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

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

27 Plaintiff,

28 vs.

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

Defendants.

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

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

**~~PROPOSED~~ ORDER GRANTING  
PRELIMINARY APPROVAL OF CLASS  
ACTION SETTLEMENT**

Date: October 8, 2021  
Time: 9:30 a.m.  
Dept.: C-66

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

**ELECTRONICALLY RECEIVED**  
Superior Court of California,  
County of San Diego

**04/29/2021** at 11:36:07 AM  
Clerk of the Superior Court  
By Kristin Sorianosos, Deputy Clerk

**FILED**  
Clerk of the Superior Court

**OCT 08 2021**

By: B. Orihuela, Deputy

1 The Motion of Plaintiff Jose Garcia ("Plaintiff") for Preliminary Approval of Class Action  
2 Settlement came on regularly for hearing before this Court on October 8, 2021 at 9:30 a.m. The Court,  
3 having considered the proposed Stipulation of Settlement (the "Settlement"), attached as Exhibit I to  
4 the Declaration of Scott M. Lidman filed concurrently with the Motion; having considered Plaintiff's  
5 Motion for Preliminary Approval of Class Action Settlement, Memorandum of Points and Authorities  
6 in support thereof, and supporting declarations filed therewith; and good cause appearing, HEREBY  
7 ORDERS THE FOLLOWING:

8 1. The Court GRANTS preliminary approval of the class action settlement as set forth in  
9 the Settlement and finds its terms to be within the range of reasonableness of a settlement that ultimately  
10 could be granted approval by the Court at a Final Fairness Hearing. For purposes of the Settlement,  
11 the Court finds that the proposed Settlement Class is ascertainable and that there are a sufficiently well-  
12 defined community of interest among the members of the Settlement Class in questions of law and fact.  
13 Therefore, for settlement purposes only, the Court grants conditional certification of the following

14 Settlement Class:

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

17 2. For purposes of the Settlement, the Court designates Plaintiff Jose Garcia as Class  
18 Representative, and Scott M. Lidman, Elizabeth Nguyen, and Milan Moore of Lidman Law, APC and  
19 Paul Haines of Haines Law Group, APC as Class Counsel.

20 4. The Court designates Phoenix Settlement Administrators as the third-party Settlement  
21 Administrator for mailing notices.

22 5. The Court approves, as to form and content, the proposed e Notice of Pendency of Class  
23 Action and Settlement ("Class Notice"), which is attached to the Settlement as Exhibit A.

24 6. The Court finds that the form of notice to the Settlement Class regarding the pendency of  
25 the action and of the Settlement, and the methods of giving notice to members of the Settlement Class,  
26 constitutes the best notice practicable under the circumstances, and constitute valid, due, and sufficient  
27 notice to all members of the Settlement Class. The form and method of giving notice complies fully  
28 with the requirements of California Code of Civil Procedure section 382, California Civil Code section

1 1781, California Rules of Court 3.766 and 3.769, the California and United States Constitutions, and  
2 other applicable law.

3 7. The Court further approves the procedures for Settlement Class Members to opt out of or  
4 object to the Settlement, as set forth in the Class Notice.

5 8. The procedures and requirements for filing objections in connection with the Final  
6 Fairness Hearing are intended to ensure the efficient administration of justice and the orderly  
7 presentation of any Settlement Class Member's objection to the Settlement, in accordance with the due  
8 process rights of all Settlement Class Members.

9 9. The Court directs the Settlement Administrator to mail the Class Notice to the members  
10 of the Settlement Class in accordance with the terms of the Settlement.

11 10. The Class Notice shall provide at least 60 calendar days' notice for members of the  
12 Settlement Class to opt out of, or object to, the Settlement.

13 11. The Final Fairness Hearing on the question of whether the Settlement should be finally  
14 approved as fair, reasonable, and adequate is scheduled in Department C-66 of the above-entitled Court,  
15 located at 330 West Broadway, San Diego, CA 92101 on Feb 16., 2022 at 9:30 a.m. /  
16 p.m.

17 12. At the Final Fairness Hearing, the Court will consider: (a) whether the Settlement should  
18 be finally approved as fair, reasonable, and adequate for the Settlement Class; (b) whether a judgment  
19 granting final approval of the Settlement should be entered; and (c) whether Plaintiff's application for  
20 reasonable attorneys' fees, reimbursement of litigation expenses, enhancement payment to Plaintiff, and  
21 payment to the Labor and Workforce Development Agency ("LWDA") for penalties under the Labor  
22 Code Private Attorneys General Act ("PAGA") should be granted.

23 13. Counsel for the parties shall file memoranda, declarations, or other statements and  
24 materials in support of their request for final approval of the Settlement, attorneys' fees, litigation  
25 expenses, Plaintiff's service award, settlement administration costs, and payment to the LWDA for  
26 PAGA penalties prior to the Final Fairness Hearing according to the time limits set by the Code of Civil  
27 Procedure and the California Rules of Court.

1 14. An implementation schedule is below:

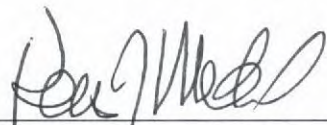
2 <b>Event</b>	<b>Date</b>	<b>Actual Date<sup>1</sup></b>
3 Defendant to provide Class Data to Settlement Administrator	15 calendar days after issuance of the preliminary approval order	October 25, 2021 <sup>2</sup>
4 Settlement Administrator to mail Class Notices to Class Members	10 business days after receiving Class Information from Defendant	November 8, 2021
5 Deadline for Class Members to request exclusion from, submit disputes, or object to, the Settlement	60 calendar days after mailing of the Notice by the Settlement Administrator	January 7, 2022
6 Deadline for Plaintiff to file Motion for Final Approval of Class Action Settlement:		
7 Final Fairness Hearing:	<u>Feb 18</u> , 2022	

10  
11 15. Pending the Final Fairness Hearing, all proceedings in this action, other than  
12 proceedings necessary to carry out or enforce the terms and conditions of the Settlement and this Order,  
13 are stayed.

14 16. Counsel for the parties are hereby authorized to utilize all reasonable procedures in  
15 connection with the administration of the Settlement which are not materially inconsistent with either  
16 this Order or the terms of the Settlement.

17 **IT IS SO ORDERED.**

18  
19 Dated: 10. 8., 2021

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19   
20 Honorable Kenneth J. Medel  
21 Judge of the Superior Court

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27 <sup>1</sup> These dates are based on the Court granting preliminary approval at the October 8, 2021 hearing.  
28 <sup>2</sup> Plaintiff recognizes 15 calendar days would be October 23, 2021, which is a Saturday. Therefore, Plaintiff calendared this deadline for the next business day, Monday, October 25, 2021.