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SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF LOS ANGELES

JORGE GARCIA, individually, and on
behalf of all others similarly situated,

Plaintiff,

vs.

FENCEWORKS, INC., a California
corporation; and DOES 1 through 10,
inclusive,

Defendants.

Case No.: 22STCV35752

Assigned for all purposes to the Honorable
Kenneth R. Freeman, Department 14

**JOINT STIPULATION OF CLASS ACTION
AND PAGA ACTION SETTLEMENT AND
RELEASE**

Action Filed: November 14, 2022
FAC Filed: January 17, 2023
Trial date: Not yet set

JOINT STIPULATION OF CLASS ACTION AND PAGA ACTION SETTLEMENT AND RELEASE

This Joint Stipulation of Class Action and PAGA Action Settlement and Release (“Settlement” or “Settlement Agreement”) is made and entered into by and between Plaintiff Jorge Garcia (“Plaintiff” or “Class Representative”), as an individual and on behalf of all others similarly situated, and Defendant Fenceworks, Inc. (“Defendant”) (Defendant and Plaintiff are collectively referred to as the “Parties” and each individually as a “Party”).

DEFINITIONS

The following definitions are applicable to this Settlement Agreement. Definitions contained elsewhere in this Settlement Agreement will also be effective:

1. “Action” means the Plaintiff’s lawsuit alleging wage and hour violations against Fenceworks, Inc. entitled *Jorge Garcia v. Fenceworks, Inc.*, Case No. 22STCV35752 initiated on November 14, 2022, and pending in Superior Court of the State of California, County of Los Angeles.

2. “Plaintiff” or “Class Representative” means Plaintiff Jorge Garcia.

3. “Defendant” means Defendant Fenceworks, Inc.

4. “Qualified Settlement Fund” or “QSF” means fund within the meaning of Treasury Regulation section 1.468B-1, 26 C.F.R. § 1.468B-1 et seq., which is established by the Settlement Administrator for the benefit of Class Members, Aggrieved Employees, Plaintiff and Class Counsel.

5. “Attorneys’ Fees and Costs” means attorneys’ fees agreed upon by the Parties and approved by the Court for Plaintiff’s Counsel’s litigation and resolution of the Action, and all costs incurred and to be incurred by Plaintiff’s Counsel in the Action, including, but not limited to, costs associated with documenting the Settlement, providing any notices required as part of the Settlement or Court order, securing the Court’s approval of the Settlement, administering the Settlement, and expenses for any experts. Plaintiff’s Counsel will request attorneys’ fees not in excess of One Hundred Sixty-Four Thousand, Nine Hundred Eighty-Three Dollars and Fifty Cents (\$164,983.50) (comprising 33.33% of the Gross Settlement Amount). The Attorneys’ Fees and Costs will also mean and include the additional reimbursement of any costs and expenses associated with Plaintiff’s Counsel’s litigation and settlement of the Action, not to exceed Twenty Thousand Dollars and Zero Cents (\$20,000), subject to the Court’s approval. Defendant has agreed not to oppose Plaintiff’s Counsel’s

1 request for fees and reimbursement of costs and expenses as set forth above.

2 6. “Settlement Administrator” means Phoenix Class Action Administration Solutions, or
3 “Phoenix”, a third-party class action settlement administrator agreed to by the Parties and approved by the Court
4 for the purposes of administering this settlement. The Parties each represent that they do not have any financial
5 interest in the Settlement Administrator that could create a conflict of interest.

6 7. “Settlement Administration Costs” means the costs payable from the Class Settlement Amount
7 to the Settlement Administrator for administering this Settlement, including, but not limited to, printing,
8 distributing, and tracking documents for this Settlement, calculating estimated amounts per Class Member, tax
9 reporting, distributing the Class Settlement Amount, and providing necessary reports and declarations, and
10 other duties and responsibilities set forth herein to process this Settlement, and as requested by the Parties. The
11 Settlement Administration Costs will be paid from the Class Settlement Amount, including, if necessary, any
12 such costs in excess of the amount represented by the Settlement Administrator as being the maximum costs
13 necessary to administer the settlement. The Settlement Administration Costs are currently estimated to be no
14 more than Eleven Thousand Dollars and Zero Cents (\$11,000.00). To the extent actual Settlement
15 Administrations Costs are greater than Eleven Thousand Dollars and Zero Cents (\$11,000.00), such excess
16 amount will be deducted from the Class Settlement Amount.

17 8. “Class Counsel” means Moon Law Group, PC.

18 9. “Defendant’s Counsel” means Fisher & Phillips LLP.

19 10. “Class List” means a complete list of all Class Members that Defendant will diligently and in
20 good faith compile from their records and provide to the Settlement Administrator within fourteen (14) calendar
21 days after Preliminary Approval of this Settlement. The Class List will be formatted in a readable Microsoft
22 Office Excel spreadsheet and will include each Class Member’s full name; last known mailing address; Social
23 Security number; and date of hire and termination date and/or the total number of Workweeks worked by each
24 Class Member during the Class Period (“Individual Workweeks”), the number of PAGA Pay Periods for each
25 Aggrieved Employee.

26 11. “Class Period” means from March 17, 2020, to December 15, 2023.

27 12. “PAGA Period” means November 5, 2021, to December 15, 2023.

13. “Class Member(s)” or “Settlement Class” means all current and former non-exempt field employees who are or were employed by Defendant in the State of California during the Class Period.

14. “Aggrieved Employee(s)” means all current and former non-exempt field employees who are or were employed by Defendant in the State of California during the PAGA Period.

15. “Class Representative Enhancement Payment” means the amount to be paid to Plaintiff in recognition of his effort and work in prosecuting the Action on behalf of Class Members, and for his general release of claims. Subject to the Court granting final approval of this Settlement Agreement and subject to the exhaustion of any and all appeals, Plaintiff will request Court approval of a Class Representative Enhancement Payment of Seven Thousand Five Hundred Dollars and Zero Cents (\$7,500.00).

16. “Gross Settlement Amount” and/or “Class Settlement Amount” means the maximum settlement amount of Four Hundred Ninety-Five Thousand Dollars and Zero Cents (\$495,000.00) to be paid by Defendant in full satisfaction of all claims arising from the Action, which includes all Individual Settlement Payments to Participating Class Members, the Class Representative Enhancement Payment to Plaintiff, Settlement Administration Costs to the Settlement Administrator, the LWDA Payment, and the Attorneys’ Fees and Costs. Defendant will be separately responsible for any employer payroll taxes required by law, including the employer FICA, FUTA, and SDI contributions.

17. “Effective Date” means the latest of the following dates: (i) if no Class Member objects to the Settlement, then the date the Court enters an order granting Final Approval of the Settlement; (ii) if a Class Member objects to the Settlement, then the day after the deadline for filing an appeal of the Final Approval Order, assuming no appeal is filed; or (iii) if a timely appeal is filed, then the date of final resolution of that appeal (including any requests for rehearing and/or petitions for writs of *certiorari*), resulting in final judicial approval of the Settlement.

18. “Final Approval” means the Court entering an order granting Final Approval of the Settlement Agreement.

19. “Final Approval Order” means the order granting Final Approval of Class Action and PAGA Action Settlement and Judgement entered by the Court.

20. “Operative Complaint” means the First Amended Complaint, filed on January 17, 2023, in this

1 Action.

2 21. "Individual Settlement Payment" means each Class Member's share of the Net Settlement
3 Amount, to be distributed to the Class Members who do not opt out.

4 22. "LWDA Payment" means the amount that the Parties have agreed to pay to the Labor and
5 Workforce Development Agency ("LWDA") in connection with the Labor Code Private Attorneys General
6 Act of 2004 (Cal. Lab. Code §§ 2698, *et seq.*, "PAGA"). The Parties have agreed that Twenty-Five Thousand
7 Dollars and Zero Cents (\$25,000.00) of the Gross Settlement Amount will be allocated to the resolution of any
8 Aggrieved Employees' claims arising under PAGA. Pursuant to PAGA, Seventy Five Percent (75%), or
9 Eighteen Thousand, Seven Hundred Fifty Dollars and Zero Cents (\$18,750.00) of the LWDA Payment will be
10 paid to the LWDA, and Twenty Five Percent (25%), or Six Thousand, Two Hundred Fifty Dollars and Zero
11 Cents (\$6,250.00) of the LWDA Payment will be included in the Net Settlement Amount for Aggrieved
12 Employees.

13 23. "Net Settlement Amount" means the portion of the Gross Settlement Amount remaining after
14 deduction of the approved Class Representative Enhancement Payment, Settlement Administration Costs,
15 LWDA Payment, and the Attorneys' Fees and Costs. The Net Settlement Amount will be distributed to
16 Participating Class Members.

17 24. "Notice of Class Action Settlement" means the document, substantially in the form attached as
18 **Exhibit A**, that will be mailed to Class Members' last known addresses, and which will provide Class Members
19 with information regarding the Action and information regarding the settlement of the Action.

20 25. "Notice of Objection" means a Class Member's valid and timely written objection to the
21 Settlement Agreement. For the Notice of Objection to be valid, it must include: (a) the objector's, or his or her
22 representative's full name, signature, address, and telephone number, (b) a written statement of all grounds for
23 the objection; and (c) copies of any papers, briefs, or other documents upon which the objection is based. Class
24 Members may (though are not required to) appear at the Final Approval Hearing, either in person or through
25 the objector's own counsel, at his or her own expense, and orally object to the Settlement. A Class Member
26 may also submit a written objection and appear at the Final Approval Hearing.

27 26. "Participating Class Members" means all Class Members who do not submit valid and timely
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1 Requests for Exclusion.

2 27. “Preliminary Approval” means the Court order granting preliminary approval of the Settlement
3 Agreement.

4 28. “Released Claims” means all claims which, upon the Effective Date and full funding of the
5 Gross Settlement Amount by Defendant, the Plaintiff, the Participating Class Members, and the Aggrieved
6 Employees will release in exchange for the consideration provided for by this Settlement Agreement, consisting
7 of all known and unknown claims, rights, demands, liabilities, and causes of action, in law or in equity, arising
8 at any time during the Class Period that were or could have been pleaded based on, arising from, or related to,
9 the factual allegations set forth in the Operative Complaint and in the November 5, 2022, Notice of Labor Code
10 Violations and PAGA Penalties sent to the LWDA and Defendant, including but not limited to alleged
11 violations of: (i) all claims for unpaid minimum and straight time wages; (ii) all claims for unpaid overtime
12 and double time wages; (iii) all claims for meal and rest break violations; (iv) all claims for failure to maintain
13 accurate employment records; (v) all claims for unreimbursed business expenses; (vi) all claims for the failure
14 to timely pay wages upon termination; (vii) all claims for failure to timely pay wages during employment; (viii)
15 all claims for wage statement violations; and (ix) all claims that could arise under Business & Professions Code
16 §§ 17200, *et seq.* The Released Claims include, but are not limited to, claims under California Labor Code §§
17 201, 202, 203, 204, 210, 226, 226.3, 226.7, 227.3, 512, 558, 1174, 1174.5, 1194, 1194.2, 1197, 1197.1, 1198,
18 2699, *et. sq.*, and 2802, and California Business & Professions Code §§ 17200, *et. seq.*, and the related
19 applicable IWC Wage Orders.

20 29. “Released PAGA Claims” means all claims under the Private Attorneys General Act
21 (“PAGA”), California Labor Code section 2698 *et seq.*, and demands for related interest and attorneys’ fees on
22 the penalties, that were asserted or could have been asserted based on the factual allegations set forth in the
23 Operative Complaint and the November 5, 2022 Notice of Labor Code Violations and PAGA Penalties sent to
24 the LWDA and Defendant, including penalties for : (i) all claims for unpaid minimum and straight time wages;
25 (ii) all claims for unpaid overtime; (iii) all claims for meal and rest break violations; (iv) all claims for
26 unreimbursed business expenses; (v) all claims for the failure to timely pay wages upon termination; (vi) all
27 claims for failure to timely pay wages during employment; and (vii) all claims for wage statement violations.

1 The Released PAGA Claims include, but are not limited to, claims premised on violation of California Labor
2 Code §§ 201, 202, 203, 204, 210, 226, 226.3, 226.7, 227.3, 512, 558, 1174, 1174.5, 1194, 1194.2, 1197, 1197.1,
3 1198, 2699, *et. sq.*, and 2802, and the related applicable IWC Wage Orders.

4 30. “Released Parties” means Defendant and all of its current and former officers, directors,
5 employees, shareholders, members, agents, trustees, representatives, attorneys, insurers, reinsurers, parent
6 companies, subsidiaries, divisions, affiliates, predecessors, successors, assigns, as well as any individual or
7 entity that could be alleged to be jointly liable with Defendant from those claims asserted in the Action or any
8 other claims that could have been asserted in the Action based on the facts alleged, including but not limited to,
9 minimum wages; overtime and double time wages; meal and rest breaks; failure to maintain accurate
10 employment records; wage statement violations; separation pay violations; failure to reimburse business
11 expenses; unfair business practices; and the PAGA.

12 31. “Request for Exclusion” means a timely letter submitted by a Class Member indicating a
13 request to be excluded from the settlement. The Request for Exclusion must: (a) be signed by the Class
14 Member; (b) contain the name, address, telephone number and the last four digits of the Social Security Number
15 of the Class Member requesting exclusion; (c) clearly state that the Class Member does not wish to be included
16 in the settlement; (d) be returned by fax or mail to the Settlement Administrator at the specified address and/or
17 facsimile number; and (e) be faxed or postmarked on or before the Response Deadline. The date of the fax or
18 postmark on the return mailing envelope will be the exclusive means to determine whether a Request for
19 Exclusion has been timely submitted. A Class Member who does not request exclusion from the settlement
20 will be deemed a Class Member and will be bound by all terms of the Settlement Agreement if the settlement
21 is granted final approval by the Court.

22 32. “Response Deadline” means the deadline by which Class Members must postmark or fax to
23 the Settlement Administrator valid Requests for Exclusion or postmark Notices of Objection to the Settlement.
24 The Response Deadline will be Sixty (60) calendar days from the initial mailing of the Notice Packet by the
25 Settlement Administrator, unless the 60th day falls on a Sunday or Federal holiday, in which case the Response
26 Deadline will be extended to the next day on which the U.S. Postal Service is open. The Response Deadline
27 for Requests for Exclusion or objections will be extended fifteen (15) calendar days for any Class Member who
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1 is re-mailed a Notice Packet by the Settlement Administrator, unless the 15th day falls on a Sunday or court
2 holiday, in which case the Response Deadline will be extended to the next day on which the U.S. Postal Service
3 is open. The Response Deadline may also be extended by express agreement between Class Counsel and
4 Defendant. Under no circumstances, however, will the Settlement Administrator have the authority to
5 unilaterally extend the deadline for Class Members to submit a Request for Exclusion or objection to the
6 settlement.

7 33. "Workweeks" means the number of weeks each Class Member worked during the Class
8 Period. Defendant's best estimate at the time of the mediation is that there are approximately 33,000 workweeks
9 in the Class Period as of November 28, 2023. Should the number of workweeks increase by more than 10%
10 (or more than 36,300), Defendant has the unilateral right to either (1) increase the Gross Settlement Amount
11 equal to the percentage increase in workweeks above the 10% grace (i.e., if the total workweeks increases by
12 11%, then a 1% increase to the Gross Settlement Amount); or (2) a cut-off of the Class Period to end on the
13 date that total workweeks on the date that the increase would otherwise be triggered.

14 34. "Workweek Value" may be based on either: (1) weeks during which at least one day was
15 worked; or (2) hire dates and, where applicable, last dates worked or separation dates, re-hire dates, dates of any
16 periods of leave, and dates of any transition between non-exempt and exempt status.

17 **TERMS OF AGREEMENT**

18 The Plaintiff, on behalf of himself, the Class Members, the Aggrieved Employees, and the State of
19 California, and Defendant, agree as follows:

20 35. Funding of the Class Settlement Amount. Defendant shall fund the Gross Settlement Amount
21 in one installment within fourteen (14) calendar days of the Effective Date. Defendant separately shall pay its
22 share of employer payroll taxes as calculated and directed by the Settlement Administrator within seven (7)
23 calendar days of written Notice by the Administrator. Within seven (7) calendar days of the funding of the
24 Settlement, the Settlement Administrator will issue payments to: (a) Participating Class Members and
25 Aggrieved Employees; (b) the Labor and Workforce Development Agency; (c) Plaintiff; and (d) Plaintiff's
26 Counsel. The Settlement Administrator will also issue a payment to itself for Court-approved services
27 performed in connection with the settlement.

1 36. Attorneys' Fees and Costs. Defendant agrees not to oppose or impede any application or
2 motion by Plaintiff's Counsel for attorneys' fees of not more than One Hundred Sixty-Four Thousand, Nine
3 Hundred Eighty-Three Dollars and Fifty Cents (\$164,983.50) (33.33%) of Gross Settlement Amount. The
4 Attorneys' Fees and Costs will also mean and include the additional reimbursement of any costs and expenses
5 associated with Plaintiff's Counsel's litigation and settlement of the Action, not to exceed Twenty Thousand
6 Dollars and Zero Cents (\$20,000.00), subject to the Court's approval. Defendant has agreed not to oppose
7 Plaintiff's Counsel's request for fees and reimbursement of costs and expenses as set forth above.

8 37. Class Representative Enhancement Payment. In exchange for a general release, and in
9 recognition of his effort and work in prosecuting the Action, Defendant agrees not to oppose or impede any
10 application or motion for the Class Representative Enhancement Payment of Seven Thousand Five Hundred
11 Dollars and Zero Cents (\$7,500.00). Plaintiff will be solely and legally responsible to pay any and all applicable
12 taxes on the payments made pursuant to this paragraph and will indemnify and hold Defendant harmless from
13 any claim or liability for taxes, penalties, or interest arising as a result of the payments.

14 38. Settlement Administration Costs. The Settlement Administrator will be paid for the reasonable
15 costs of administration of the Settlement and distribution of payments from the Class Settlement Amount,
16 which are currently estimated to be no more than Eleven Thousand Dollars and Zero Cents (\$11,000.00). These
17 costs, which will be paid from the Gross Settlement Amount, will include, *inter alia*, the required tax reporting
18 on the Individual Settlement Payments, the issuing of 1099 and W-2 IRS Forms, distributing the Notice Packet
19 calculating and distributing the Class Settlement Amount, and providing necessary reports and declarations.

20 39. LWDA Payment. Subject to Court approval, the Parties agree that Twenty-Five Thousand
21 Dollars and Zero Cents (\$25,000.00) of the Gross Settlement Amount will be allocated to the resolution of any
22 Aggrieved Employees' claims arising under PAGA. Pursuant to PAGA, Seventy Five Percent (75%), or
23 Eighteen Thousand Seven Hundred Fifty Dollars and Zero Cents (\$18,750.00), of the LWDA Payment will be
24 paid to the LWDA, and Twenty Five Percent (25%), or Six Thousand Two Hundred Fifty Dollars and Zero
25 Cents (\$6,250.00) of the LWDA Payment will be included in the Net Settlement Amount for Aggrieved
26 Employees working within the PAGA Period.

27 40. Net Settlement Amount. The Net Settlement Amount will be used to satisfy Individual
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Settlement Payments to Participating Class Members from the Settlement Class in accordance with the terms of this Settlement.

41. Individual Settlement Payment Calculations. Individual Settlement Payments will be calculated and apportioned from the Net Settlement Amount based on the number of Workweeks a Participating Class Member worked during the Class Period and the number of PAGA Pay Periods worked during the PAGA Period. Calculations of Individual Settlement Payments will be made as follows:

41(a) The Defendant will calculate the total number of weeks worked by each Participating Class Member (“Individual Workweeks”) and the total number of Workweeks worked by all Participating Class Members (“Class Workweeks”) during the Settlement Class Period.

41(b) To determine each Participating Class Member’s Individual Settlement Payment, the Settlement Administrator will use the following formula: Individual Settlement Payment = (Individual Workweeks ÷ Total Workweeks of Participating Class Members) × (Net Settlement Amount).

41(c) Each Aggrieved Employee who worked during the PAGA Period is eligible to receive from the Twenty Five Percent (25%), or (\$6,250.00) of the LWDA Payment based on the number of Pay Periods worked during the PAGA Period.

41(d) If any Class Member requests to be excluded from the settlement these funds shall remain part of the Net Settlement Amount and shall proportionally increase each participating Class Member’s final Individual Settlement Payment. A Request for Exclusion does not exclude an Aggrieved Employee from the Released PAGA Claims and the Aggrieved Employee will receive their portion of the Labor and Workforce Development Agency Payment even if he or she submits a valid Request for Exclusion.

42. Settlement Administration Process. The Parties agree to cooperate in the administration of the settlement and to make all reasonable efforts to control and minimize the costs and expenses incurred in administration of the Settlement. The Settlement Administrator will provide the following services:

- 1 42(a) Establish and maintain a Qualified Settlement Fund.
- 2 42(b) Calculate the Individual Settlement Payment each Participating Class Member and each
- 3 Aggrieved Employee is eligible to receive.
- 4 42(c) Print and mail the Notice Packet.
- 5 42(d) Translate the Notice Packet from English to Spanish.
- 6 42(e) Establish and maintain a toll-free information telephone support line to assist Class Members
- 7 who have questions regarding the Notice Packet.
- 8 42(f) Conduct additional address searches for mailed Notice Packets that are returned as
- 9 undeliverable.
- 10 42(g) Process Requests for Exclusion, calculate Participating Class Members' Individual Settlement
- 11 Payment, field inquiries from Class Members, and administer any Requests for Exclusion.
- 12 This service will include settlement proceed calculation, printing and issuance of Settlement
- 13 Payment Checks, and preparation of IRS W2 and 1099 Tax Forms. Basic accounting for and
- 14 payment of employee tax withholdings will also be included as part of this service.
- 15 42(h) Inform Defendant of its employer-side tax liability, if any.
- 16 42(i) Provide declarations and/or other information to this Court as requested by the Parties and/or
- 17 the Court.
- 18 42(j) Provide weekly status reports to counsel for the Parties.
- 19 42(k) Posting a notice of final judgment online at Settlement Administrator's website.

20 43. Notice by First-Class U.S. Mail. Within fourteen (14) calendar days after receiving the Class

21 List from Defendant, the Settlement Administrator will mail a Notice Packet to all Class Members via regular

22 First-Class U.S. Mail, using the most current, known mailing addresses identified in the Class List.

23 44. Confirmation of Contact Information in the Class List. Prior to mailing, the Settlement

24 Administrator will perform a search based on the National Change of Address Database for information to

25 update and correct for any known or identifiable address changes. Any Notice Packets returned to the

26 Settlement Administrator as non-deliverable on or before the Response Deadline will be sent promptly via

27 regular First-Class U.S. Mail to the forwarding address affixed thereto and the Settlement Administrator will

1 indicate the date of such re-mailing on the Notice Packet. If no forwarding address is provided, the Settlement
2 Administrator will promptly attempt to determine the correct address using a skip-trace, or other search using
3 the name, address and/or Social Security number of the Class Member involved, and will then perform a single
4 re-mailing. Those Class Members who receive a re-mailed Notice Packet, whether by skip-trace or by request,
5 will have between the later of (a) an additional fifteen (15) calendar days or (b) the Response Deadline to
6 postmark a Request for Exclusion, or an objection to the Settlement.

7 45. Notice Packets. All Class Members will be mailed a Notice Packet. Each Notice Packet will
8 provide: (a) information regarding the nature of the Action; (b) a summary of the Settlement's principal terms;
9 (c) the Settlement Class definition; (d) the total number of Workweeks and PAGA Pay Periods (if applicable)
10 each respective Class Member worked for Defendant during the Settlement Class Period; (e) each Class
11 Member's estimated Individual Settlement Payment and the formula for calculating Individual Settlement
12 Payments; (f) the dates which comprise the Settlement Class Period; (g) the deadlines by which the Class
13 Member must postmark or fax Requests for Exclusion or postmark Notices of Objection to the Settlement; (h)
14 the claims to be released, as set forth herein; and (j) the date for the final approval hearing.

15 46. Disputed Information on Notice Packets. Class Members will have an opportunity to dispute
16 the information provided in their Notice Packets. To the extent Class Members dispute the number of
17 Workweeks to which they have been credited or the amount of their Individual Settlement Payment, Class
18 Members may produce evidence to the Settlement Administrator showing that such information is inaccurate.
19 Absent evidence rebutting Defendant's records, Defendant's records will be presumed determinative.
20 However, if a Class Member produces evidence to the contrary, the Settlement Administrator will evaluate the
21 evidence submitted by the Class Member and will make the final decision as to the number of eligible
22 Workweeks that should be applied and/or the Individual Settlement Payment to which the Class Member may
23 be entitled. All such disputes are to be resolved not later than fourteen (14) calendar days after the Response
24 Deadline.

25 47. Request for Exclusion Procedures. Any Class Member wishing to opt-out from the Settlement
26 Agreement must sign and postmark or fax a written Request for Exclusion to the Settlement Administrator
27 within the Response Deadline. The date of the postmark on the return mailing envelope or fax receipt
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confirmation will be the exclusive means to determine whether a Request for Exclusion has been timely submitted. All Requests for Exclusion will be submitted to the Settlement Administrator, who will certify jointly to Class Counsel and Defendant's Counsel the Requests for Exclusion that were timely submitted. The Request for Exclusion does not apply to claims arising under the Private Attorneys General Act (California Labor Code Sections 2698 *et seq*). Class Members who submit valid requests for exclusion will still receive a check for their share of the PAGA settlement amount.

48. Defendant's Right to Rescind. If 10% or more of the Class Members elect not to participate in the Settlement, Defendant may, at its election, rescind the Settlement Agreement and all actions taken in furtherance of it will be thereby null and void. Defendant must exercise this right of rescission, in writing, to Class Counsel no later than five (5) court days prior to the date of the Final Approval Hearing. If Defendant exercises its right to rescind, then Defendant will be responsible for all Settlement Administration Costs incurred to the date of rescission.

49. Release by Participating Class Members. Any Class Member who does not affirmatively opt-out of the Settlement Agreement by submitting a timely and valid Request for Exclusion will be bound by all of its terms, including those pertaining to the Released Claims, as well as any Judgment that may be entered by the Court if it grants final approval to the Settlement.

50. Release by Aggrieved Employees. All Aggrieved Employees, regardless of whether they submit timely and valid Requests for Exclusion from the Settlement Class, will release the PAGA Released Claims during the PAGA Period. The State of California will also release the PAGA Released Claims.

51. Objection Procedures. To object to the Settlement Agreement, a Class Member may either postmark a valid Notice of Objection to the Settlement Administrator on or before the Response Deadline or appear at the Final Approval Hearing in person or through a representative. The Notice of Objection must be signed by the Class Member or his or her representative. The postmark date on the written objection will be deemed the exclusive means for determining that the Notice of Objection is timely. Class Members who fail to object in writing by the Response Deadline, may appear at the Final Approval Hearing and object orally. Class Members who postmark timely Notices of Objection will have a right to appear at the Final Approval Hearing in order to have their objections heard by the Court. At no time will any of the Parties or their counsel

1 seek to solicit or otherwise encourage Class Members to submit written objections to the Settlement Agreement
2 or appeal from the Order and Judgment. Class Counsel will not represent any Class Members with respect to
3 any such objections to this Settlement.

4 52. Certification Reports Regarding Individual Settlement Payment Calculations. The Settlement
5 Administrator will provide Defendant's counsel and Class Counsel a weekly report which certifies: (a) the
6 number of Participating Class Members from the Settlement Class who have submitted valid Requests for
7 Exclusion; (b) the Net Settlement Amount claimed by Participating Class Members; and (c) whether any Class
8 Member has submitted a challenge to any information contained in their Notice Packet. Additionally, the
9 Settlement Administrator will provide to counsel for both Parties any updated reports regarding the
10 administration of the Settlement Agreement as needed or requested.

11 53. Uncashed Settlement Checks. Any checks issued by the Settlement Administrator to
12 Participating Class Members will be negotiable for at least one hundred eighty (180) calendar days. Those
13 funds represented by settlement checks returned as undeliverable and those settlement checks remaining un-
14 cashed for more than one hundred eighty (180) calendar days after issuance, plus any interest that accrued
15 thereon, will be tendered in accordance with California Code of Civil Procedure §384(b). The Settlement
16 Administrator will transfer the uncashed checks to the Unclaimed Property Fund of the State Controller's office
17 in the name of the Class Member and Aggrieved Employees.

18 54. Certification of Completion. Upon completion of administration of the Settlement, the
19 Settlement Administrator will provide a written declaration under oath to certify such completion to the Court
20 and counsel for all Parties.

21 55. Tax Treatment of Individual Settlement Payments. All Individual Settlement Payments will
22 be allocated as follows: ten percent (10%) to settlement of wage claims and ninety percent (90%) to settlement
23 of claims for interest and penalties. The portion allocated to wages will be reported on an IRS Form W-2 and
24 the portions allocated to non-wages will be reported on an IRS Form-1099 by the Settlement Administrator.

25 56. Administration of Taxes by the Settlement Administrator. The Settlement Administrator will
26 be responsible for issuing to Plaintiff, Participating Class Members, Aggrieved Employees, and Plaintiff's
27 Counsel any W-2, 1099, or other tax forms as may be required by law for all amounts paid pursuant to this
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1 Settlement. The Settlement Administrator will also be responsible for forwarding all payroll taxes and penalties
2 to the appropriate government authorities.

3 57. Tax Liability. Defendant makes no representation as to the tax treatment or legal effect of the
4 payments called for hereunder, and Plaintiff and Participating Class Members are not relying on any statement,
5 representation, or calculation by Defendant or by the Settlement Administrator in this regard. Plaintiff and
6 Participating Class Members understand and agree that except for Defendant's payment of the employer's
7 portion of any payroll taxes, they will be solely responsible for the payment of any taxes and penalties assessed
8 on the payments described herein.

9 58. Circular 230 Disclaimer. EACH PARTY TO THIS SETTLEMENT AGREEMENT (FOR
10 PURPOSES OF THIS SECTION, THE "ACKNOWLEDGING PARTY" AND EACH PARTY TO THIS
11 AGREEMENT OTHER THAN THE ACKNOWLEDGING PARTY, AN "OTHER PARTY")
12 ACKNOWLEDGES AND AGREES THAT (1) NO PROVISION OF THIS AGREEMENT, AND NO
13 WRITTEN COMMUNICATION OR DISCLOSURE BETWEEN OR AMONG THE PARTIES OR
14 THEIR ATTORNEYS AND OTHER ADVISERS, IS OR WAS INTENDED TO BE, NOR WILL ANY
15 SUCH COMMUNICATION OR DISCLOSURE CONSTITUTE OR BE CONSTRUED OR BE RELIED
16 UPON AS, TAX ADVICE WITHIN THE MEANING OF UNITED STATES TREASURY
17 DEPARTMENT CIRCULAR 230 (31 CFR PART 10, AS AMENDED); (2) THE ACKNOWLEDGING
18 PARTY (A) HAS RELIED EXCLUSIVELY UPON HIS, HER OR ITS OWN, INDEPENDENT LEGAL
19 AND TAX COUNSEL FOR ADVICE (INCLUDING TAX ADVICE) IN CONNECTION WITH THIS
20 AGREEMENT, (B) HAS NOT ENTERED INTO THIS AGREEMENT BASED UPON THE
21 RECOMMENDATION OF ANY OTHER PARTY OR ANY ATTORNEY OR ADVISOR TO ANY
22 OTHER PARTY, AND (C) IS NOT ENTITLED TO RELY UPON ANY COMMUNICATION OR
23 DISCLOSURE BY ANY ATTORNEY OR ADVISER TO ANY OTHER PARTY TO AVOID ANY TAX
24 PENALTY THAT MAY BE IMPOSED ON THE ACKNOWLEDGING PARTY; AND (3) NO
25 ATTORNEY OR ADVISER TO ANY OTHER PARTY HAS IMPOSED ANY LIMITATION THAT
26 PROTECTS THE CONFIDENTIALITY OF ANY SUCH ATTORNEY'S OR ADVISER'S TAX
27 STRATEGIES (REGARDLESS OF WHETHER SUCH LIMITATION IS LEGALLY BINDING) UPON
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1 DISCLOSURE BY THE ACKNOWLEDGING PARTY OF THE TAX TREATMENT OR TAX
2 STRUCTURE OF ANY TRANSACTION, INCLUDING ANY TRANSACTION CONTEMPLATED BY
3 THIS AGREEMENT.

4 59. No Prior Assignments. The Parties and their counsel represent, covenant, and warrant that they
5 have not directly or indirectly assigned, transferred, encumbered, or purported to assign, transfer, or encumber
6 to any person or entity any portion of any liability, claim, demand, action, cause of action or right herein released
7 and discharged.

8 60. Limited Release of Claims by Class Members. It is the desire of the Plaintiff, Participating
9 Class Members, and Defendant to fully, finally, and forever settle, compromise, and discharge the claims
10 asserted in the Operative Complaint. Upon the Final Approval by the Court of this Settlement Agreement, and
11 the full funding of the Gross Settlement Amount in the QSF, and except as to such rights or claims as may be
12 created by this Settlement Agreement, the Participating Class Members shall fully release and discharge the
13 Released Parties from any and all Released Claims for the entire Class Period. This release shall be binding on
14 all Class Members who have not timely submitted a valid and complete Request for Exclusion, including each
15 of their respective attorneys, agents, spouses, executors, representatives, guardians ad litem, heirs, successors,
16 and assigns, and shall inure to the benefit of the Released Parties, who shall have no further or other liability or
17 obligation to any Settlement Class Member with respect to the Released Claims, except as expressly provided
18 herein.

19 61. Limited Release of Claims by Aggrieved Employees. It is the desire of the Plaintiff, in his
20 capacity as a representative of Aggrieved Employees, and Defendant to fully, finally, and forever settle,
21 compromise, and discharge the claims asserted in the November 5, 2022, Notice of Labor Code Violations and
22 PAGA Penalties sent to the LWDA and the Operative Complaint. Upon the Final Approval by the Court of
23 this Settlement Agreement, and the full funding of the Gross Settlement Amount in the QSF, and except as to
24 such rights or claims as may be created by this Settlement Agreement, Plaintiff, the Aggrieved Employees, the
25 LWDA, and the State of California shall fully release and discharge the Released Parties from any and all
26 Released PAGA Claims for the entire PAGA Period. This release shall be binding on all Aggrieved Employees
27 regardless if they submitted a valid and complete Request for Exclusion.

62. Release of Additional Claims & Rights by Plaintiff. Upon the Effective Date, and as a condition of receiving any portion of his Class Representative Enhancement Payment, Plaintiff will agree to the additional following General Release: In consideration of Defendant's promises and agreements as set forth herein, Plaintiff hereby fully releases the Released Parties from any and all Released Claims and also generally release and discharge the Released Parties from any and all claims, demands, obligations, causes of action, rights, or liabilities of any kind which have been or could have been asserted against the Released Parties arising out of or relating to Plaintiff's employment by Defendant or termination thereof, including but not limited to claims for wages, restitution, penalties, retaliation, defamation, discrimination, harassment or wrongful termination of employment. This release specifically includes any and all claims, demands, obligations and/or causes of action for damages, restitution, penalties, interest, and attorneys' fees and costs (except provided by the Settlement Agreement) relating to or in any way connected with the matters referred to herein, whether or not known or suspected to exist, and whether or not specifically or particularly described herein. Specifically, Plaintiff waives all rights and benefits afforded by California Civil Code Section 1542, which provides:

A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH 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.

63. Nullification of Settlement Agreement. In the event that: (a) the Court does not finally approve the Settlement as provided herein; (b) the Court strikes or does not approve any material term of this Settlement Agreement; or (c) the Settlement does not become final as written and agreed to by the Parties for any other reason, then this Settlement Agreement, and any documents generated to bring it into effect including the Memorandum of Understanding, will be null and void, all amounts deposited into the QSF will be returned to Defendant, and the Parties shall be returned to their original respective positions. Any order or judgment entered by the Court in furtherance of this Settlement Agreement will likewise be treated as void from the beginning.

64. Preliminary Approval Hearing. Plaintiff will obtain a hearing before the Court to request Preliminary Approval of the Settlement Agreement, and the entry of a Preliminary Approval Order for: (a)

conditional certification of the Settlement Class for settlement purposes only, (b) Preliminary Approval of the proposed Settlement Agreement, and (c) setting a date for a Final Approval/Settlement Fairness Hearing. The Preliminary Approval Order will provide for the Notice Packet to be sent to all Class Members as specified herein. In conjunction with the Preliminary Approval hearing, Plaintiff will submit this Settlement Agreement, which sets forth the terms of this Settlement, and will include the proposed Notice Packet; *i.e.*, the proposed Notice of Class Action Settlement, attached as **Exhibit A**. Class Counsel will be responsible for drafting all documents necessary to obtain preliminary approval. Any failure by the Court to fully and completely approve the Settlement Agreement as to all of the Action, or the entry of any Order by another Court with regard to any of the Action which has the effect of preventing the full and complete approval of the Settlement Agreement as written and agreed to by the Parties, will result in this Settlement Agreement and any Memorandum of Understanding entered into by the Parties, and all obligations under this Settlement Agreement and any Memorandum of Understanding being nullified and voided.

65. Final Settlement Approval Hearing and Entry of Judgment. Upon expiration of the deadlines to postmark Requests for Exclusion or objections to the Settlement Agreement, and with the Court's permission, a Final Approval/Settlement Fairness Hearing will be conducted to determine the Final Approval of the Settlement Agreement along with the amounts properly payable for: (a) Individual Settlement Payments; (b) the LWDA Payment; (c) the Attorneys' Fees and Costs; (d) the Class Representative Enhancement Payment; and (e) all Settlement Administration Costs. Class Counsel will be responsible for drafting all documents necessary to obtain Final Approval. Class Counsel will also be responsible for drafting the attorneys' fees and costs application to be heard at the final approval hearing. With the exception of a failure to approve the full amount of attorneys' fees and costs or Class Representative Enhancement Payment requested by Plaintiff, any failure by the Court to fully and completely approve the Settlement Agreement as to all of the Action, or the entry of any Order by another Court with regard to any of the Action which has the effect of preventing the full and complete approval of the Settlement Agreement as written and agreed to by the Parties, will result in this Settlement Agreement and the Memorandum of Understanding entered into by the Parties, and all obligations under this Settlement Agreement and the Memorandum of Understanding being nullified and voided.

1 66. Judgment and Continued Jurisdiction. Upon Final Approval of the Settlement by the Court or
2 after the Final Approval/Settlement Fairness Hearing, the Parties will present the Judgment to the Court for its
3 approval. After entry of the Judgment, the Court will have continuing jurisdiction solely for purposes of
4 addressing: (a) the interpretation and enforcement of the terms of the Settlement, (b) Settlement administration
5 matters, and (c) such post-Judgment matters as may be appropriate under court rules or as set forth in this
6 Settlement.

7 67. Exhibits Incorporated by Reference. The terms of this Settlement include the terms set forth
8 in any attached Exhibits, which are incorporated by this reference as though fully set forth herein. Any Exhibits
9 to this Settlement are an integral part of the Settlement.

10 68. Entire Agreement. This Settlement Agreement and any attached Exhibits constitute the
11 entirety of the Parties' settlement terms. No other prior or contemporaneous written or oral agreements may be
12 deemed binding on the Parties.

13 69. Amendment or Modification. This Settlement Agreement may be amended or modified only
14 by a written instrument signed by counsel for all Parties or their successors-in-interest. Any such instrument
15 must specifically reference this Settlement Agreement.

16 70. Authorization to Enter Into Settlement Agreement. Counsel for all Parties warrant and
17 represent they are expressly authorized by the Parties whom they represent to negotiate this Settlement
18 Agreement and to take all appropriate action required or permitted to be taken by such Parties pursuant to this
19 Settlement Agreement to effectuate its terms and to execute any other documents required to effectuate the
20 terms of this Settlement Agreement. The Parties and their counsel will cooperate with each other and use their
21 best efforts to affect the implementation of the Settlement. If the Parties are unable to reach agreement on the
22 form or content of any document needed to implement the Settlement, or on any supplemental provisions that
23 may become necessary to effectuate the terms of this Settlement, the Parties may seek the assistance of the
24 Court to resolve such disagreement.

25 71. Binding on Successors and Assigns. This Settlement Agreement will be binding upon, and
26 inure to the benefit of, the successors or assigns of the Parties hereto, as previously defined.

27 72. California Law Governs. All terms of this Settlement Agreement and Exhibits hereto will be
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governed by and interpreted according to the laws of the State of California.

73. Execution and Counterparts. This Settlement Agreement is subject only to the execution of all Parties. However, the Settlement Agreement may be executed in one or more counterparts. All executed counterparts and each of them, including facsimile and scanned copies of the signature page, will be deemed to be one and the same instrument provided that counsel for the Parties will exchange among themselves original signed counterparts.

74. Acknowledgement that the Settlement is Fair and Reasonable. The Parties believe this Settlement Agreement is a fair, adequate, and reasonable settlement of the Action and have arrived at this Settlement after arm's-length negotiations and in the context of adversarial litigation, taking into account all relevant factors, present and potential. The Parties further acknowledge that they are each represented by competent counsel and that they have had an opportunity to consult with their counsel regarding the fairness and reasonableness of this Settlement.

75. Invalidity of Any Provision. Before declaring any provision of this Settlement Agreement invalid, the Court will first attempt to construe the provision as valid to the fullest extent possible consistent with applicable precedents so as to define all provisions of this Settlement Agreement valid and enforceable.

76. Waiver of Certain Appeals. The Parties agree to waive appeals and to stipulate to class certification for purposes of this Settlement only; except, however, that either party may appeal any court order that materially alters the Settlement Agreement's terms.

77. Class Action Certification for Settlement Purposes Only. The Parties agree to stipulate to class action certification only for purposes of the Settlement. If, for any reason, the Settlement is not approved, the stipulation to certification will be void. The Parties further agree that certification for purposes of the Settlement is not an admission that class action certification is proper under the standards applied to contested certification motions and that this Settlement Agreement will not be admissible in this or any other proceeding as evidence that either: (a) a class action should be certified or (b) Defendant is liable to Plaintiff or any Class Member, other than according to the Settlement's terms.

78. Non-Admission of Liability. The Parties enter into this Settlement Agreement to resolve the dispute that has arisen between them and to avoid the burden, expense and risk of continued litigation. In

1 entering into this Settlement Agreement, Defendant does not admit, and specifically denies, it has violated any
2 federal, state, or local law; violated any regulations or guidelines promulgated pursuant to any statute or any
3 other applicable laws, regulations or legal requirements; breached any contract; violated or breached any duty;
4 engaged in any misrepresentation or deception; or engaged in any other unlawful conduct with respect to their
5 employees. Neither this Settlement Agreement, nor any of its terms or provisions, nor any of the negotiations
6 connected with it, shall be construed as an admission or concession by Defendant of any such violations or
7 failures to comply with any applicable law. Except as necessary in a proceeding to enforce the terms of this
8 Settlement Agreement, this Settlement Agreement and its terms and provisions shall not be offered or received
9 as evidence in any action or proceeding to establish any liability or admission on the part of Defendant or to
10 establish the existence of any condition constituting a violation of, or a non-compliance with, federal, state,
11 local or other applicable law.

12 79. No Effect on Employee Benefits. The amounts paid under this Settlement Agreement do not
13 represent a modification of any previously credited hours of service under any employee benefit plan, policy or
14 bonus program sponsored by Defendant. Such amounts will not form the basis for additional contributions to,
15 benefits under, or any other monetary entitlement under, benefit plans (self-insured or not) sponsored by
16 Defendant, policies or bonus programs. Any payments made under the terms of this Settlement shall not be
17 applied retroactively, currently or on a going forward basis as salary, earnings, wages, or any other form of
18 compensation for the purposes of Defendant's benefit plan, policy or bonus program. Defendant retains the
19 right to modify the language of its benefit plans, policies and bonus programs to effect this intent and to make
20 clear that any amounts paid pursuant to this Settlement are not for "hours worked," "hours paid," "hours of
21 service," or any similar measuring term as defined by applicable plans, policies and bonus programs for purpose
22 of eligibility, vesting, benefit accrual or any other purpose, and that additional contributions or benefits are not
23 required by this Settlement.

24 80. Captions. The captions and section numbers in this Settlement Agreement are inserted for the
25 reader's convenience, and in no way define, limit, construe or describe the scope or intent of the provisions of
26 this Settlement Agreement.

27 81. Waiver. No waiver of any condition or covenant contained in this Settlement Agreement or
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1 failure to exercise a right or remedy by any of the Parties hereto will be considered to imply or constitute a
2 further waiver by such party of the same or any other condition, covenant, right or remedy.

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

8 83. Mutual Preparation. The Parties have had a full opportunity to negotiate the terms and
9 conditions of this Settlement Agreement. Accordingly, this Settlement Agreement will not be construed more
10 strictly against one party than another merely by virtue of the fact that it may have been prepared by counsel
11 for one of the Parties, it being recognized that, because of the arms-length negotiations between the Parties, all
12 Parties have contributed to the preparation of this Settlement Agreement.

13 84. Representation By Counsel. The Parties acknowledge that they have been represented by
14 counsel throughout all negotiations that preceded the execution of this Settlement Agreement, and that this
15 Settlement Agreement has been executed with the consent and advice of counsel and reviewed in full. Further,
16 Plaintiff and Class Counsel warrant and represent that there are no liens on the Settlement Agreement.

17 85. All Terms Subject to Final Court Approval. All amounts and procedures described in this
18 Settlement Agreement herein will be subject to final Court approval.

19 86. Cooperation and Execution of Necessary Documents. All Parties will cooperate in good faith
20 and execute all documents to the extent reasonably necessary to effectuate the terms of this Settlement
21 Agreement.

22 87. Confidentiality. Plaintiff, Plaintiff' Counsel, Class Counsel, Defendant and their counsel agree
23 that they will not issue any press releases, initiate any contact with the press, respond to any press inquiry or
24 have any communication with the press about the fact, amount or terms of the Settlement Agreement. Class
25 Counsel shall not report the Settlement in any medium or in any publication, shall not post or report anything
26 regarding the claims of Plaintiff, the Class Members, or the Settlement on their website. Nothing in this
27 Settlement Agreement shall limit Defendant's ability to fulfill disclosure obligations reasonably required by
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1 law or in furtherance of business purposes, including the fulfillment of obligations stated in this Settlement
2 Agreement. Nothing in this clause shall limit Plaintiff's Counsel's ability to discuss the terms of the settlement
3 with Class Members.

4 88. Binding Agreement. The Parties warrant that they understand and have full authority to enter
5 into this Settlement, and further intend that this Settlement Agreement will be fully enforceable and binding
6 on all parties, and agree that it will be admissible and subject to disclosure in any proceeding to enforce its
7 terms, notwithstanding any mediation confidentiality provisions that otherwise might apply under federal or
8 state law.

9 89. Jurisdiction. After the Court has granted Final Approval of the Settlement and after the Court
10 has ordered the entry of Judgment, pursuant to California Code of Civil Procedure Section 664.6, the Court
11 shall retain jurisdiction of this action solely for the purpose of interpreting, implementing, and enforcing this
12 Settlement consistent with the terms set forth herein.

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14 **[SIGNATURES ON NEXT PAGE]**
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READ CAREFULLY BEFORE SIGNING

Dated: PLAINTIFF

Plaintiff JORGE GARCIA

Dated: DEFENDANT

Defendant FENCEWORKS, INC.

By:

Its: CEO/PRESIDENT

APPROVED AS TO FORM

Dated: MOON LAW GROUP, PC

KANE MOON
LILIT TER-ASTVATSATRYAN

Attorneys for Plaintiff and the Class Members

Dated: April 4, 2024

FISHER PHILLIPS LLP

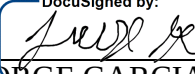
BORIS SORSHER
BRET MARTIN

Attorneys for Defendant

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READ CAREFULLY BEFORE SIGNING

Dated: 4/4/2024 PLAINTIFF

DocuSigned by:

Plaintiff JORGE GARCIA

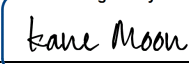
Dated: DEFENDANT

Defendant FENCEWORKS, INC.

By:
Its:

APPROVED AS TO FORM

Dated: 4/4/2024 MOON LAW GROUP, PC

DocuSigned by:

KANE MOON
LILIT TER-ASTVATSATRYAN

Attorneys for Plaintiff and the Class Members

Dated: FISHER PHILLIPS LLP

BORIS SORSHER
BRET MARTIN

Attorneys for Defendant

Exhibit A

NOTICE OF PROPOSED CLASS ACTION AND PAGA SETTLEMENT

SUPERIOR COURT OF CALIFORNIA FOR THE COUNTY OF LOS ANGELES

A court authorized this notice. This is not a solicitation from a lawyer.

ATTENTION: IF YOU WORKED AT FENCEWORKS, INC. AS A NON-EXEMPT FIELD EMPLOYEE DURING THE PERIOD MARCH 17, 2020, TO DECEMBER 15, 2023, YOU ARE ENTITLED TO A SHARE OF A PROPOSED CLASS ACTION SETTLEMENT.

ATTENTION: IF YOU WORKED AT FENCEWORKS, INC. AS A NON-EXEMPT FIELD EMPLOYEE DURING THE PERIOD NOVEMBER 5, 2021, TO DECEMBER 15, 2023, YOU ARE ENTITLED TO A SHARE OF A PROPOSED PAGA REPRESENTATIVE SETTLEMENT.

TO UNDERSTAND YOUR RIGHTS, READ THIS NOTICE CAREFULLY.

- A proposed class and PAGA action settlement (“the Settlement”) has been reached between Plaintiff JORGE GARCIA (“Plaintiff”), on behalf of himself and the below-defined Class Members and Aggrieved Employees, and Defendant FENCEWORKS, INC. (“Defendant”). The Court has granted preliminary approval of the Settlement in *Jorge Garcia v. Fenceworks, Inc.*, Case No. 22STCV35752.
- The Settlement resolves a putative class and representative action alleging that Defendant: (1) failed to pay minimum wage, overtime and/or double time wages for all hours worked; (2) failed to provide proper meal and rest periods; (3) failed to maintain accurate employment records; (4) failed to provide reimbursement for business-related expenses; (5) failed to timely pay wages upon termination ; (6) engaged in unfair competition; and (7) violated the Private Attorneys General Act of 2004 (the “Action”). Plaintiff brought these claims for violations of the California Labor Code §§ 201, 202, 203, 204, 226, 226.3, 226.7, 227.3, 512, 558, 1174, 1174.5, 1194, 1194.2, 1197, 1197.1, 1198, 2699, *et. sq.*, and 2802, California Business & Professions Code §§ 17200, *et. seq.*, and the related applicable IWC Wage Orders.
- Defendant has denied, and continues to deny, the factual allegations and legal claims asserted in the Action and believes that Plaintiff’s claims have no merit. Defendant does not admit to liability on any of the factual allegations or claims asserted in the Action, or that the Action can or should proceed as a class or representative action. The Court has not made any ruling regarding the merits of Plaintiff’s claims.
- After extensive negotiations, the Parties have come to this proposed settlement based upon all known facts and circumstances, including the various risks and uncertainties related to continued litigation.
- The Settlement for the Class Members provides for settlement payments based on the number of workweeks you worked for Defendant as a non-exempt field employee, at any time from March 17, 2020 to December 15, 2023.
- The Settlement for the Aggrieved Employees provides for settlement payments based on the number of pay periods you worked for Defendant as a non-exempt field employee, at any time from November 5, 2021 to December 15, 2023.
- The purpose of this Notice is to provide you with a brief description of the lawsuit, 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 or object to the Settlement. If the Court finally approves the Settlement, you will be bound by the terms of the Settlement and any final judgment.

Your estimated minimum settlement payment and covered work weeks worked during the relevant period are printed on the enclosed sheet.

OVERVIEW OF YOUR LEGAL RIGHTS AND OPTIONS UNDER THE SETTLEMENT	
DO NOTHING	Subject to the Court’s final approval of the Settlement, you will receive a settlement payment at the address where this Notice was mailed (unless you timely provide a forwarding address to the Settlement Administrator). In exchange, you will give up your claims in this case within the scope of the release set forth below.
EXCLUDE YOURSELF	If you submit a valid Request for Exclusion, you will <u>not</u> receive a share of the proposed Class Action settlement payment, but you will keep your claims against Defendant. You are not permitted to object to the Settlement if you exclude yourself from the Settlement. Regardless of whether you exclude yourself, you will still be bound by the proposed PAGA settlement and will release your PAGA claims in this case within the scope of the release set forth below.
OBJECT	If you wish to object to the Settlement, you may either submit a written Notice of Objection and supporting papers to the Settlement Administrator that is postmarked or faxed no later than [+60 days from date of mailing] , or you may appear in person, remotely, or through counsel (who may also appear in person or remotely) at the Final Approval hearing to object. Class members may appear at the final approval hearing remotely via LACourtConnect (https://www.lacourt.org/lacc/). Instructions for appearing remotely are provided at https://my.lacourt.org/laccwelcome and should be reviewed in advance. Check the Court’s website for the most current information. Class members who wish to appear remotely are encouraged to contact class counsel at least three days before the hearing if possible, so that potential technology or audibility issues can be avoided or minimized.

- These rights and options, and how to exercise them, are explained in more detail in this notice.
- The Court handling this case still has to decide whether to grant final approval of the Settlement. Settlement payments will only be issued if the Court grants final approval of the Settlement.
- Additional information regarding the Settlement is available through the Settlement Administrator, Class Counsel, or Defendant’s counsel, whose contact information is provided in this notice.

BASIC INFORMATION

1. Why did I get this notice?

Defendant’s records show that you worked as a non-exempt employee for Defendant at some point from March 17, 2020, to December 15, 2023. This notice explains the Action, the Settlement, and your legal rights.

2. What is the Action about?

The lawsuit is known as *Jorge Garcia v. Fenceworks, Inc.*, Case No. 22STCV35752, and is pending in the Superior Court of California for the County of Los Angeles, (the “Action”).

The Action involves claims under California’s wage and hour laws. Plaintiff worked for Defendant as a non-exempt field employee. He alleges that Defendant violated California law by failing to: properly pay minimum wage and overtime compensation for all hours worked; provide compliant meal and rest periods and pay meal or rest period premiums; failure to reimburse necessary business expenses; failure to provide compliant itemized wage statements; and pay timely final wages upon separation of employment. Plaintiff further claims that Defendant engaged in unfair competition and violated the California Private Attorneys General Act of 2004 (“PAGA”). As a result, Plaintiff alleges that he and the Class Members (defined in

response to Question 4 below) are entitled to recover unpaid wages, interest, and statutory and civil penalties.

Defendant denies all of Plaintiff's claims and denies that it violated the law in any way. The Court has not decided whether there is any merit to Plaintiff's claims. However, both Plaintiff and Defendant believe that the Settlement is fair, adequate, and reasonable, and that it is in the best interest of the of the Settlement Class members.

3. Why is this lawsuit a class action?

In a class action, one or more people called the "Plaintiff" sue on behalf of a group of people who the Plaintiff alleges have similar claims. All people in the group are part of a putative "class" and are called putative "class members." If the Court "certifies" the putative class (i.e., agrees they all have similar claims), the Court resolves the issues for all class members, except those who exclude themselves from the class. On **[insert date]**, the Hon. Kenneth R. Freeman issued an order conditionally certifying the Class *for purposes of settlement only*.

4. Who is in the Class?

"Class Members" or the "Settlement Class Members" means all non-exempt field employee who have worked for Defendant in California at any time between March 17, 2020 to December 15, 2023.

"Aggrieved Employees" means all non-exempt field employees who have worked for Defendant in California at any time between November 5, 2021 to December 15, 2023.

5. Why is there a settlement?

After conducting substantial fact discovery, including but not limited to reviewing policies, payroll records, and time records, both sides agreed to the Settlement to avoid the cost and risk of further litigation. The Settlement does not mean that any law was broken. As stated, Defendant denies all claims asserted in the Action, denies it has violated any laws, and believes it has at all times paid its non-exempt employees correctly and fully complied with all applicable laws. Plaintiff and his lawyers think the Settlement is in the best interests of all Class Members.

THE SETTLEMENT BENEFITS—WHAT YOU GET

6. What does the settlement provide?

Under the terms of the Settlement, Defendant agrees to pay a Class Settlement Amount of \$495,000.00. Deducted from this Class Settlement Amount will be sums approved by the Court for attorneys' fees (not to exceed 33.33% of the Gross Settlement Amount, or \$164,983.50); attorneys' actual costs (not to exceed \$20,000.00); Class Representative Enhancement Payment to the Plaintiff for his service to the Settlement Class (not to exceed \$7,500.00); an amount of \$25,000.00 in satisfaction of claims for alleged PAGA civil penalties (where \$18,750.00 will be paid to the State of California Labor and Workforce Development Agency and \$6,250.00 will be distributed to the Aggrieved Employees); and the fees and expenses of the Settlement Administrator, Phoenix Class Action Administrator Solutions, estimated not to exceed \$11,000.00. The Settlement Administrator will distribute the remaining Net Settlement Amount to Settlement Class Members who do not opt out ("Participating Class Members") pursuant to the formula described below.

Individual Settlement Payment: The Net Settlement Amount will be distributed to Participating Class Members as follows:

Compensable work weeks will comprise all work weeks Participating Class Members worked for Defendant between March 17, 2020 to December 15, 2023. The dollars per compensable workweek ("Work Week Value") will be calculated by dividing the Net Settlement Amount by the total number of workweeks worked by the Participating Class Members. The Work Week Value will be multiplied by the number of Work Weeks worked as a member of the Settlement Class during the period from March 17, 2020 to December 15, 2023, to determine the distribution for the Participating Class Member. The number of weeks worked will be calculated by **Phoenix**

Class Action Administrator Solutions based on either: (1) weeks during which at least one day was worked; or (2) hire dates and, where applicable, last dates worked or separation dates, re-hire dates, dates of any periods of leave, and dates of any transition between non-exempt and exempt status.

To determine each Aggrieved Employee's individual settlement amount, **Phoenix Class Action Administrator Solutions** will use the following formula: Individual Settlement Payment = (Individual Pay Period ÷ Total Pay Periods of Aggrieved Employees) × (\$6,250.00).

Ten percent (10%) of the Individual Settlement Award paid to each Participating Class Member shall be reported on an IRS Form W-2 as alleged unpaid wages subject to all applicable tax withholdings. Ninety percent (90%) of the Individual Settlement Award paid to each Participating Class Member shall be reported on an IRS Form 1099 as alleged non-wage penalties and interest not subject to payroll tax withholdings. Each Participating Class Member will be responsible for correctly characterizing the compensation for tax purposes and for payment of any taxes on any amount received. Defendant will be responsible for paying its share of payroll taxes.

Based on Defendant's records, your covered Work Weeks between March 17, 2020, to December 15, 2023, are **[Work Weeks]** and your covered Pay Periods worked between November 5, 2021, to December 15, 2023, are **[Pay Periods]**. Based on this information, your estimated minimum settlement payment is **[Estimated Payment]**=.

To the extent you dispute the number of Work Weeks and/or Pay Periods, you must make your dispute ("Work Week Dispute") in writing and send it to the Settlement Administrator via fax or mail. Your Work Week Dispute must be postmarked or faxed no later than **[+60 days from date of mailing]** (the "Response Deadline") to:

[Settlement Administrator]

Your Work Week Dispute must be in writing and contain: (a) your full name, signature, address, telephone number, and the last four digits of your Social Security number; (b) the number of Work Weeks and/or Pay Periods you contend is correct; and (c) any evidence supporting your contention. Defendant's records will be presumed correct unless you prove otherwise by credible evidence. The Settlement Administrator will resolve and decide all Work Week Disputes, and its decisions will be final and non-appealable. The Settlement will become final on the Effective Date.

Under California law, there is no statutory right for any PAGA Class Member to object to, opt out of, or otherwise exclude himself or herself from the settlement of the PAGA claims. Accordingly, any timely objection or exclusion from the Settlement submitted by you shall be construed as relating only to the putative class action claims and shall have no effect whatsoever on the settlement of the PAGA claims.

7. What am I giving up in exchange for the settlement benefits?

In exchange for the settlement payment, each member of the Settlement Class who does not submit a valid Request for Exclusion (defined in response to Question 10 below), *i.e.*, Participating Class Members, and the Aggrieved Employees, will release Defendant FENCEWORKS, INC. and their officers and directors, and any of their former and present parents, subsidiaries, affiliates, divisions, corporations in common control, predecessors, successors, and assigns, as well as all past and present officers, directors, employees, partners, shareholders and agents, attorneys, insurers, and any other successors, assigns, or legal representatives, if any, (collectively, "Released Parties") for all claims, rights, demands, liabilities, and causes of action, that were or could have been pleaded based on, arising from, or related to, the factual allegations set forth in the Operative Complaint and in the November 5, 2022 Notice of Labor Code Violations and PAGA Penalties sent to the LWDA and Defendant, including: (i) all claims for unpaid minimum and straight time wages; (ii) all claims for unpaid overtime and double time; (iii) all claims for meal and rest break violations; (iv) all claims for unreimbursed business expenses; (v) all claims for the failure to timely pay wages upon termination; (vi) all claims for failure to timely pay wages during employment; (vii) all claims for wage statement violations; (viii) all claims that could arise under Business & Professions Code §§ 17200, et seq., and claims for

injunctive relief, punitive damages, interest, fees, and costs. (collectively, “Released Claims”). The Released Claims include, but are not limited to, claims under California Labor Code §§ 201, 202, 203, 204, 210, 226, 226.3, 226.7, 227.3, 512, 1174, 1174.5, 1194, 1194.2, 1197, 1198, 2699, *et. sq.*, 2802, and California Business & Professions Code §§ 17200, *et. Seq.*, and the related applicable IWC Wage Orders.

In exchange for the settlement payment, Plaintiff and all PAGA Class Members waive, release, discharge all civil penalties under the Private Attorneys General Act (“PAGA”), California Labor Code section 2698 *et seq.*, and demands for related interest and attorneys’ fees on the penalties, that were asserted or could have been asserted based on the factual allegations set forth in the November 5, 2022 Notice of Labor Code Violations and PAGA Penalties sent to the LWDA and Defendant, including penalties for : (i) all claims for unpaid minimum and straight time wages; (ii) all claims for unpaid overtime; (iii) all claims for meal and rest break violations; (iv) all claims for unreimbursed business expenses; (v) all claims for the failure to timely pay wages upon termination; (vi) all claims for failure to timely pay wages during employment; and (vii) all claims for wage statement violations. The PAGA Release Claims include, but are not limited to, PAGA penalties premised on California Labor Code §§ 201, 202, 203, 204, 210, 226, 226.3, 226.7, 227.3, 512, 1174, 1174.5, 1194, 1194.2, 1197, 1198, 2699, *et. sq.*, 2802, and California Business & Professions Code §§ 17200, *et. Seq.*, and the related applicable IWC Wage Orders

This release will be binding on all Aggrieved Employees regardless of whether they have submitted a valid and complete Request for Exclusion.

HOW TO GET A SETTLEMENT PAYMENT

8. How do I get a settlement payment?

Subject to the Court’s final approval of the terms of the Settlement, you will automatically be sent a settlement payment (as provided in Section 6 above) at the address where this Notice was mailed (unless you timely provide a forwarding address to the Settlement Administrator) in exchange for which you will release the Released Parties for any of the Released Claims (as defined in Section 7 above).

9. When will I get my check?

Checks will be mailed to Participating Class Members eligible to receive benefits under the Settlement after the Court grants “final approval” of the Settlement and the Defendant funds the Settlement. Please also be advised that you will only have 180 days from the date that the checks are issued to cash them. If you do not cash your check within 180 days of the date of its issuance, your Individual Settlement Payment shall be voided. The funds from all checks that are not cashed within 180 days will be transmitted to California’s Unclaimed Property Fund in your name. Please note that in the event that you do not cash your Individual Settlement Payment check, you shall nevertheless remain bound by the Settlement.

EXCLUDING YOURSELF FROM THE SETTLEMENT

10. How do I ask the Court to exclude me from the Settlement Class?

If you do not wish to participate in the Settlement, you must send a written Request for Exclusion to the Settlement Administrator to “opt out” of the Settlement. The Request for Exclusion must be in writing and must: (a) include the case name and number (provided at the beginning of this Notice); (b) contain your full name, address, telephone number, and the last four digits of your Social Security number; (c) clearly state that you do not wish to be included in the Settlement; and (d) be signed. The Request for Exclusion must be postmarked or faxed no later than the Response Deadline, **[+60 days from date of mailing]** to:

[Settlement Administrator]

The date of the fax or postmark on the return mailing envelope will be the exclusive means to determine whether a Request for Exclusion has been timely submitted. A Class Member who does not request exclusion from the Settlement will be deemed a “Participating Class Member” and will be bound by all terms of the Settlement if the Settlement is granted final approval by the Court.

11. If I exclude myself, can I get anything from the settlement?

If you ask to be excluded, and the Settlement is granted final approval by the Court, you will not get a settlement payment as a Participating Class Member and you will not be bound by the Settlement as a Participating Class Member. You are also prohibited from objecting to the Settlement if you exclude yourself from the Settlement. However, if you are an Aggrieved Employee, you will still get a settlement payment as an Aggrieved Employee and you will be bound by the Settlement as an Aggrieved Employee.

OBJECTING TO THE SETTLEMENT

12. How do I object to the Settlement?

If you believe the proposed Settlement is not fair, reasonable, or adequate in any way, you have several options that you may use to object to it or express any concerns. To object, you may (1) appear in person or remotely at the Final Approval Hearing and state your objections to the Court; (2) you can have an attorney object for you, in person or remotely; or (3) you can submit a simple written statement of objection to the Settlement Administrator. The written objection must be faxed or postmarked no later than the Response Deadline, **[+60 days from date of mailing]** to:

[Settlement Administrator]

If you submit a written objection to the proposed Settlement, it must include: (a) the case name and number (provided at the beginning of this Notice); (b) your full name, signature, address, telephone number, (c) a written statement of all grounds for your objection, (d) copies of any papers, briefs, or other documents upon which your objection is based; (e) the identity of your attorney, if you are represented by counsel; and (f) whether you wish to be heard at the Final Approval Hearing. Your attorney may also submit a written objection on your behalf. However, in the discretion of the Court, any Participating Class Member, or person purporting to object on behalf of any Participating Class Member, may be received or considered by the Court at the Final Approval Hearing, regardless of whether a written notice of objection is filed or delivered to the Settlement Administrator.

13. What's the difference between objecting and asking to be excluded?

Objecting is simply telling the Court you do not like something about the Settlement. Excluding yourself is telling the Court that you do not want to be part of the Settlement Class. By submitting an objection you are not excluding yourself from the Settlement—you will remain eligible to receive monetary compensation from the Settlement and be bound by the Settlement if the Court grants final approval. Please note that you cannot both object to the Settlement and exclude yourself from the Settlement. You can only choose one of those options (but you can also choose to do nothing if you have no objections and just want to receive a payment).

IF YOU DO NOTHING

14. What happens if I do nothing at all?

If you do nothing, you will automatically receive a payment from this Settlement as described above and you will be bound by the release of claims, subject to the Court's final approval of the terms of the Settlement.

THE COURT'S FINAL APPROVAL HEARING

The Court will hold a hearing to decide whether to approve the Settlement. If you have not asked to exclude yourself from the Settlement, you may attend and you may ask to speak, but you do not have to.

15. When and where will the Court decide whether to approve the settlement?

The Court will hold a Final Approval/Settlement Fairness Hearing on **[insert time/date]** in Department 14 at the Superior Court of California for the County of Los Angeles, located at 312 N Spring Street, Los Angeles, California 90012.

If you wish to object to the Settlement, you may appear in person, remotely, or through counsel (who may also appear in person or remotely) at the Final Approval hearing to object.

Class members may appear at the final approval hearing remotely via LACourtConnect (<https://www.lacourt.org/lacc/>). Instructions for appearing remotely are provided at <https://my.lacourt.org/laccwelcome> and should be reviewed in advance. Check the Court's website for the most current information. Class members who wish to appear remotely are encouraged to contact class counsel at least three days before the hearing if possible, so that potential technology or audibility issues can be avoided or minimized.

The hearing may be moved to a different date and/or time without additional notice. At this hearing, the Court will consider whether the Settlement is fair, reasonable, and adequate. If there are objections, the Court will consider them. The Court will only listen to people who have asked to speak at the hearing. The Court will also decide how much to pay Class Counsel. After the hearing, the Court will decide whether to approve the Settlement. We do not know how long these decisions will take.

If the Court grants Final Approval of the Settlement, the Order granting Final Approval and entering a Judgment will be posted on a website created by the Settlement Administrator for this case for a period of at least 90 days following the entry of that Order in the Court record. That website is: <<[website](#)>>.

16. Do I have to come to the hearing?

No. Class Counsel and Defendant's counsel will answer any questions the judge may have. But, you are welcome to come at your own expense. If you send an objection, you don't have to come to Court to talk about it. As long as you mailed your written objection on time, the Court will consider it. You may also pay (at your own expense) your own lawyer to attend, but it is not required.

Alternatively, you may appear at the final approval hearing remotely via LACourtConnect (<https://www.lacourt.org/lacc/>). Instructions for appearing remotely are provided at <https://my.lacourt.org/laccwelcome> and should be reviewed in advance. Check the Court's website for the most current information.

Class Members who wish to appear remotely are encouraged to contact Class Counsel at least three days before the hearing, if possible, so that potential technology or audibility issues can be avoided or minimized.

17. May I speak at the hearing?

If a Participating Class Member wishes to appear at the Final Approval Hearing and orally present his or her objection to the Court, the Court will determine whether and for how long any Participating Class Member may be received or considered by the Court at the Final Approval Hearing, regardless of whether a written notice of objection is filed or delivered to the Parties.

GETTING MORE INFORMATION

18. How do I get more information?

This Settlement Notice is only a summary of the Action and the Settlement. Class Members should contact the Settlement Administrator at [\[Phone Number\]](#) with any concerns or questions regarding the Settlement. You may also refer to the pleadings, the JOINT STIPULATION OF CLASS ACTION AND PAGA ACTION SETTLEMENT AND RELEASE attached to the Declaration of Kane Moon in Support of Plaintiff's Motion for Preliminary Approval, and other papers filed in the Action, which may be inspected at any time during regular business hours at the Office of the Clerk for the Superior Court of California for the County of Los Angeles, located at 312 N Spring Street, Los Angeles, California 90012.

In the event of a conflict between the terms of this notice and the Settlement, the terms of the Settlement will govern.

All inquiries by Class Members regarding this Notice and/or the Settlement should be directed to the Settlement Administrator or Class Counsel for Plaintiff, at the addresses set forth below.

Class Counsel

[Settlement Administrator]

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PLEASE DO NOT CONTACT THE CLERK OF THE COURT OR THE JUDGE WITH QUESTIONS.