on one hand, and Defendant Fenceworks, Inc. (hereinafter “Defendant”), on the other hand. Plaintiff and Defendant are referred to herein collectively as the “Parties.” Plaintiff and the Settlement Class are represented by Paul K. Haines, Sean M. Blakely, and Diana M. Martinez of Haines Law Group, APC (“Class Counsel”). Defendant is represented by Boris Sorsher and Bret Martin of Fisher & Phillips LLP.

On November 26, 2018, Plaintiff filed a Class Action Complaint against Defendant in Orange County Superior Court, in the matter entitled *Jose Jimenez v. Fenceworks, Inc.*, Case No. 30-2018-01034150-CU-OE-CXC (the “Action”). As part of this Settlement, the Parties agree for Plaintiff to serve a Private Attorneys General Act of 2004 (“PAGA”) letter to the Labor & Workforce Development Agency (“LWDA”), and have further agreed to stipulate to the filing of a First Amended Class and Representative Action Complaint (“FAC”), which will include a claim for failure to furnish accurate and itemized wage statements, and a claim for civil penalties under the PAGA.

The FAC alleges that Defendant: (i) failed to provide all meal periods in accordance with California law; (ii) failed to authorize and permit all rest periods in accordance with California law; (iii) failed to pay all overtime wages; (iv) failed to pay all minimum wages; (v) failed to pay all wages due upon separation of employment; and (vi) failed to furnish accurate and itemized wage statements. As a result of the foregoing violations, Plaintiff contends that Defendant is further liable to Plaintiff and the Settlement Class because it engaged in unlawful business practices. Plaintiff also alleges that Defendant is liable for civil penalties under the PAGA, California Labor Code § 2698 *et seq.*, as a result of the aforementioned alleged violations of the California Labor Code.

Given the uncertainty of litigation, Plaintiff and Defendant wish to settle both individually and on behalf of the Settlement Class. Accordingly, Plaintiff and Defendant agree as follows:

1. **Settlement Class.** For the purposes of this Settlement Agreement only, Plaintiff and Defendant stipulate to the certification of the following Settlement Class:

All current and former non-exempt field employees who are or were employed by Fenceworks, Inc. in the State of California during the time period of November 26, 2014 to March 16, 2020 (“Class Period”).

The Parties agree that certification for purposes of settlement is not an admission that class certification is proper under Section 382 of the Code of Civil Procedure. If for any reason this Settlement Agreement is not approved or is terminated, in whole or in part, this conditional agreement to class certification will be inadmissible and will have no effect in this matter or in any claims brought on the same or similar allegations, and the Parties shall revert to the respective positions they held prior to entering into the Settlement Agreement.

2. **Release by Settlement Class Members and Plaintiff.** Plaintiff and every member of the Settlement Class (except those who opt out) will fully release and discharge Defendant, and all of its present and former officers, directors, employees, shareholders, agents, trustees, representatives, attorneys, insurers, reinsurers, parent companies, subsidiaries, divisions, affiliates, predecessors, successors, as well as any individual or entity that could be jointly liable with Defendant (collectively the “Released Parties”), as follows:

- A. Settlement Class members will release all claims, causes of action, and legal theories alleged or which could have been alleged based on the facts in the operative First Amended Class and Representative Action Complaint (“FAC”), including: (a) failure to provide all meal periods, or premium pay for non-compliant meal periods; (b) failure to authorize and permit all rest periods, or premium pay for non-compliant rest periods; (c) failure to pay all overtime wages (including, but not limited to, any claims for wages owed based on “rounding” theories and separate pay owed for rest periods or other “non-productive” time; (d) failure to pay all minimum wages (including any wages owed due to piece rate pay, failure to pay for rest periods, or failure to pay for rest periods at the correct rate under Labor Code Section 226.2); (e) failure to timely pay all wages due or final wages due; (f) failure to furnish accurate and complete itemized wage statements; (g) all claims for unfair business practices that could have been premised on the facts, claims, causes of action or legal theories of relief pled in the FAC; (h) all claims for civil penalties under the PAGA that were or could have been alleged based on the claims, causes of action or legal theories described above or on any of the claims, causes of action, or legal theories of relief pleaded in the FAC; and (i) all damages, penalties, interest, costs (including attorney’s fees), and other amounts recoverable under said claims or causes of action as to the facts and/or legal theories alleged or which could have been alleged in the FAC (collectively, the “Released Claims”). The period of the Release shall extend to the limits of the Class Period. The *res judicata* effect of the judgment will be the same as that of the Release.
- B. In light of his Class Representative Enhancement Payment, Plaintiff has agreed to release, in addition to the Released Claims described above, all claims, whether known or unknown, under federal law or state law against the Released Parties. Plaintiff understands that this release includes unknown claims and that he is, as a result, waiving all rights and benefits afforded by Section 1542 of the California Civil Code, which provides:

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

However, to the extent that Plaintiff has claims that cannot be released as a matter of law (i.e., workers’ compensation claims), then those claims will not be released.

3. **Gross Settlement Amount.** As consideration, Defendant agrees to pay a “Gross Settlement Amount” of Eight Hundred Ninety-Five Thousand Dollars and Zero Cents (\$895,000.00) in full and complete settlement of the Action, as follows:
- A. The Parties have agreed to engage Phoenix Settlement Administrators as the “Settlement Administrator” to administer this Settlement.
 - B. The Gross Settlement Amount shall be deposited with the Settlement Administrator within fifteen (15) calendar days of the Court entering an order granting final approval, or, solely in the event that there are any objections to the settlement (the filing of an objection being a prerequisite to the filing of an appeal), the later of: (i) the last date on which any appeal might be filed; or (ii) the successful resolution of any appeal(s) – including expiration of any time to seek reconsideration or further review.
 - C. This is a non-reversionary settlement. The Gross Settlement Amount includes:
 - (1) All payments (including interest) to the Settlement Class;
 - (2) All costs of the Settlement Administrator and settlement administration, which are anticipated to be no greater than Fifteen Thousand Dollars and Zero Cents (\$15,000.00);
 - (3) Up to Five Thousand Dollars and Zero Cents (\$5,000.00) for Plaintiff’s Class Representative Enhancement Payment in recognition of his contributions to the Action and his service to the Settlement Class. If Plaintiff’s request for his enhancement payment is not approved and/or reduced by the Court, any amount not approved and/or reduced by the Court will revert to the participating Settlement Class members;
 - (4) Up to one-third of the Gross Settlement Amount in Class Counsel’s attorneys’ fees, plus actual costs and expenses incurred by Class Counsel related to the Action as supported by declaration, which are currently estimated to be no greater than Twenty Thousand Dollars and Zero Cents (\$20,000.00). If Class Counsel’s request for attorneys’ fees and/or reimbursement of litigation costs is not approved and reduced by the Court, any amount not approved and/or reduced by the Court will revert to the participating Settlement Class members; and
 - (5) Thirty Thousand Dollars (\$30,000.00) of the Gross Settlement Amount has been set aside by the Parties as PAGA civil penalties. Per Labor Code § 2699(i), seventy-five percent (75%) of such penalties, or Twenty-Two Thousand Five Hundred Dollars (\$22,500.00) will be payable to the Labor & Workforce Development Agency (“LWDA”), and the remaining twenty-five percent (25%), or Seven Thousand Five Hundred Dollars (\$7,500.00) will be payable to the Settlement Class as the “PAGA Amount.”

- D. Defendant's share of payroll taxes shall be paid by Defendant separately from, and in addition to, the Gross Settlement Amount.
 - E. **Escalator Clause.** Defendant represents that there are approximately 55,086 workweeks worked by Settlement Class members during the Class Period. If the number of workweeks worked by Settlement Class members during the Class Period is more than 10% greater than this figure (i.e., if there are 60,595 or more workweeks worked by Settlement Class members), Defendant agrees to increase the Gross Settlement Amount on a proportional basis over the 10% increase (i.e., if there was a 12% increase in the number of workweeks worked by Settlement Class members, Defendant would agree to increase the Gross Settlement Amount by 2%).
4. **Payments to the Settlement Class.** Settlement Class members are not required to submit a claim form to receive a payment ("Settlement Award") from the Settlement. Settlement Awards will be determined and paid as follows:
- A. The Settlement Administrator shall first deduct from the Gross Settlement Amount the amounts approved by the Court for Class Counsel's attorneys' fees, Class Counsel's costs and expenses, Plaintiff's Class Representative enhancement payment, the LWDA's share of the PAGA payment, and the Settlement Administrator's fees and expenses for administration. The remaining amount shall be known as the "Net Settlement Amount."
 - B. From the Net Settlement Amount, the Settlement Administrator will calculate each Settlement Class member's Settlement Award based on the following formula:
 - i. Payments to all participating Settlement Class members: Eighty-Five percent (85%) of the Net Settlement Amount will be distributed to all participating Settlement Class members based on each participating Settlement Class member's proportionate Workweeks worked during the Class Period, and will be calculated by multiplying 85% of the Net Settlement Amount by a fraction, the numerator of which is the participating Settlement Class member's number of Workweeks worked during the Class Period, and the denominator of which is the total Workweeks worked by all participating Settlement Class members during the Class Period.
 - ii. Waiting Time Amount: Ten Percent (10%) of the Net Settlement Amount shall be designated as the "Waiting Time Amount." Each participating Settlement Class member whose employment with Defendant ended at any time from November 26, 2015 to March 16, 2020, shall receive an equal, pro-rata share of the Waiting Time Amount. In other words, the Waiting Time Amount will be divided equally among all participating Settlement Class members whose employment with Defendant ended at any time from November 26, 2015 to March 16, 2020.
 - iii. Wage Statement Amount: Five percent (5%) of the Net Settlement Amount shall be designated as the "Wage Statement Amount." Each participating

Settlement Class member who was employed by Defendant at any time from November 26, 2017 to March 16, 2020 shall receive a portion of the Wage Statement Amount proportionate to the number of Workweeks that he or she worked during the period from November 26, 2017 to March 16, 2020, and which will be calculated by multiplying 5% of the Net Settlement Amount by a fraction, the numerator of which is the participating Settlement Class member's number of Workweeks worked from November 26, 2017 to March 16, 2020, and the denominator of which is the total number of Workweeks worked by all participating Settlement Class members during the time period from November 26, 2017 to March 16, 2020.

- iv. PAGA Amount: Each participating Settlement Class member who was employed by Defendant at any time from February 19, 2019 to March 16, 2020 (including those who submit a valid and timely Request for Exclusion from the class action settlement) shall receive a portion of the Seven Thousand Five Hundred Dollars and Zero Cents (\$7,500.00) of the Gross Settlement Amount that has been designated as the "PAGA Amount" proportionate to the number of Workweeks that he or she worked during the period from February 19, 2019 to March 16, 2020, and which will be calculated by multiplying the PAGA Amount by a fraction, the numerator of which is the participating Settlement Class member's number of Workweeks worked from February 19, 2019 to March 16, 2020, and the denominator of which is the total number of Workweeks worked by all participating Settlement Class members (including those who submit a valid and timely Request for Exclusion from the class action settlement) from February 19, 2019 to March 16, 2020.

- C. Within ten (10) calendar days following Defendant's deposit of the Gross Settlement Amount with the Settlement Administrator, the Settlement Administrator will calculate Settlement Award amounts and provide the same to counsel for review and approval. Within seven (7) calendar days of approval by counsel, the Settlement Administrator will prepare and mail Settlement Awards, less applicable taxes and withholdings, to participating Settlement Class members. The Settlement Administrator shall simultaneously pay the withholdings to the applicable authorities with the necessary reports, submitting copies to Defendant's counsel.
- D. For purposes of calculating applicable taxes and withholdings, each Settlement Award shall be allocated as follows: 80% as penalties and interest; and 20% as wages. The Settlement Administrator will be responsible for issuing to participating Settlement Class members IRS Forms W-2 for amounts deemed "wages" and IRS Forms 1099 for the amounts allocated as penalties and interest. Notwithstanding the treatment of the payments to each Settlement Class member above, none of the payments called for by this Settlement Agreement, including the wage portion, are to be treated as earnings, wages, pay or compensation for any purpose of any applicable benefit or retirement plan, unless required by such plans.

- E. CIRCULAR 230 DISCLAIMER. EACH PARTY TO THIS AGREEMENT (FOR PURPOSES OF THIS SECTION, THE “ACKNOWLEDGING PARTY” AND EACH PARTY TO THIS AGREEMENT OTHER THAN THE ACKNOWLEDGING PARTY, AN “OTHER PARTY”) ACKNOWLEDGES AND AGREES THAT (1) NO PROVISION OF THIS AGREEMENT, AND NO WRITTEN COMMUNICATION OR DISCLOSURE BETWEEN OR AMONG THE PARTIES OR THEIR ATTORNEYS AND OTHER ADVISERS, IS WAS INTENDED TO BE, NOR SHALL ANY SUCH COMMUNICATION OR DISCLOSURE CONSTITUTE OR BE CONSTRUED OR BE RELIED UPON AS, TAX ADVICE WITHIN THE MEANING OF UNITED STATES TREASURY DEPARTMENT CIRCULAR 230 (31 CFR PART 10, AS AMENDED); (2) THE ACKNOWLEDGING PARTY (A) HAS RELIED EXCLUSIVELY UPON HIS, HER OR ITS OWN, INDEPENDENT LEGAL AND TAX COUNSEL FOR ADVICE (INCLUDING TAX ADVICE) IN CONNECTION WITH THIS AGREEMENT, (B) HAS NOT ENTERED INTO THIS AGREEMENT BASED UPON THE RECOMMENDATION OF ANY OTHER PARTY OR ANY ATTORNEY OR ADVISOR TO ANY OTHER PARTY, AND (C) IS NOT ENTITLED TO RELY UPON ANY COMMUNICATION OR DISCLOSURE BY ANY ATTORNEY OR ADVISER TO ANY OTHER PARTY TO AVOID ANY TAX PENALTY THAT MAY BE IMPOSED ON THE ACKNOWLEDGING PARTY; AND (3) NO ATTORNEY OR ADVISER TO ANY OTHER PARTY HAS IMPOSED ANY LIMITATION THAT PROTECTS THE CONFIDENTIALITY OF ANY SUCH ATTORNEY’S OR ADVISER’S TAX STRATEGIES (REGARDLESS OF WHETHER SUCH LIMITATION IS LEGALLY BINDING) UPON DISCLOSURE BY THE ACKNOWLEDGING PARTY OF THE TAX TREATMENT OR TAX STRUCTURE OF ANY TRANSACTION, INCLUDING ANY TRANSACTION CONTEMPLATED BY THIS AGREEMENT
- F. Each Settlement Class member who receives a Settlement Award must cash that check within 180 days from the date the Settlement Administrator mails it. Any funds payable to Settlement Class members whose checks were not cashed within 180 days after mailing will escheat to the State Controller to be deposited in the Unclaimed Property Fund for the benefit of the Settlement Class member whose check was not cashed.
- G. Neither Plaintiff nor Defendant shall bear any liability for lost or stolen checks, forged signatures on checks, or unauthorized negotiation of checks. Unless responsible by its own acts of omission or commission, the same is true for the Settlement Administrator.
- H. The amounts paid under this Agreement do not represent a modification of any previously credited hours of service under any employee benefit plan, policy or bonus program sponsored by Defendant. Such amounts will not form the basis for additional contributions to, benefits under, or any other monetary entitlement under, benefit plans (self-insured or not) sponsored by Defendant, policies or bonus programs. Any payments made under the terms of this Agreement shall not be

applied retroactively, currently or on a going forward basis as salary, earnings, wages, or any other form of compensation for the purposes of Defendant's benefit plan, policy or bonus program. Defendant retains the right to modify the language of its benefit plans, policies and bonus programs to effect this intent and to make clear that any amounts paid pursuant to this Agreement are not for "hours worked," "hours paid," "hours of service," or any similar measuring term as defined by applicable plans, policies and bonus programs for purpose of eligibility, vesting, benefit accrual or any other purpose, and that additional contributions or benefits are not required by this Agreement.

5. **Attorneys' Fees and Costs.** Defendant will not object to Class Counsel's request for a total award of attorneys' fees of one-third of the Gross Settlement Amount, which is currently estimated to be Two Hundred Ninety-Eight Thousand Three Hundred Thirty-Three Dollars and Thirty-Three Cents (\$298,333.33). Additionally, Class Counsel will request an award of actual costs and expenses as supported by declaration, in an amount not to exceed Twenty Thousand Dollars and Zero Cents (\$20,000.00), from the Gross Settlement Amount. These amounts will cover any and all work performed and any and all costs incurred in connection with this litigation, including without limitation: all work performed and all costs incurred to date; and all work to be performed and costs to be incurred in connection with obtaining the Court's approval of this Settlement Agreement, including any objections raised and any appeals necessitated by those objections. Class Counsel will be issued an IRS Form 1099 by the Settlement Administrator when the Settlement Administrator pays the fee award allowed by the Court.

6. **Class Representative Enhancement Payment.** Defendant will not object to a request for a Class Representative Enhancement Payment of up to Five Thousand Dollars and Zero Cents (\$5,000.00) to Plaintiff for his time and risk in prosecuting this case, and his service to the Settlement Class. This payment will be in addition to Plaintiff's Settlement Award as a Settlement Class member and shall be reported on an IRS Form 1099 issued by the Settlement Administrator.

7. **Settlement Administrator.** Defendant will not object to the appointment of Phoenix Settlement Administrators as Settlement Administrator. Defendant will not object to Plaintiff seeking permission to pay up to Fifteen Thousand Dollars and Zero Cents (\$15,000.00) for its services from the Gross Settlement Amount. The Settlement Administrator shall be responsible for sending notices and for calculating Settlement Awards and preparing all checks and mailings, calculating Defendant's share of taxes payable on the wages, and other duties as described in this Settlement Agreement. The Settlement Administrator shall be authorized to pay itself from the Gross Settlement Amount by Class Counsel only after Settlement Awards have been mailed to all participating Settlement Class members.

8. **Preliminary Approval.** Within a reasonable time after execution of this Settlement Agreement by the Parties, Plaintiff shall apply to the Court for the entry of an Order:

- A. Conditionally certifying the Settlement Class for purposes of this Settlement Agreement;
- B. Appointing Paul K. Haines, Sean M. Blakely, and Diana M. Martinez of Haines Law Group, APC as Class Counsel;

- C. Appointing Jose Jimenez as Class Representative for the Settlement Class;
- D. Approving Phoenix Settlement Administrators, as Settlement Administrator;
- E. Preliminarily approving this Settlement Agreement and its terms as fair, reasonable, and adequate;
- F. Approving the form and content of the Notice Packet (which is comprised of the Class Notice, Request for Exclusion Form, and Notice of Estimated Settlement Award), and directing the mailing of same; and
- G. Scheduling a Final Approval hearing.

9. **Notice to Settlement Class.** Following preliminary approval, the Settlement Class shall be notified as follows:

- A. Within twenty (20) business days after entry of an order preliminarily approving this Agreement, Defendant will provide the Settlement Administrator with the names, last known addresses, phone numbers, social security numbers, the dates of employment and the number of Workweeks worked by each Settlement Class member while employed during the Class Period (the "Class Data"). The Class Data shall be provided to the Settlement Administrator in an electronic format satisfactory to the Settlement Administrator.
- B. Within ten (10) business days from receipt of this information, the Settlement Administrator shall (i) run the names of all Settlement Class members through the National Change of Address ("NCOA") database to determine any updated addresses for Settlement Class members; (ii) update the address of any Settlement Class member for whom an updated address was found through the NCOA search; (iii) calculate the estimated Settlement Award for each Settlement Class member; and (iv) mail a Notice Packet to each Settlement Class member at his or her last known address or at the updated address found through the NCOA search, and retain proof of mailing.
- C. Requests for Exclusion. Any Settlement Class member who wishes to opt-out of the settlement must complete and mail a Request for Exclusion Form (defined below) to the Settlement Administrator within sixty (60) calendar days of the date of the initial mailing of the Notice Packets (the "Response Deadline").
 - i. The Notice Packet shall state that a Settlement Class member who wishes to exclude themselves from the Settlement must submit a Request for Exclusion Form by the Response Deadline. The Request for Exclusion Form must: (1) contain the name, address, telephone number and the last four digits of the Social Security number of the Settlement Class member; (2) contain a statement that the Settlement Class member wishes to be excluded from the Settlement; (3) be signed by the Settlement Class member; and (4) be postmarked by the Response Deadline and mailed to the Settlement Administrator at the address specified in the Class Notice. If the Request for Exclusion Form does not

contain the information listed in (1)-(3), it will not be deemed valid for exclusion from the Settlement, except a Request for Exclusion Form not containing a Class Member's telephone number and/or last four digits of the Social Security number will be deemed valid. The date of the postmark on the Request for Exclusion Form shall be the exclusive means used to determine whether a Request for Exclusion has been timely submitted. Any Settlement Class member who requests to be excluded from the Settlement Class will not be entitled to any recovery under this Settlement Agreement and will not be bound by the terms of the Settlement or have any right to object, appeal or comment thereon. Notwithstanding the foregoing, the PAGA settlement and release provisions will apply to all Settlement Class members whether or not they exclude themselves from the class action settlement. Settlement Class members who were employed by Defendant at any time from February 19, 2019 to March 16, 2020 and submit a valid and timely Request for Exclusion shall still be entitled to their portion of the PAGA Amount described above, and will release all claims for civil penalties under the PAGA that were or could have been alleged based on the claims, causes of action or legal theories described above or on any of the claims, causes of action, or legal theories of relief pleaded in the FAC, whether they submit a valid and timely Request for Exclusion or not.

- D. Objections. Settlement Class members who do not request exclusion may object to this Settlement Agreement as explained in the Class Notice by filing a written objection with the Settlement Administrator (who shall serve all objections as received on Class Counsel and Defendant's counsel, as well as file all such objections with the Court). Defendant's counsel and Class Counsel shall file any responses to objections no later than the deadline to file the Motion for Final Approval, unless the objections are filed within ten (10) days of the Motion for Final Approval filing deadline, in which case Defendant's counsel and Class Counsel shall have ten (10) days to file a response to the objections. To be valid, any objection must: (1) contain the objecting Settlement Class member's full name and current address, as well as contact information for any attorney representing the objecting Settlement Class member for purposes of the objection; (2) include all objections and the factual and legal bases for same; (3) include any and all supporting papers, briefs, written evidence, declarations, and/or other evidence; and (4) be postmarked no later than the Response Deadline.
- E. Notice of Estimated Settlement Award / Disputes. Each Notice Packet mailed to a Settlement Class member shall disclose the amount of the Settlement Class member's estimated Settlement Award as well as all of the information that was used from Defendant's records in order to calculate the Settlement Award, including the Settlement Class member's number of Workweeks worked during the Class Period, whether the Settlement Class member's employment with Defendant ended during the time period of November 26, 2015 to March 16, 2020, the number of workweeks worked from November 26, 2017 to March 16, 2020, and the number of Workweeks worked during the time period of February 19, 2019 and March 16, 2020. Settlement Class members will have the opportunity, should they disagree

with Defendant's records regarding the information stated in the Notice of Estimated Settlement Award, to provide documentation and/or an explanation to show contrary information. Any such dispute, including any supporting documentation, must be mailed to the Settlement Administrator and postmarked by the Response Deadline. If there is a dispute, the Settlement Administrator will consult with the Parties to determine whether an adjustment is warranted. The Settlement Administrator shall determine the eligibility for, and the amounts of, any Settlement Awards under the terms of this Settlement Agreement. The Settlement Administrator's determination of the eligibility for and amount of any Settlement Award shall be binding upon the Settlement Class member and the Parties.

- F. Any Notice Packets returned to the Settlement Administrator as non-delivered on or before the Response Deadline shall be re-mailed to the forwarding address affixed thereto. If no forwarding address is provided, the Settlement Administrator shall make reasonable efforts, including utilizing a "skip trace," to obtain an updated mailing address within five (5) business days of receiving the returned Notice Packet. If an updated mailing address is identified, the Settlement Administrator shall resend the Notice Packet to the Settlement Class member immediately, and in any event within three (3) business days of obtaining the updated address. The address identified by the Settlement Administrator as the current mailing address shall be presumed to be the best mailing address for each Settlement Class member. It will be conclusively presumed that, if an envelope so mailed has not been returned within thirty (30) days of the mailing, the Settlement Class member received the Notice Packet. Settlement Class members to whom Notice Packets are re-mailed after having been returned as undeliverable to the Settlement Administrator shall have fourteen (14) calendar days from the date of re-mailing, or until the Response Deadline has expired, whichever is later, to submit a Request for Exclusion, Objection, or dispute. Notice Packets that are re-mailed shall inform the recipient of this adjusted deadline. If a Settlement Class member's Notice Packet is returned to the Settlement Administrator more than once as non-deliverable, then an additional Notice Packet shall not be mailed. Nothing else shall be required of, or done by, the Parties, Class Counsel, or Defendant's Counsel to provide notice of the proposed settlement.
- G. Right to Revoke: If 10% or more of the Settlement Class members exercise their rights to exclude themselves and opt-out of the Settlement, Defendant may, in its sole discretion, unilaterally withdraw from and terminate the Settlement by providing written notice to Class Counsel no later than five (5) court days prior to the date of the Final Approval hearing. In the event of Defendant's withdrawal, then Defendant shall be solely responsible for all costs of the Settlement Administrator accrued to that point, and no party may use the fact that the Parties agreed to the Settlement for any reason.

10. **Final Approval.** Following preliminary approval and the close of the period for filing requests for exclusion, objections, or disputes under this Settlement Agreement, Plaintiff shall apply to the Court for entry of an Order:

- A. Granting final approval to the Settlement Agreement and adjudging its terms to be fair, reasonable, and adequate;
- B. Approving Plaintiff's and Class Counsel's application for attorneys' fees and costs, Class Representative enhancement payment, LWDA payment, and settlement administration costs; and
- C. Entering judgment pursuant to California Rule of Court 3.769.

11. Non-Admission of Liability.

A. Defendant denies liability to Named Plaintiff and to the Class upon any claim or cause of action. This Agreement does not constitute, and is not intended to constitute, an admission by Defendant as to the merits, validity, or accuracy of any of the allegations or claims made against it in the Action.

B. Nothing in this Agreement, nor any action taken in implementation thereof, nor any statements, discussions or communications, nor any materials prepared, exchanged, issued or used during the course of the negotiations leading to this Agreement or the Resolution, is intended by the Parties to constitute, nor will any of the foregoing constitute, be introduced, be used or be admissible in any way in this case or any other judicial, arbitral, administrative, investigative or other forum or proceeding as evidence of any violation of any federal, state, or local law, statute, ordinance, regulation, rule or executive order, or any obligation or duty at law or in equity. The Parties themselves agree not to introduce, use, or admit this Agreement, directly or indirectly, in this case or any other judicial, arbitral, administrative, investigative or other forum or proceeding, as purported evidence of any violation of any federal, state, or local law, statute, ordinance, regulation, rule or executive order, or any obligation or duty at law or in equity, or for any other purpose. Notwithstanding the foregoing, this Agreement may be used in any proceeding before the Court that has as its purpose the interpretation, implementation, or enforcement of this Agreement or any orders or judgments of the Court entered in connection with the Resolution.

C. None of the documents produced or created by Named Plaintiff or the Class in connection with the claims procedures or claims resolution procedures constitute, and they are not intended to constitute, an admission by Defendant of any violation of any federal, state, or local law, statute, ordinance, regulation, rule or executive order, or any obligation or duty at law or in equity.

D. Nothing in this Agreement will be construed as an admission or acknowledgement of any kind that any group should or would be given collective treatment in the Action or in any other action or proceeding. Further, neither this Agreement nor the Court's actions with regard to this Agreement will be admissible in any court or other tribunal regarding the propriety of collective treatment. In the event that this Agreement is not approved by the Judge or any appellate court, is terminated, or otherwise fails to be enforceable, Named Plaintiff will not be deemed to have waived, limited or affected in any way any claims, rights or remedies in the Action, and Defendant will not be deemed to have waived, limited, or affected in any way any of their objections or defenses in the Action.

12. **Non-disclosure and Non-publication.** Plaintiff and Class Counsel agree that they have not and will not publish the Settlement Agreement, except to Settlement Class members and as shall be contractually required to effectuate the terms of the Settlement Agreement as set forth herein. In response to any inquiries Plaintiff will state that "the case was resolved and it was resolved confidentially." Class Counsel shall not report the Settlement Agreement in any medium or in any publication, shall not post or report anything regarding the claims of Plaintiff, the Settlement Class, or the Settlement on their website, and shall not contact any reporters or media regarding the Settlement. However, for the limited purpose of allowing Class Counsel to prove adequacy as class counsel in other actions, Class Counsel may disclose the names of the Parties in this Action, the venue/case number of this Action, and a general description of the Action, to a court in a declaration by Class Counsel.

13. **Waiver and Amendment.** The Parties may not waive, amend, or modify any provision of this Settlement Agreement except by a written agreement signed by all of the Parties, and subject to any necessary Court approval. A waiver or amendment of any provision of this Settlement Agreement will not constitute a waiver of any other provision.

14. **Notices.** All notices, demands, and other communications to be provided concerning this Settlement Agreement shall be in writing and delivered by receipted delivery and by e-mail at the addresses set forth below, or such other addresses as either Party may designate in writing from time to time:

if to Defendant: Boris Sorsher, Fisher & Phillips LLP, 2050 Main St., Suite 1000,
Irvine, CA 92614; bsorsher@laborlawyers.com.

if to Plaintiff: Paul K. Haines, Haines Law Group, APC, 2155 Campus Drive,
Suite 180, El Segundo, California 90245;
phaines@haineslawgroup.com.

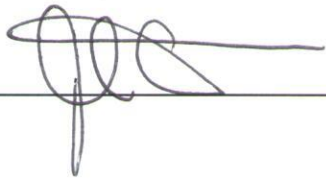
15. **Entire Agreement.** This Settlement Agreement contains the entire agreement between the Parties with respect to the transactions contemplated hereby, and supersedes all negotiations, presentations, warranties, commitments, offers, contracts, and writings prior to the date hereof relating to the subject matters hereof.

16. **Counterparts.** This Settlement Agreement may be executed by one or more of the Parties on any number of separate counterparts and delivered electronically, and all of said counterparts taken together shall be deemed to constitute one and the same instrument.

17. **Enforcement Action.** In the event that one more of the Parties institutes any legal action or other proceeding against any other Party or Parties to enforce the provisions of this Settlement or to declare rights and/or obligations under this Settlement, the successful Party or Parties will be entitled to recover from the unsuccessful Party or Parties reasonable attorneys' fees and costs, including expert witness fees incurred in connection with any enforcement actions

DATED: October 7, 2020

Fenceworks, Inc.

By: 

DATED: Oct 2, 2020

Jose Jimenez

By: 
JOSE JIMENEZ (Oct 2, 2020 12:58 PDT)
Plaintiff and Settlement Class Representative

APPROVED AS TO FORM:

DATED: OCTOBER 7, 2020

FISHER & PHILLIPS LLP

By: 

Boris Sorsher
Bret Martin
Attorneys for Defendant

DATED: October 2, 2020

HAINES LAW GROUP, APC

By: 

Paul K. Haines
Sean M. Blakely
Attorneys for Plaintiff

EXHIBIT 2

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF ORANGE

JOSE JIMENEZ, as an individual and on behalf of all
others similarly situated,

Plaintiff,

vs.

FENCEWORKS, INC., A California Corporation; and
DOES 1 through 100,

Defendants.

Case No. 30-2018-01034150-CU-OE-CXC

**NOTICE OF PENDENCY OF CLASS
ACTION AND PROPOSED SETTLEMENT**

To: All current and former non-exempt field employees who are or were employed by Fenceworks, Inc. in the State of California during the time period of November 26, 2014 to March 16, 2020 ("Class Period").

**PLEASE READ CAREFULLY
YOUR LEGAL RIGHTS MAY BE AFFECTED WHETHER YOU ACT OR NOT**

Why should you read this Notice?

The Court has granted preliminary approval of a proposed settlement (the "Settlement") in the matter of *Jose Jimenez v. Fenceworks, Inc.*, Orange County Superior Court Case No. 30-2018-01034150-CU-OE-CXC (the "Action"). Because your rights may be affected by the Settlement, it is important that you read this Notice carefully.

You may be entitled to money from this Settlement. Fenceworks, Inc.'s ("Fenceworks") records show that you were employed at Fenceworks as a non-exempt field employee in California between November 26, 2014 and March 16, 2020 (the "Class Period"). The Court ordered that this Notice be sent to you because you may be entitled to money under the Settlement and because the Settlement affects your legal rights.

The purpose of this Notice is to provide you with a brief description of the Action, to inform you of the terms of the Settlement, to describe your rights in connection with the Settlement, and to explain what steps you may take to participate in, object to, or exclude yourself from the Settlement. If you do not exclude yourself from the Settlement and the Court finally approves the Settlement, you will be bound to the terms of the Settlement and any final judgment.

What is this case about?

Plaintiff Jose Jimenez ("Plaintiff") brought this Action against Fenceworks on a class and representative action basis on behalf of a class of non-exempt field employees within the State of California who are or were employed by Fenceworks in the State of California from November 26, 2014, through March 16, 2020. Plaintiff is known as the "Class Representative," and his attorneys, who also represent the interests of all Settlement Class members, are known as "Class Counsel."

Plaintiff alleges that Fenceworks failed to provide Settlement Class members with all legally-compliant meal periods, failed to authorize and permit all legally-compliant rest periods, failed to pay Settlement Class members all overtime wages, failed to compensate at the minimum wage for all hours worked, failed to timely pay all wages owed upon separation of employment, failed to furnish accurate and itemized wage statements to Settlement Class members, and as a result of the foregoing alleged violations, is liable for civil penalties under the Labor Code Private Attorneys General Act ("PAGA"). Specifically, Plaintiff alleges that Settlement Class members were occasionally paid on a piece-rate basis whereby Settlement Class members were paid a piece-rate for each hole, foot, post or gate installed and/or completed. Plaintiff alleges that Fenceworks piece-rate compensation system failed to separately compensate Settlement Class members for all rest periods and failed to pay all "non-productive time," or underpaid Settlement Class members for such time.

Fenceworks denies that it has done anything wrong. Fenceworks also denies that it owes Settlement Class members any wages, restitution, penalties, damages, or other amounts. Accordingly, the Settlement constitutes a compromise of disputed claims and should not be construed as an admission of liability on the part of Fenceworks, by whom all liability is expressly denied.

The Court has not ruled on the merits of Plaintiff's claims. However, to avoid additional expense, inconvenience, and interference with its business operations, Fenceworks has concluded that it is in its best interests to settle the Action on the terms summarized in this Notice. After Fenceworks provided relevant information to Class Counsel, the Settlement was reached after mediation and arm's length negotiations between the parties.

The Class Representative and Class Counsel support the Settlement. Among the reasons for support are the defenses to liability potentially available to Fenceworks, the risk of denial of class certification, the inherent risk of trial on the merits, and the delays and uncertainties associated with ongoing litigation.

If you are still employed by Fenceworks, your decision about whether to participate in the Settlement will not affect your employment. California law and Fenceworks' policy strictly prohibit unlawful retaliation. Fenceworks will not take any adverse employment action against or otherwise target, retaliate, or discriminate against any Settlement Class member because of his/her decision to either participate or not participate in the Settlement.

Who are the Attorneys?

Attorneys for Plaintiff/Settlement Class: HAINES LAW GROUP, APC Paul K. Haines phaines@haineslawgroup.com Sean M. Blakely sblakely@haineslawgroup.com Diana M. Martinez dmartinez@haineslawgroup.com 2155 Campus Drive, Suite 180 El Segundo, California 90245 Tel: (424) 292-2350 Fax: (424) 292-2355 haineslawgroup.com	Attorneys for Fenceworks: FISHER & PHILLIPS LLP Boris Sorsher bsorsher@laborlawyers.com Bret Martin bmartin@fisherphillips.com 2050 Main St., Suite 1000 Irvine, California 92614 Tel: (949) 851-2424 Fax: (949) 851-0152 www.fisherphillips.com
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What are the terms of the Settlement?

On <<PRELIM APPROVAL DATE>>, the Court preliminarily certified a class, for settlement purposes only, of all current and former non-exempt field employees who are or were employed by Fenceworks in the State of California from November 26, 2014, through March 16, 2020. Settlement Class members who do not opt out of the Settlement pursuant to the procedures set forth in this Notice will be bound by the Settlement and will release their claims against Fenceworks as described below.

Fenceworks has agreed to pay \$895,000.00 (the "Gross Settlement Amount") to fully resolve all claims in the Action, including payments to Settlement Class members, Class Counsel's attorneys' fees and expenses, settlement administration costs, payment to the Labor & Workforce Development Agency ("LWDA"), and the Class Representative enhancement payment.

The following deductions from the Gross Settlement Amount will be requested by the parties:

Attorneys' Fees and Expenses. Class Counsel have been prosecuting the Action on behalf of Settlement Class members on a contingency fee basis (that is, without being paid any money to date) and have been paying all litigation costs and expenses. The Court will determine the actual amount awarded to Class Counsel as attorneys'

fees, which will be paid from the Gross Settlement Amount. Settlement Class members are not personally responsible for any of Class Counsel's attorneys' fees or expenses. Class Counsel will ask for up to one-third of the Gross Settlement Amount, which is currently estimated at \$298,333.33, as reasonable compensation for the work Class Counsel performed and will continue to perform in this Action through Settlement finalization. Class Counsel also will ask for reimbursement of up to \$20,000.00 in verified costs incurred in connection with the Action.

Settlement Administration Costs. The Court has approved Phoenix Settlement Administrators to act as the "Settlement Administrator," who is sending this Notice to you and will perform many other duties relating to the Settlement. The Parties request setting aside up to \$15,000.00 from the Gross Settlement Amount to pay the settlement administration costs.

Class Representative Enhancement Payment. Class Counsel will ask the Court to award the Class Representative an enhancement payment in the amount of \$5,000.00 to compensate him for his service and extra work provided on behalf of the Settlement Class.

PAGA Payment to State of California. The parties have agreed to allocate \$30,000.00 towards the Settlement of the PAGA claims in the Action. \$22,500.00 will be paid to the State of California Labor & Workforce Development Agency, representing its 75% share of the civil penalties. The remaining \$7,500.00 will be allocated to Settlement Class members as described below.

Calculation of Individual Settlement Class Members' Settlement Awards. After deducting the Court-approved amounts above, the balance of the Gross Settlement Amount will form the Net Settlement Amount, which will be distributed to all Settlement Class members who do not submit a valid and timely Request for Exclusion from the Settlement. The Net Settlement Amount is estimated at approximately \$526,666.67, and will be divided as follows:

- (i) 85% of the Net Settlement Amount will be allocated to all participating Settlement Class members in proportion to the number of workweeks that he or she worked during the Class Period.
- (ii) 10% of the Net Settlement Amount shall be designated as the "Waiting Time Amount" and will be allocated in equal amounts to all participating Settlement Class members whose employment with Fenceworks ended at any time between November 26, 2015 through March 16, 2020.
- (iii) 5% of the Net Settlement Amount shall be designated as the "Wage Statement Amount." Each participating Settlement Class member who was employed by Fenceworks at any time from November 26, 2017 to March 16, 2020 shall receive a portion of the Wage Statement Amount proportionate to the number of workweeks that he or she worked during the time period of November 26, 2017 to March 16, 2020.
- (iv) \$7,500.00 of the Gross Settlement Amount has been designated as the "PAGA Amount." Each participating Settlement Class member who was employed by Fenceworks at any time from February 19, 2019 to March 16, 2020 (including those who submit a valid and timely Request for Exclusion from the class action settlement) shall receive a portion of the PAGA Amount proportionate to the number of workweeks that he or she worked during the time period of February 19, 2019 to March 16, 2020.

Payments to Settlement Class members. If the Court grants final approval of the Settlement, individual Settlement Awards will be mailed to all Settlement Class members who did not submit a valid and timely Request for Exclusion from the Settlement. Settlement checks will be valid for 180 days. Any checks that were not cashed within 180 days will escheat to the California State Controller Unclaimed Property Fund in the name of the Settlement Class member.

Allocation and Taxes. For tax purposes, each Settlement Award shall be treated as follows: 20% as "wages," for which an IRS Form W-2 will be issued; and 80% as "penalties" and "interest" for which an IRS Form 1099 will be issued. Settlement Class members are responsible for the proper income tax treatment of the individual Settlement Awards. The Settlement Administrator, Fenceworks and its counsel, and Class Counsel cannot provide tax advice.

Accordingly, Settlement Class members should consult with their tax advisors concerning the tax consequences and treatment of payments they receive under the Settlement.

Release. If the Court approves the Settlement, Plaintiff and every member of the Settlement Class (except those who opt out) will fully release and discharge Defendant, and all of its present and former officers, directors, employees, shareholders, agents, trustees, representatives, attorneys, insurers, reinsurers, parent companies, subsidiaries, divisions, affiliates, predecessors, successors, as well as any individual or entity that could be jointly liable with Fenceworks from all claims, causes of action, and legal theories alleged or which could have been alleged based on the facts in the operative First Amended Class and Representative Action Complaint (“FAC”), including: (a) failure to provide all meal periods, or premium pay for non-compliant meal periods; (b) failure to authorize and permit all rest periods, or premium pay for non-compliant rest periods; (c) failure to pay all overtime wages (including, but not limited to, any claims for wages owed based on “rounding” theories and separate pay owed for rest periods or other “non-productive” time; (d) failure to pay all minimum wages (including any wages owed due to piece rate pay, failure to pay for rest periods, or failure to pay for rest periods at the correct rate under Labor Code Section 226.2); (e) failure to timely pay all wages due or final wages due; (f) failure to furnish accurate and complete itemized wage statements; (g) all claims for unfair business practices that could have been premised on the facts, claims, causes of action or legal theories of relief pled in the FAC; (h) all claims for civil penalties under the PAGA that were or could have been alleged based on the claims, causes of action or legal theories described above or on any of the claims, causes of action, or legal theories of relief pleaded in the FAC; and (i) all damages, penalties, interest, costs (including attorney’s fees), and other amounts recoverable under said claims or causes of action as to the facts and/or legal theories alleged or which could have been alleged in the FAC (collectively, the “Released Claims”). The period of the Release shall extend to the limits of the Class Period. The *res judicata* effect of the judgment will be the same as that of the Release.

Conditions of Settlement. The Settlement is conditioned upon the Court entering an order at or following the Final Approval Hearing finally approving the Settlement as fair, reasonable, adequate, and in the best interests of the Settlement Class, and the entry of a Judgment.

How can I claim money from the Settlement?

Do Nothing. If you do nothing, you will be entitled to your share of the Settlement based on the proportionate number of workweeks you worked during the Class Period, whether you have separated employment from Fenceworks between November 26, 2015 and March 16, 2020, the proportionate number of workweeks you worked between November 26, 2017 and March 16, 2020, and the proportionate number of workweeks you worked between February 19, 2019 and March 16, 2020, as stated in the accompanying Notice of Estimated Settlement Award. You also will be bound by the Settlement, including the release of claims stated above.

What other options do I have?

Dispute Information in Notice of Estimated Settlement Award. Your award is based on the proportionate number of workweeks you worked during the Class Period, whether you have separated employment from Fenceworks between November 26, 2015 and March 16, 2020, the proportionate number of workweeks you worked between November 26, 2017 and March 16, 2020, and the proportionate number of workweeks you worked between February 19, 2019 and March 16, 2020. The information contained in Fenceworks’ records regarding each of these factors, along with your estimated Settlement Award, is listed on the accompanying Notice of Estimated Settlement Award. If you disagree with the information in your Notice of Estimated Settlement Award, you may submit a dispute, along with any supporting documentation, in accordance with the procedures stated in the Notice of Estimated Settlement Award. Any disputes, along with supporting documentation, must be postmarked no later than **<<RESPONSE DEADLINE>>**. **DO NOT SEND ORIGINALS; DOCUMENTATION SENT TO THE SETTLEMENT ADMINISTRATOR WILL NOT BE RETURNED OR PRESERVED.**

The Parties and the Settlement Administrator will evaluate the evidence submitted and discuss in good faith how to resolve any disputes submitted by Settlement Class members. The Settlement Administrator’s decision regarding any dispute will be final.

Exclude Yourself from the Settlement. If you **do not** wish to take part in the Settlement, you may exclude yourself by sending to the Settlement Administrator an executed Request for Exclusion Form no later than **<<RESPONSE**

DEADLINE>>, with your name, address, telephone number, last four digits of your social security number, and your signature. A Request for Exclusion Form is included with this Notice.

Send the Request for Exclusion Form directly to the Settlement Administrator at **<<INSERT ADMINISTRATOR CONTACT INFO>>**. Any person who submits a timely Request for Exclusion Form shall, upon receipt by the Settlement Administrator, no longer be a Settlement Class member and shall be barred from participating in the class action settlement. However, Settlement Class members who were employed by Fenceworks at any time from February 19, 2019 to March 16, 2020 and submit a valid and timely Request for Exclusion Form shall still be entitled to their portion of the PAGA Amount described above. **Do not submit both a Dispute and a Request for Exclusion.** If you do, the Request for Exclusion will be invalid, you will be included in the Settlement Class, and you will be bound by the terms of the Settlement.

Objecting to the Settlement. You also have the right to object to the terms of the Settlement. However, if the Court rejects your objection, you will still be bound by the terms of the Settlement. If you wish to object to the Settlement, or any portion of it, you may mail a written objection to the Settlement Administrator at **<<INSERT ADMINISTRATOR CONTACT INFO>>**. All objections and correspondence must be sent directly to the Settlement Administrator, please do not send objections or correspondence to the Court. Any objections will be provided to the Court by Plaintiff in connection with the Final Approval Hearing. Your written objection must include your name, address, as well as contact information for any attorney representing you regarding your objection, the case name and number, each specific reason in support of your objection, and any legal or factual support for each objection together with any evidence in support of your objection. Objections must be in writing and must be postmarked on or before **<<RESPONSE DEADLINE>>**.

You may also appear at the Final Approval Hearing scheduled for **<<FINAL APPROVAL HEARING DATE/TIME>>** in Department CX104 of the Orange County Superior Court, located at 751 West Santa Ana Boulevard, Santa Ana, California 92701. You have the right to appear either in person or through your own attorney at this hearing. All objections or other correspondence must state the name and number of the case, which is *Jose Jimenez v. Fenceworks, Inc.*, Orange County Superior Court Case No. 30-2018-01034150-CU-OE-CXC.

If you object to the Settlement, you will remain a member of the Settlement Class, and if the Court approves the Settlement, you will be bound by the terms of the Settlement in the same way as Settlement Class members who do not object.

What is the next step?

The Court will hold a Final Approval Hearing on the adequacy, reasonableness, and fairness of the Settlement on **<<FINAL APPROVAL HEARING DATE/TIME>>**, in Department CX104 of the Orange County Superior Court, located at 751 West Santa Ana Boulevard, Santa Ana, California 92701. The Court will also be asked to rule on Class Counsel's request for attorneys' fees and reimbursement of documented costs and expenses, and the Class Representative enhancement payment. The Final Approval Hearing may be postponed without further notice to Settlement Class members. **You are not required to attend the Final Approval Hearing, although any Settlement Class member is welcome to attend the hearing.**

How can I get additional information?

This Notice is only a summary of the Action and the Settlement. For more information, you may inspect the Court's files and the Settlement Agreement at the Office of the Clerk of the Orange County Superior Court, located at 751 West Santa Ana Boulevard, Santa Ana, California 92701, during regular court hours. You may also visit the Orange County Superior Court website at www.occourts.org to inspect the Court's files by going to the "Online Case Access" tab, selecting "Civil Case & Document Access," and entering the case number information. You may also contact Class Counsel using the contact information listed above for more information.

PLEASE DO NOT CALL OR WRITE TO THE COURT, FENCEWORKS, OR ITS ATTORNEYS FOR INFORMATION ABOUT THIS SETTLEMENT OR THE SETTLEMENT PROCESS

REMINDER AS TO TIME LIMITS

The deadline for submitting any Disputes, Requests for Exclusion, or Objections is **<<RESPONSE DEADLINE>>**. These deadlines will be strictly enforced.

EXHIBIT 3

STIPULATION OF SETTLEMENT

This Stipulation of Settlement (“Settlement Agreement”) is reached by and between Plaintiff Jose Jimenez, individually and on behalf of all members of the Settlement Class (defined below), on one hand, and Defendant Fenceworks, Inc. (hereinafter “Defendant”), on the other hand. Plaintiff and Defendant are referred to herein collectively as the “Parties.” Plaintiff and the Settlement Class are represented by Paul K. Haines, Sean M. Blakely, and Diana M. Martinez of Haines Law Group, APC (“Class Counsel”). Defendant is represented by Boris Sorsher and Bret Martin of Fisher & Phillips LLP.

On November 26, 2018, Plaintiff filed a Class Action Complaint against Defendant in Orange County Superior Court, in the matter entitled *Jose Jimenez v. Fenceworks, Inc.*, Case No. 30-2018-01034150-CU-OE-CXC (the “Action”). As part of this Settlement, the Parties agree for Plaintiff to serve a Private Attorneys General Act of 2004 (“PAGA”) letter to the Labor & Workforce Development Agency (“LWDA”), and have further agreed to stipulate to the filing of a First Amended Class and Representative Action Complaint (“FAC”), which will include a claim for failure to furnish accurate and itemized wage statements, and a claim for civil penalties under the PAGA.

The FAC alleges that Defendant: (i) failed to provide all meal periods in accordance with California law; (ii) failed to authorize and permit all rest periods in accordance with California law; (iii) failed to pay all overtime wages; (iv) failed to pay all minimum wages; (v) failed to pay all wages due upon separation of employment; and (vi) failed to furnish accurate and itemized wage statements. As a result of the foregoing violations, Plaintiff contends that Defendant is further liable to Plaintiff and the Settlement Class because it engaged in unlawful business practices. Plaintiff also alleges that Defendant is liable for civil penalties under the PAGA, California Labor Code § 2698 *et seq.*, as a result of the aforementioned alleged violations of the California Labor Code.

Given the uncertainty of litigation, Plaintiff and Defendant wish to settle both individually and on behalf of the Settlement Class. Accordingly, Plaintiff and Defendant agree as follows:

1. **Settlement Class.** For the purposes of this Settlement Agreement only, Plaintiff and Defendant stipulate to the certification of the following Settlement Class:

All current and former non-exempt field employees who are or were employed by Fenceworks, Inc. in the State of California during the time period of November 26, 2014 to March 16, 2020 (“Class Period”).

The Parties agree that certification for purposes of settlement is not an admission that class certification is proper under Section 382 of the Code of Civil Procedure. If for any reason this Settlement Agreement is not approved or is terminated, in whole or in part, this conditional agreement to class certification will be inadmissible and will have no effect in this matter or in any claims brought on the same or similar allegations, and the Parties shall revert to the respective positions they held prior to entering into the Settlement Agreement.

2. **Release by Settlement Class Members and Plaintiff.** Plaintiff and every member of the Settlement Class (except those who opt out) will fully release and discharge Defendant, and all of its present and former officers, directors, employees, shareholders, agents, trustees, representatives, attorneys, insurers, reinsurers, parent companies, subsidiaries, divisions, affiliates, predecessors, successors, as well as any individual or entity that could be jointly liable with Defendant (collectively the “Released Parties”), as follows:

- A. Settlement Class members will release all claims, causes of action, and legal theories alleged or which could have been alleged based on the facts in the operative First Amended Class and Representative Action Complaint (“FAC”), including: (a) failure to provide all meal periods, or premium pay for non-compliant meal periods; (b) failure to authorize and permit all rest periods, or premium pay for non-compliant rest periods; (c) failure to pay all overtime wages (including, but not limited to, any claims for wages owed based on “rounding” theories and separate pay owed for rest periods or other “non-productive” time; (d) failure to pay all minimum wages (including any wages owed due to piece rate pay, failure to pay for rest periods, or failure to pay for rest periods at the correct rate under Labor Code Section 226.2); (e) failure to timely pay all wages due or final wages due; (f) failure to furnish accurate and complete itemized wage statements; (g) all claims for unfair business practices that could have been premised on the facts, claims, causes of action or legal theories of relief pled in the FAC; (h) all claims for civil penalties under the PAGA that were or could have been alleged based on the claims, causes of action or legal theories described above or on any of the claims, causes of action, or legal theories of relief pleaded in the FAC; and (i) all damages, penalties, interest, costs (including attorney’s fees), and other amounts recoverable under said claims or causes of action as to the facts and/or legal theories alleged or which could have been alleged in the FAC (collectively, the “Released Claims”). The period of the Release shall extend to the limits of the Class Period. The *res judicata* effect of the judgment will be the same as that of the Release.
- B. In light of his Class Representative Enhancement Payment, Plaintiff has agreed to release, in addition to the Released Claims described above, all claims, whether known or unknown, under federal law or state law against the Released Parties. Plaintiff understands that this release includes unknown claims and that he is, as a result, waiving all rights and benefits afforded by Section 1542 of the California Civil Code, which provides:

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

However, to the extent that Plaintiff has claims that cannot be released as a matter of law (i.e., workers’ compensation claims), then those claims will not be released.

3. **Gross Settlement Amount.** As consideration, Defendant agrees to pay a “Gross Settlement Amount” of Eight Hundred Ninety-Five Thousand Dollars and Zero Cents (\$895,000.00) in full and complete settlement of the Action, as follows:
- A. The Parties have agreed to engage Phoenix Settlement Administrators as the “Settlement Administrator” to administer this Settlement.
 - B. The Gross Settlement Amount shall be deposited with the Settlement Administrator within fifteen (15) calendar days of the Court entering an order granting final approval, or, solely in the event that there are any objections to the settlement (the filing of an objection being a prerequisite to the filing of an appeal), the later of: (i) the last date on which any appeal might be filed; or (ii) the successful resolution of any appeal(s) – including expiration of any time to seek reconsideration or further review.
 - C. This is a non-reversionary settlement. The Gross Settlement Amount includes:
 - (1) All payments (including interest) to the Settlement Class;
 - (2) All costs of the Settlement Administrator and settlement administration, which are anticipated to be no greater than Fifteen Thousand Dollars and Zero Cents (\$15,000.00);
 - (3) Up to Five Thousand Dollars and Zero Cents (\$5,000.00) for Plaintiff’s Class Representative Enhancement Payment in recognition of his contributions to the Action and his service to the Settlement Class. If Plaintiff’s request for his enhancement payment is not approved and/or reduced by the Court, any amount not approved and/or reduced by the Court will revert to the participating Settlement Class members;
 - (4) Up to one-third of the Gross Settlement Amount in Class Counsel’s attorneys’ fees, plus actual costs and expenses incurred by Class Counsel related to the Action as supported by declaration, which are currently estimated to be no greater than Twenty Thousand Dollars and Zero Cents (\$20,000.00). If Class Counsel’s request for attorneys’ fees and/or reimbursement of litigation costs is not approved and reduced by the Court, any amount not approved and/or reduced by the Court will revert to the participating Settlement Class members; and
 - (5) Thirty Thousand Dollars (\$30,000.00) of the Gross Settlement Amount has been set aside by the Parties as PAGA civil penalties. Per Labor Code § 2699(i), seventy-five percent (75%) of such penalties, or Twenty-Two Thousand Five Hundred Dollars (\$22,500.00) will be payable to the Labor & Workforce Development Agency (“LWDA”), and the remaining twenty-five percent (25%), or Seven Thousand Five Hundred Dollars (\$7,500.00) will be payable to the Settlement Class as the “PAGA Amount.”

- D. Defendant's share of payroll taxes shall be paid by Defendant separately from, and in addition to, the Gross Settlement Amount.
 - E. **Escalator Clause.** Defendant represents that there are approximately 55,086 workweeks worked by Settlement Class members during the Class Period. If the number of workweeks worked by Settlement Class members during the Class Period is more than 10% greater than this figure (i.e., if there are 60,595 or more workweeks worked by Settlement Class members), Defendant agrees to increase the Gross Settlement Amount on a proportional basis over the 10% increase (i.e., if there was a 12% increase in the number of workweeks worked by Settlement Class members, Defendant would agree to increase the Gross Settlement Amount by 2%).
4. **Payments to the Settlement Class.** Settlement Class members are not required to submit a claim form to receive a payment ("Settlement Award") from the Settlement. Settlement Awards will be determined and paid as follows:
- A. The Settlement Administrator shall first deduct from the Gross Settlement Amount the amounts approved by the Court for Class Counsel's attorneys' fees, Class Counsel's costs and expenses, Plaintiff's Class Representative enhancement payment, the LWDA's share of the PAGA payment, and the Settlement Administrator's fees and expenses for administration. The remaining amount shall be known as the "Net Settlement Amount."
 - B. From the Net Settlement Amount, the Settlement Administrator will calculate each Settlement Class member's Settlement Award based on the following formula:
 - i. Payments to all participating Settlement Class members: Eighty-Five percent (85%) of the Net Settlement Amount will be distributed to all participating Settlement Class members based on each participating Settlement Class member's proportionate Workweeks worked during the Class Period, and will be calculated by multiplying 85% of the Net Settlement Amount by a fraction, the numerator of which is the participating Settlement Class member's number of Workweeks worked during the Class Period, and the denominator of which is the total Workweeks worked by all participating Settlement Class members during the Class Period.
 - ii. Waiting Time Amount: Ten Percent (10%) of the Net Settlement Amount shall be designated as the "Waiting Time Amount." Each participating Settlement Class member whose employment with Defendant ended at any time from November 26, 2015 to March 16, 2020, shall receive an equal, pro-rata share of the Waiting Time Amount. In other words, the Waiting Time Amount will be divided equally among all participating Settlement Class members whose employment with Defendant ended at any time from November 26, 2015 to March 16, 2020.
 - iii. Wage Statement Amount: Five percent (5%) of the Net Settlement Amount shall be designated as the "Wage Statement Amount." Each participating

Settlement Class member who was employed by Defendant at any time from November 26, 2017 to March 16, 2020 shall receive a portion of the Wage Statement Amount proportionate to the number of Workweeks that he or she worked during the period from November 26, 2017 to March 16, 2020, and which will be calculated by multiplying 5% of the Net Settlement Amount by a fraction, the numerator of which is the participating Settlement Class member's number of Workweeks worked from November 26, 2017 to March 16, 2020, and the denominator of which is the total number of Workweeks worked by all participating Settlement Class members during the time period from November 26, 2017 to March 16, 2020.

- iv. PAGA Amount: Each participating Settlement Class member who was employed by Defendant at any time from February 19, 2019 to March 16, 2020 (including those who submit a valid and timely Request for Exclusion from the class action settlement)– shall receive a portion of the Seven Thousand Five Hundred Dollars and Zero Cents (\$7,500.00) of the Gross Settlement Amount that has been designated as the “PAGA Amount” proportionate to the number of Workweeks that he or she worked during the period from February 19, 2019 to March 16, 2020, and which will be calculated by multiplying the PAGA Amount by a fraction, the numerator of which is the participating Settlement Class member's number of Workweeks worked from February 19, 2019 to March 16, 2020, and the denominator of which is the total number of Workweeks worked by all participating Settlement Class members (including those who submit a valid and timely Request for Exclusion from the class action settlement) from February 19, 2019 to March 16, 2020.

- C. Within ten (10) calendar days following Defendant's deposit of the Gross Settlement Amount with the Settlement Administrator, the Settlement Administrator will calculate Settlement Award amounts and provide the same to counsel for review and approval. Within seven (7) calendar days of approval by counsel, the Settlement Administrator will prepare and mail Settlement Awards, less applicable taxes and withholdings, to participating Settlement Class members. The Settlement Administrator shall simultaneously pay the withholdings to the applicable authorities with the necessary reports, submitting copies to Defendant's counsel.
- D. For purposes of calculating applicable taxes and withholdings, each Settlement Award shall be allocated as follows: 80% as penalties and interest; and 20% as wages. The Settlement Administrator will be responsible for issuing to participating Settlement Class members IRS Forms W-2 for amounts deemed “wages” and IRS Forms 1099 for the amounts allocated as penalties and interest. Notwithstanding the treatment of the payments to each Settlement Class member above, none of the payments called for by this Settlement Agreement, including the wage portion, are to be treated as earnings, wages, pay or compensation for any purpose of any applicable benefit or retirement plan, unless required by such plans.

- E. CIRCULAR 230 DISCLAIMER. EACH PARTY TO THIS AGREEMENT (FOR PURPOSES OF THIS SECTION, THE “ACKNOWLEDGING PARTY” AND EACH PARTY TO THIS AGREEMENT OTHER THAN THE ACKNOWLEDGING PARTY, AN “OTHER PARTY”) ACKNOWLEDGES AND AGREES THAT (1) NO PROVISION OF THIS AGREEMENT, AND NO WRITTEN COMMUNICATION OR DISCLOSURE BETWEEN OR AMONG THE PARTIES OR THEIR ATTORNEYS AND OTHER ADVISERS, IS WAS INTENDED TO BE, NOR SHALL ANY SUCH COMMUNICATION OR DISCLOSURE CONSTITUTE OR BE CONSTRUED OR BE RELIED UPON AS, TAX ADVICE WITHIN THE MEANING OF UNITED STATES TREASURY DEPARTMENT CIRCULAR 230 (31 CFR PART 10, AS AMENDED); (2) THE ACKNOWLEDGING PARTY (A) HAS RELIED EXCLUSIVELY UPON HIS, HER OR ITS OWN, INDEPENDENT LEGAL AND TAX COUNSEL FOR ADVICE (INCLUDING TAX ADVICE) IN CONNECTION WITH THIS AGREEMENT, (B) HAS NOT ENTERED INTO THIS AGREEMENT BASED UPON THE RECOMMENDATION OF ANY OTHER PARTY OR ANY ATTORNEY OR ADVISOR TO ANY OTHER PARTY, AND (C) IS NOT ENTITLED TO RELY UPON ANY COMMUNICATION OR DISCLOSURE BY ANY ATTORNEY OR ADVISER TO ANY OTHER PARTY TO AVOID ANY TAX PENALTY THAT MAY BE IMPOSED ON THE ACKNOWLEDGING PARTY; AND (3) NO ATTORNEY OR ADVISER TO ANY OTHER PARTY HAS IMPOSED ANY LIMITATION THAT PROTECTS THE CONFIDENTIALITY OF ANY SUCH ATTORNEY’S OR ADVISER’S TAX STRATEGIES (REGARDLESS OF WHETHER SUCH LIMITATION IS LEGALLY BINDING) UPON DISCLOSURE BY THE ACKNOWLEDGING PARTY OF THE TAX TREATMENT OR TAX STRUCTURE OF ANY TRANSACTION, INCLUDING ANY TRANSACTION CONTEMPLATED BY THIS AGREEMENT
- F. Each Settlement Class member who receives a Settlement Award must cash that check within 180 days from the date the Settlement Administrator mails it. Any funds payable to Settlement Class members whose checks were not cashed within 180 days after mailing will escheat to the State Controller to be deposited in the Unclaimed Property Fund for the benefit of the Settlement Class member whose check was not cashed.
- G. Neither Plaintiff nor Defendant shall bear any liability for lost or stolen checks, forged signatures on checks, or unauthorized negotiation of checks. Unless responsible by its own acts of omission or commission, the same is true for the Settlement Administrator.
- H. The amounts paid under this Agreement do not represent a modification of any previously credited hours of service under any employee benefit plan, policy or bonus program sponsored by Defendant. Such amounts will not form the basis for additional contributions to, benefits under, or any other monetary entitlement under, benefit plans (self-insured or not) sponsored by Defendant, policies or bonus programs. Any payments made under the terms of this Agreement shall not be

applied retroactively, currently or on a going forward basis as salary, earnings, wages, or any other form of compensation for the purposes of Defendant's benefit plan, policy or bonus program. Defendant retains the right to modify the language of its benefit plans, policies and bonus programs to effect this intent and to make clear that any amounts paid pursuant to this Agreement are not for "hours worked," "hours paid," "hours of service," or any similar measuring term as defined by applicable plans, policies and bonus programs for purpose of eligibility, vesting, benefit accrual or any other purpose, and that additional contributions or benefits are not required by this Agreement.

5. **Attorneys' Fees and Costs.** Defendant will not object to Class Counsel's request for a total award of attorneys' fees of one-third of the Gross Settlement Amount, which is currently estimated to be Two Hundred Ninety-Eight Thousand Three Hundred Thirty-Three Dollars and Thirty-Three Cents (\$298,333.33). Additionally, Class Counsel will request an award of actual costs and expenses as supported by declaration, in an amount not to exceed Twenty Thousand Dollars and Zero Cents (\$20,000.00), from the Gross Settlement Amount. These amounts will cover any and all work performed and any and all costs incurred in connection with this litigation, including without limitation: all work performed and all costs incurred to date; and all work to be performed and costs to be incurred in connection with obtaining the Court's approval of this Settlement Agreement, including any objections raised and any appeals necessitated by those objections. Class Counsel will be issued an IRS Form 1099 by the Settlement Administrator when the Settlement Administrator pays the fee award allowed by the Court.

6. **Class Representative Enhancement Payment.** Defendant will not object to a request for a Class Representative Enhancement Payment of up to Five Thousand Dollars and Zero Cents (\$5,000.00) to Plaintiff for his time and risk in prosecuting this case, and his service to the Settlement Class. This payment will be in addition to Plaintiff's Settlement Award as a Settlement Class member and shall be reported on an IRS Form 1099 issued by the Settlement Administrator.

7. **Settlement Administrator.** Defendant will not object to the appointment of Phoenix Settlement Administrators as Settlement Administrator. Defendant will not object to Plaintiff seeking permission to pay up to Fifteen Thousand Dollars and Zero Cents (\$15,000.00) for its services from the Gross Settlement Amount. The Settlement Administrator shall be responsible for sending notices and for calculating Settlement Awards and preparing all checks and mailings, calculating Defendant's share of taxes payable on the wages, and other duties as described in this Settlement Agreement. The Settlement Administrator shall be authorized to pay itself from the Gross Settlement Amount by Class Counsel only after Settlement Awards have been mailed to all participating Settlement Class members.

8. **Preliminary Approval.** Within a reasonable time after execution of this Settlement Agreement by the Parties, Plaintiff shall apply to the Court for the entry of an Order:

- A. Conditionally certifying the Settlement Class for purposes of this Settlement Agreement;
- B. Appointing Paul K. Haines, Sean M. Blakely, and Diana M. Martinez of Haines Law Group, APC as Class Counsel;

- C. Appointing Jose Jimenez as Class Representative for the Settlement Class;
- D. Approving Phoenix Settlement Administrators, as Settlement Administrator;
- E. Preliminarily approving this Settlement Agreement and its terms as fair, reasonable, and adequate;
- F. Approving the form and content of the Notice Packet (which is comprised of the Class Notice, Request for Exclusion Form, and Notice of Estimated Settlement Award), and directing the mailing of same; and
- G. Scheduling a Final Approval hearing.

9. **Notice to Settlement Class.** Following preliminary approval, the Settlement Class shall be notified as follows:

- A. Within twenty (20) business days after entry of an order preliminarily approving this Agreement, Defendant will provide the Settlement Administrator with the names, last known addresses, phone numbers, social security numbers, the dates of employment and the number of Workweeks worked by each Settlement Class member while employed during the Class Period (the “Class Data”). The Class Data shall be provided to the Settlement Administrator in an electronic format satisfactory to the Settlement Administrator.
- B. Within ten (10) business days from receipt of this information, the Settlement Administrator shall (i) run the names of all Settlement Class members through the National Change of Address (“NCOA”) database to determine any updated addresses for Settlement Class members; (ii) update the address of any Settlement Class member for whom an updated address was found through the NCOA search; (iii) calculate the estimated Settlement Award for each Settlement Class member; and (iv) mail a Notice Packet to each Settlement Class member at his or her last known address or at the updated address found through the NCOA search, and retain proof of mailing.
- C. Requests for Exclusion. Any Settlement Class member who wishes to opt-out of the settlement must complete and mail a Request for Exclusion Form (defined below) to the Settlement Administrator within sixty (60) calendar days of the date of the initial mailing of the Notice Packets (the “Response Deadline”).
 - i. The Notice Packet shall state that a Settlement Class member who wishes to exclude themselves from the Settlement must submit a Request for Exclusion Form by the Response Deadline. The Request for Exclusion Form must: (1) contain the name, address, telephone number and the last four digits of the Social Security number of the Settlement Class member; (2) contain a statement that the Settlement Class member wishes to be excluded from the Settlement; (3) be signed by the Settlement Class member; and (4) be postmarked by the Response Deadline and mailed to the Settlement Administrator at the address specified in the Class Notice. If the Request for Exclusion Form does not

contain the information listed in (1)-(3), it will not be deemed valid for exclusion from the Settlement, except a Request for Exclusion Form not containing a Class Member's telephone number and/or last four digits of the Social Security number will be deemed valid. The date of the postmark on the Request for Exclusion Form shall be the exclusive means used to determine whether a Request for Exclusion has been timely submitted. Any Settlement Class member who requests to be excluded from the Settlement Class will not be entitled to any recovery under this Settlement Agreement and will not be bound by the terms of the Settlement or have any right to object, appeal or comment thereon. Notwithstanding the foregoing, the PAGA settlement and release provisions will apply to all Settlement Class members whether or not they exclude themselves from the class action settlement. Settlement Class members who were employed by Defendant at any time from February 19, 2019 to March 16, 2020 and submit a valid and timely Request for Exclusion shall still be entitled to their portion of the PAGA Amount described above, and will release all claims for civil penalties under the PAGA that were or could have been alleged based on the claims, causes of action or legal theories described above or on any of the claims, causes of action, or legal theories of relief pleaded in the FAC, whether they submit a valid and timely Request for Exclusion or not.-

- D. Objections. Settlement Class members who do not request exclusion may object to this Settlement Agreement as explained in the Class Notice by filing a written objection with the Settlement Administrator (who shall serve all objections as received on Class Counsel and Defendant's counsel, as well as file all such objections with the Court). Defendant's counsel and Class Counsel shall file any responses to objections no later than the deadline to file the Motion for Final Approval, unless the objections are filed within ten (10) days of the Motion for Final Approval filing deadline, in which case Defendant's counsel and Class Counsel shall have ten (10) days to file a response to the objections. To be valid, any objection must: (1) contain the objecting Settlement Class member's full name and current address, as well as contact information for any attorney representing the objecting Settlement Class member for purposes of the objection; (2) include all objections and the factual and legal bases for same; (3) include any and all supporting papers, briefs, written evidence, declarations, and/or other evidence; and (4) be postmarked no later than the Response Deadline.
- E. Notice of Estimated Settlement Award / Disputes. Each Notice Packet mailed to a Settlement Class member shall disclose the amount of the Settlement Class member's estimated Settlement Award as well as all of the information that was used from Defendant's records in order to calculate the Settlement Award, including the Settlement Class member's number of Workweeks worked during the Class Period, whether the Settlement Class member's employment with Defendant ended during the time period of November 26, 2015 to March 16, 2020, the number of workweeks worked from November 26, 2017 to March 16, 2020, and the number of Workweeks worked during the time period of February 19, 2019 and March 16, 2020. Settlement Class members will have the opportunity, should they disagree

with Defendant's records regarding the information stated in the Notice of Estimated Settlement Award, to provide documentation and/or an explanation to show contrary information. Any such dispute, including any supporting documentation, must be mailed to the Settlement Administrator and postmarked by the Response Deadline. If there is a dispute, the Settlement Administrator will consult with the Parties to determine whether an adjustment is warranted. The Settlement Administrator shall determine the eligibility for, and the amounts of, any Settlement Awards under the terms of this Settlement Agreement. The Settlement Administrator's determination of the eligibility for and amount of any Settlement Award shall be binding upon the Settlement Class member and the Parties.

- F. Any Notice Packets returned to the Settlement Administrator as non-delivered on or before the Response Deadline shall be re-mailed to the forwarding address affixed thereto. If no forwarding address is provided, the Settlement Administrator shall make reasonable efforts, including utilizing a "skip trace," to obtain an updated mailing address within five (5) business days of receiving the returned Notice Packet. If an updated mailing address is identified, the Settlement Administrator shall resend the Notice Packet to the Settlement Class member immediately, and in any event within three (3) business days of obtaining the updated address. The address identified by the Settlement Administrator as the current mailing address shall be presumed to be the best mailing address for each Settlement Class member. It will be conclusively presumed that, if an envelope so mailed has not been returned within thirty (30) days of the mailing, the Settlement Class member received the Notice Packet. Settlement Class members to whom Notice Packets are re-mailed after having been returned as undeliverable to the Settlement Administrator shall have fourteen (14) calendar days from the date of re-mailing, or until the Response Deadline has expired, whichever is later, to submit a Request for Exclusion, Objection, or dispute. Notice Packets that are re-mailed shall inform the recipient of this adjusted deadline. If a Settlement Class member's Notice Packet is returned to the Settlement Administrator more than once as non-deliverable, then an additional Notice Packet shall not be mailed. Nothing else shall be required of, or done by, the Parties, Class Counsel, or Defendant's Counsel to provide notice of the proposed settlement.
- G. Right to Revoke: If 10% or more of the Settlement Class members exercise their rights to exclude themselves and opt-out of the Settlement, Defendant may, in its sole discretion, unilaterally withdraw from and terminate the Settlement by providing written notice to Class Counsel no later than five (5) court days prior to the date of the Final Approval hearing. In the event of Defendant's withdrawal, then Defendant shall be solely responsible for all costs of the Settlement Administrator accrued to that point, and no party may use the fact that the Parties agreed to the Settlement for any reason.

10. **Final Approval.** Following preliminary approval and the close of the period for filing requests for exclusion, objections, or disputes under this Settlement Agreement, Plaintiff shall apply to the Court for entry of an Order:

- A. Granting final approval to the Settlement Agreement and adjudging its terms to be fair, reasonable, and adequate;
- B. Approving Plaintiff's and Class Counsel's application for attorneys' fees and costs, Class Representative enhancement payment, LWDA payment, and settlement administration costs; and
- C. Entering judgment pursuant to California Rule of Court 3.769.

11. Non-Admission of Liability.

A. Defendant denies liability to Named Plaintiff and to the Class upon any claim or cause of action. This Agreement does not constitute, and is not intended to constitute, an admission by Defendant as to the merits, validity, or accuracy of any of the allegations or claims made against it in the Action.

B. Nothing in this Agreement, nor any action taken in implementation thereof, nor any statements, discussions or communications, nor any materials prepared, exchanged, issued or used during the course of the negotiations leading to this Agreement or the Resolution, is intended by the Parties to constitute, nor will any of the foregoing constitute, be introduced, be used or be admissible in any way in this case or any other judicial, arbitral, administrative, investigative or other forum or proceeding as evidence of any violation of any federal, state, or local law, statute, ordinance, regulation, rule or executive order, or any obligation or duty at law or in equity. The Parties themselves agree not to introduce, use, or admit this Agreement, directly or indirectly, in this case or any other judicial, arbitral, administrative, investigative or other forum or proceeding, as purported evidence of any violation of any federal, state, or local law, statute, ordinance, regulation, rule or executive order, or any obligation or duty at law or in equity, or for any other purpose. Notwithstanding the foregoing, this Agreement may be used in any proceeding before the Court that has as its purpose the interpretation, implementation, or enforcement of this Agreement or any orders or judgments of the Court entered in connection with the Resolution.

C. None of the documents produced or created by Named Plaintiff or the Class in connection with the claims procedures or claims resolution procedures constitute, and they are not intended to constitute, an admission by Defendant of any violation of any federal, state, or local law, statute, ordinance, regulation, rule or executive order, or any obligation or duty at law or in equity.

D. Nothing in this Agreement will be construed as an admission or acknowledgement of any kind that any group should or would be given collective treatment in the Action or in any other action or proceeding. Further, neither this Agreement nor the Court's actions with regard to this Agreement will be admissible in any court or other tribunal regarding the propriety of collective treatment. In the event that this Agreement is not approved by the Judge or any appellate court, is terminated, or otherwise fails to be enforceable, Named Plaintiff will not be deemed to have waived, limited or affected in any way any claims, rights or remedies in the Action, and Defendant will not be deemed to have waived, limited, or affected in any way any of

their objections or defenses in the Action.

12. **Non-disclosure and Non-publication.** Plaintiff and Class Counsel agree that they have not and will not publish the Settlement Agreement, except to Settlement Class members and as shall be contractually required to effectuate the terms of the Settlement Agreement as set forth herein. In response to any inquiries Plaintiff will state that "the case was resolved and it was resolved confidentially." Class Counsel shall not report the Settlement Agreement in any medium or in any publication, shall not post or report anything regarding the claims of Plaintiff, the Settlement Class, or the Settlement on their website, and shall not contact any reporters or media regarding the Settlement. However, for the limited purpose of allowing Class Counsel to prove adequacy as class counsel in other actions, Class Counsel may disclose the names of the Parties in this Action, the venue/case number of this Action, and a general description of the Action, to a court in a declaration by Class Counsel.

13. **Waiver and Amendment.** The Parties may not waive, amend, or modify any provision of this Settlement Agreement except by a written agreement signed by all of the Parties, and subject to any necessary Court approval. A waiver or amendment of any provision of this Settlement Agreement will not constitute a waiver of any other provision.

14. **Notices.** All notices, demands, and other communications to be provided concerning this Settlement Agreement shall be in writing and delivered by receipted delivery and by e-mail at the addresses set forth below, or such other addresses as either Party may designate in writing from time to time:

if to Defendant: Boris Sorsher, Fisher & Phillips LLP, 2050 Main St., Suite 1000, Irvine, CA 92614; bsorsher@laborlawyers.com.

if to Plaintiff: Paul K. Haines, Haines Law Group, APC, ~~2155 Campus Drive~~ ~~22-N. Sepulveda Blvd.~~, Suite ~~1550~~ 180, El Segundo, California 90245; phaines@haineslawgroup.com.

15. **Entire Agreement.** This Settlement Agreement contains the entire agreement between the Parties with respect to the transactions contemplated hereby, and supersedes all negotiations, presentations, warranties, commitments, offers, contracts, and writings prior to the date hereof relating to the subject matters hereof.

16. **Counterparts.** This Settlement Agreement may be executed by one or more of the Parties on any number of separate counterparts and delivered electronically, and all of said counterparts taken together shall be deemed to constitute one and the same instrument.

17. **Enforcement Action.** In the event that one more of the Parties institutes any legal action or other proceeding against any other Party or Parties to enforce the provisions of this Settlement or to declare rights and/or obligations under this Settlement, the successful Party or Parties will be entitled to recover from the unsuccessful Party or Parties reasonable attorneys' fees and costs, including expert witness fees incurred in connection with any enforcement actions

DATED: Fenceworks, Inc.

By:_____

DATED: Jose Jimenez

By:_____
Plaintiff and Settlement Class Representative

APPROVED AS TO FORM:

DATED: FISHER & PHILLIPS LLP

By:_____
Boris Sorsher
Bret Martin
Attorneys for Defendant

DATED: HAINES LAW GROUP, APC

By:_____
Paul K. Haines
Sean M. Blakely
Attorneys for Plaintiff

EXHIBIT 4

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF ORANGE

JOSE JIMENEZ, as an individual and on behalf of all
others similarly situated,

Plaintiff,

vs.

FENCEWORKS, INC., A California Corporation; and
DOES 1 through 100,

Defendants.

Case No. 30-2018-01034150-CU-OE-CXC

**NOTICE OF PENDENCY OF CLASS
ACTION AND PROPOSED SETTLEMENT**

To: All current and former non-exempt field employees who are or were employed by Fenceworks, Inc. in the State of California during the time period of November 26, 2014 to March 16, 2020 ("Class Period").

**PLEASE READ CAREFULLY
YOUR LEGAL RIGHTS MAY BE AFFECTED WHETHER YOU ACT OR NOT**

Why should you read this Notice?

The Court has granted preliminary approval of a proposed settlement (the "Settlement") in the matter of *Jose Jimenez v. Fenceworks, Inc.*, Orange County Superior Court Case No. 30-2018-01034150-CU-OE-CXC (the "Action"). Because your rights may be affected by the Settlement, it is important that you read this Notice carefully.

You may be entitled to money from this Settlement. Fenceworks, Inc.'s ("Fenceworks") records show that you were employed at Fenceworks as a non-exempt field employee in California between November 26, 2014 and March 16, 2020 (the "Class Period"). The Court ordered that this Notice be sent to you because you may be entitled to money under the Settlement and because the Settlement affects your legal rights.

The purpose of this Notice is to provide you with a brief description of the Action, to inform you of the terms of the Settlement, to describe your rights in connection with the Settlement, and to explain what steps you may take to participate in, object to, or exclude yourself from the Settlement. If you do not exclude yourself from the Settlement and the Court finally approves the Settlement, you will be bound to the terms of the Settlement and any final judgment.

What is this case about?

Plaintiff Jose Jimenez ("Plaintiff") brought this Action against Fenceworks on a class and representative action basis on behalf of a class of non-exempt field employees within the State of California who are or were employed by Fenceworks in the State of California from November 26, 2014, through March 16, 2020. Plaintiff is known as the "Class Representative," and his attorneys, who also represent the interests of all Settlement Class members, are known as "Class Counsel."

Plaintiff alleges that Fenceworks failed to provide Settlement Class members with all legally-compliant meal periods, failed to authorize and permit all legally-compliant rest periods, failed to pay Settlement Class members all overtime wages, failed to compensate at the minimum wage for all hours worked, failed to timely pay all wages owed upon separation of employment, failed to furnish accurate and itemized wage statements to Settlement Class members, and as a result of the foregoing alleged violations, is liable for civil penalties under the Labor Code Private Attorneys General Act ("PAGA"). Specifically, Plaintiff alleges that Settlement Class members were occasionally paid on a piece-rate basis whereby Settlement Class members were paid a piece-rate for each hole, foot, post or gate installed and/or completed. Plaintiff alleges that Fenceworks piece-rate compensation system failed to separately compensate Settlement Class members for all rest periods and failed to pay all "non-productive time," or underpaid Settlement Class members for such time.

Fenceworks denies that it has done anything wrong. Fenceworks also denies that it owes Settlement Class members any wages, restitution, penalties, damages, or other amounts. Accordingly, the Settlement constitutes a compromise of disputed claims and should not be construed as an admission of liability on the part of Fenceworks, by whom all liability is expressly denied.

The Court has not ruled on the merits of Plaintiff's claims. However, to avoid additional expense, inconvenience, and interference with its business operations, Fenceworks has concluded that it is in its best interests to settle the Action on the terms summarized in this Notice. After Fenceworks provided relevant information to Class Counsel, the Settlement was reached after mediation and arm's length negotiations between the parties.

The Class Representative and Class Counsel support the Settlement. Among the reasons for support are the defenses to liability potentially available to Fenceworks, the risk of denial of class certification, the inherent risk of trial on the merits, and the delays and uncertainties associated with ongoing litigation.

If you are still employed by Fenceworks, your decision about whether to participate in the Settlement will not affect your employment. California law and Fenceworks' policy strictly prohibit unlawful retaliation. Fenceworks will not take any adverse employment action against or otherwise target, retaliate, or discriminate against any Settlement Class member because of his/her decision to either participate or not participate in the Settlement.

Who are the Attorneys?

Attorneys for Plaintiff/Settlement Class:	Attorneys for Fenceworks:
HAINES LAW GROUP, APC Paul K. Haines phaines@haineslawgroup.com Sean M. Blakely sblakely@haineslawgroup.com Diana M. Martinez dmartinez@haineslawgroup.com 2155 Campus Drive 22 N. Sepulveda Blvd. , Suite 1550 180 El Segundo, California 90245 Tel: (424) 292-2350 Fax: (424) 292-2355 haineslawgroup.com	FISHER & PHILLIPS LLP Boris Sorsher bsorsher@laborlawyers.com Bret Martin bmartin@fisherphillips.com 2050 Main St., Suite 1000 Irvine, California 92614 Tel: (949) 851-2424 Fax: (949) 851-0152 www.fisherphillips.com

What are the terms of the Settlement?

On <<PRELIM APPROVAL DATE>>, the Court preliminarily certified a class, for settlement purposes only, of all current and former non-exempt field employees who are or were employed by Fenceworks in the State of California from November 26, 2014, through March 16, 2020. Settlement Class members who do not opt out of the Settlement pursuant to the procedures set forth in this Notice will be bound by the Settlement and will release their claims against Fenceworks as described below.

Fenceworks has agreed to pay \$895,000.00 (the "Gross Settlement Amount") to fully resolve all claims in the Action, including payments to Settlement Class members, Class Counsel's attorneys' fees and expenses, settlement administration costs, payment to the Labor & Workforce Development Agency ("LWDA"), and the Class Representative enhancement payment.

The following deductions from the Gross Settlement Amount will be requested by the parties:

Attorneys' Fees and Expenses. Class Counsel have been prosecuting the Action on behalf of Settlement Class members on a contingency fee basis (that is, without being paid any money to date) and have been paying all litigation costs and expenses. The Court will determine the actual amount awarded to Class Counsel as attorneys'

fees, which will be paid from the Gross Settlement Amount. Settlement Class members are not personally responsible for any of Class Counsel's attorneys' fees or expenses. Class Counsel will ask for up to one-third of the Gross Settlement Amount, which is currently estimated at \$298,333.33, as reasonable compensation for the work Class Counsel performed and will continue to perform in this Action through Settlement finalization. Class Counsel also will ask for reimbursement of up to \$20,000.00 in verified costs incurred in connection with the Action.

Settlement Administration Costs. The Court has approved Phoenix Settlement Administrators to act as the "Settlement Administrator," who is sending this Notice to you and will perform many other duties relating to the Settlement. The Parties request setting aside up to \$15,000.00 from the Gross Settlement Amount to pay the settlement administration costs.

Class Representative Enhancement Payment. Class Counsel will ask the Court to award the Class Representative an enhancement payment in the amount of \$5,000.00 to compensate him for his service and extra work provided on behalf of the Settlement Class.

PAGA Payment to State of California. The parties have agreed to allocate \$30,000.00 towards the Settlement of the PAGA claims in the Action. \$22,500.00 will be paid to the State of California Labor & Workforce Development Agency, representing its 75% share of the civil penalties. The remaining \$7,500.00 will be allocated to Settlement Class members as described below.

Calculation of Individual Settlement Class Members' Settlement Awards. After deducting the Court-approved amounts above, the balance of the Gross Settlement Amount will form the Net Settlement Amount, which will be distributed to all Settlement Class members who do not submit a valid and timely Request for Exclusion from the Settlement. The Net Settlement Amount is estimated at approximately \$526,666.67, and will be divided as follows:

- (i) 85% of the Net Settlement Amount will be allocated to all participating Settlement Class members in proportion to the number of workweeks that he or she worked during the Class Period.
- (ii) 10% of the Net Settlement Amount shall be designated as the "Waiting Time Amount" and will be allocated in equal amounts to all participating Settlement Class members whose employment with Fenceworks ended at any time between November 26, 2015 through March 16, 2020.
- (iii) 5% of the Net Settlement Amount shall be designated as the "Wage Statement Amount." Each participating Settlement Class member who was employed by Fenceworks at any time from November 26, 2017 to March 16, 2020 shall receive a portion of the Wage Statement Amount proportionate to the number of workweeks that he or she worked during the time period of November 26, 2017 to March 16, 2020.
- (iv) \$7,500.00 of the Gross Settlement Amount has been designated as the "PAGA Amount." Each participating Settlement Class member who was employed by Fenceworks at any time from February 19, 2019 to March 16, 2020 (including those who submit a valid and timely Request for Exclusion from the class action settlement) shall receive a portion of the PAGA Amount proportionate to the number of workweeks that he or she worked during the time period of February 19, 2019 to March 16, 2020.

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Payments to Settlement Class members. If the Court grants final approval of the Settlement, individual Settlement Awards will be mailed to all Settlement Class members who did not submit a valid and timely Request for Exclusion from the Settlement. Settlement checks will be valid for 180 days. Any checks that were not cashed within 180 days will escheat to the California State Controller Unclaimed Property Fund in the name of the Settlement Class member.

Allocation and Taxes. For tax purposes, each Settlement Award shall be treated as follows: 20% as "wages," for which an IRS Form W-2 will be issued; and 80% as "penalties" and "interest" for which an IRS Form 1099 will be issued. Settlement Class members are responsible for the proper income tax treatment of the individual Settlement Awards. The Settlement Administrator, Fenceworks and its counsel, and Class Counsel cannot provide tax advice.

Accordingly, Settlement Class members should consult with their tax advisors concerning the tax consequences and treatment of payments they receive under the Settlement.

Release. If the Court approves the Settlement, Plaintiff and every member of the Settlement Class (except those who opt out) will fully release and discharge Defendant, and all of its present and former officers, directors, employees, shareholders, agents, trustees, representatives, attorneys, insurers, reinsurers, parent companies, subsidiaries, divisions, affiliates, predecessors, successors, as well as any individual or entity that could be jointly liable with Fenceworks from all claims, causes of action, and legal theories alleged or which could have been alleged based on the facts in the operative First Amended Class and Representative Action Complaint (“FAC”), including: (a) failure to provide all meal periods, or premium pay for non-compliant meal periods; (b) failure to authorize and permit all rest periods, or premium pay for non-compliant rest periods; (c) failure to pay all overtime wages (including, but not limited to, any claims for wages owed based on “rounding” theories and separate pay owed for rest periods or other “non-productive” time; (d) failure to pay all minimum wages (including any wages owed due to piece rate pay, failure to pay for rest periods, or failure to pay for rest periods at the correct rate under Labor Code Section 226.2); (e) failure to timely pay all wages due or final wages due; (f) failure to furnish accurate and complete itemized wage statements; (g) all claims for unfair business practices that could have been premised on the facts, claims, causes of action or legal theories of relief pled in the FAC; (h) all claims for civil penalties under the PAGA that were or could have been alleged based on the claims, causes of action or legal theories described above or on any of the claims, causes of action, or legal theories of relief pleaded in the FAC; and (i) all damages, penalties, interest, costs (including attorney’s fees), and other amounts recoverable under said claims or causes of action as to the facts and/or legal theories alleged or which could have been alleged in the FAC (collectively, the “Released Claims”). The period of the Release shall extend to the limits of the Class Period. The *res judicata* effect of the judgment will be the same as that of the Release.

Conditions of Settlement. The Settlement is conditioned upon the Court entering an order at or following the Final Approval Hearing finally approving the Settlement as fair, reasonable, adequate, and in the best interests of the Settlement Class, and the entry of a Judgment.

How can I claim money from the Settlement?

Do Nothing. If you do nothing, you will be entitled to your share of the Settlement based on the proportionate number of workweeks you worked during the Class Period, whether you have separated employment from Fenceworks between November 26, 2015 and March 16, 2020, the proportionate number of workweeks you worked between November 26, 2017 and March 16, 2020, and the proportionate number of workweeks you worked between February 19, 2019 and March 16, 2020, as stated in the accompanying Notice of Estimated Settlement Award. You also will be bound by the Settlement, including the release of claims stated above.

What other options do I have?

Dispute Information in Notice of Estimated Settlement Award. Your award is based on the proportionate number of workweeks you worked during the Class Period, whether you have separated employment from Fenceworks between November 26, 2015 and March 16, 2020, the proportionate number of workweeks you worked between November 26, 2017 and March 16, 2020, and the proportionate number of workweeks you worked between February 19, 2019 and March 16, 2020. The information contained in Fenceworks’ records regarding each of these factors, along with your estimated Settlement Award, is listed on the accompanying Notice of Estimated Settlement Award. If you disagree with the information in your Notice of Estimated Settlement Award, you may submit a dispute, along with any supporting documentation, in accordance with the procedures stated in the Notice of Estimated Settlement Award. Any disputes, along with supporting documentation, must be postmarked no later than **<<RESPONSE DEADLINE>>**. **DO NOT SEND ORIGINALS; DOCUMENTATION SENT TO THE SETTLEMENT ADMINISTRATOR WILL NOT BE RETURNED OR PRESERVED.**

The Parties and the Settlement Administrator will evaluate the evidence submitted and discuss in good faith how to resolve any disputes submitted by Settlement Class members. The Settlement Administrator’s decision regarding any dispute will be final.

Exclude Yourself from the Settlement. If you **do not** wish to take part in the Settlement, you may exclude yourself by sending to the Settlement Administrator an executed Request for Exclusion Form no later than **<<RESPONSE**

DEADLINE>>, with your name, address, telephone number, last four digits of your social security number, and your signature. A Request for Exclusion Form is included with this Notice.

Send the Request for Exclusion Form directly to the Settlement Administrator at **<<INSERT ADMINISTRATOR CONTACT INFO>>**. Any person who submits a timely Request for Exclusion Form shall, upon receipt by the Settlement Administrator, no longer be a Settlement Class member ~~and~~, shall be barred from participating in ~~any portion of the Settlementthe class action settlement..~~ However, ~~Settlement Class members who were employed by Fenceworks at any time from February 19, 2019 to March 16, 2020 and submit a valid and timely Request for Exclusion Form shall still be entitled to their portion of the PAGA Amount described above., and shall receive no benefits from the Settlement.~~ **Do not submit both a Dispute and a Request for Exclusion.** If you do, the Request for Exclusion will be invalid, you will be included in the Settlement Class, and you will be bound by the terms of the Settlement.

Objecting to the Settlement. You also have the right to object to the terms of the Settlement. However, if the Court rejects your objection, you will still be bound by the terms of the Settlement. If you wish to object to the Settlement, or any portion of it, you may mail a written objection to the Settlement Administrator at **<<INSERT ADMINISTRATOR CONTACT INFO>>**. All objections and correspondence must be sent directly to the Settlement Administrator, please do not send objections or correspondence to the Court. Any objections will be provided to the Court by Plaintiff in connection with the Final Approval Hearing. Your written objection must include your name, address, as well as contact information for any attorney representing you regarding your objection, the case name and number, each specific reason in support of your objection, and any legal or factual support for each objection together with any evidence in support of your objection. Objections must be in writing and must be postmarked on or before **<<RESPONSE DEADLINE>>**.

You may also appear at the Final Approval Hearing scheduled for **<<FINAL APPROVAL HEARING DATE/TIME>>** in Department CX104 of the Orange County Superior Court, located at 751 West Santa Ana Boulevard, Santa Ana, California 92701. You have the right to appear either in person or through your own attorney at this hearing. All objections or other correspondence must state the name and number of the case, which is *Jose Jimenez v. Fenceworks, Inc.*, Orange County Superior Court Case No. 30-2018-01034150-CU-OE-CXC.

If you object to the Settlement, you will remain a member of the Settlement Class, and if the Court approves the Settlement, you will be bound by the terms of the Settlement in the same way as Settlement Class members who do not object.

What is the next step?

The Court will hold a Final Approval Hearing on the adequacy, reasonableness, and fairness of the Settlement on **<<FINAL APPROVAL HEARING DATE/TIME>>**, in Department CX104 of the Orange County Superior Court, located at 751 West Santa Ana Boulevard, Santa Ana, California 92701. The Court will also be asked to rule on Class Counsel's request for attorneys' fees and reimbursement of documented costs and expenses, and the Class Representative enhancement payment. The Final Approval Hearing may be postponed without further notice to Settlement Class members. **You are not required to attend the Final Approval Hearing, although any Settlement Class member is welcome to attend the hearing.**

How can I get additional information?

This Notice is only a summary of the Action and the Settlement. For more information, you may inspect the Court's files and the Settlement Agreement at the Office of the Clerk of the Orange County Superior Court, located at 751 West Santa Ana Boulevard, Santa Ana, California 92701, during regular court hours. You may also visit the Orange County Superior Court website at www.occourts.org to inspect the Court's files by going to the "Online Case Access" tab, selecting "Civil Case & Document Access," and entering the case number information. You may also contact Class Counsel using the contact information listed above for more information.

PLEASE DO NOT CALL OR WRITE TO THE COURT, FENCEWORKS, OR ITS ATTORNEYS FOR INFORMATION ABOUT THIS SETTLEMENT OR THE SETTLEMENT PROCESS

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REMINDER AS TO TIME LIMITS

The deadline for submitting any Disputes, Requests for Exclusion, or Objections is <<RESPONSE DEADLINE>>. These deadlines will be strictly enforced.