

To be Argued by:
JESSICA F. PIZZUTELLI
(Time Requested: 15 Minutes)

CTQ-2025-00007

Court of Appeals
of the
State of New York

KEVIN T. MADDISON and DAVID WALTON,
individually and on behalf of all other persons similarly situated,

Appellants,

– against –

COMFORT SYSTEMS USA (SYRACUSE), INC.,
d/b/a ABJ Fire Protection Co., Inc.,

Respondent.

RESPONDENT’S BRIEF IN RESPONSE TO *AMICUS CURIAE*

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Date Completed: May 1, 2026

Respondent's Rule § 500.1(f) Corporate Disclosure Statement

Pursuant to Section 500.1(f) of the Rules of Practice of the New York Court of Appeals, Respondent Comfort Systems USA (Syracuse), Inc., d/b/a ABJ Fire Protection Co., Inc., hereby states, by and through its undersigned counsel of record, that it is a wholly-owned subsidiary of Comfort Systems USA, Inc., a publicly traded company.

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PRELIMINARY STATEMENT

The amicus curiae briefs do not provide any additional insights regarding the narrow certified questions sounding in contract before this Court: first, whether a written public-works contract that does not contain a promise to pay prevailing wages may nonetheless be interpreted to contain such an implied contractual term enforceable by workers suing as third-party beneficiaries; and, second, whether a one-year contractual limitations provision in those same contracts is enforceable against workers who elected to proceed on a third-party-beneficiary breach-of-contract theory.¹

The Amici repeat Appellants' merits arguments², albeit with more rhetoric; ignore the certified questions and urge policy-driven expansion of remedies the Legislature did not enact; or advance irrelevant arguments. None of the Amici supply a basis to rewrite the contracts at issue, to disregard well-established contract principles, or to create a backdoor independent statutory cause of action outside the

¹ Amicus curiae briefs were submitted by: City of New York ("City") ("City Brief" or "City Br."); New York State Building and Construction Trades Council and the Building and Construction Trades Council of Greater New York & Vicinity ("BCTC") ("BCTC Brief" or "BCTC Br."); New York City & Vicinity District Council of Carpenters and the North Atlantic States Regional Council of Carpenters ("Carpenters Councils") ("Carpenters Councils Brief" or "Carpenters Councils Br."); International Union of Elevator Constructors Local Union Number One ("Local One") ("Local One Brief" or "Local One Br."); and the Attorney General, on behalf of New York State Department of Labor ("DOL") ("DOL Brief" or "DOL Br."). One or more of the amicus curiae briefs will be referred to collectively as "Amici." This brief responds to all Amici briefs.

² Respondent does not repeat herein all arguments made in response to Appellants' arguments, which arguments are also asserted by Amici. Respondent incorporates by this reference all arguments made in the Brief for Respondent, submitted on January 27, 2026.

explicit administrative enforcement mechanisms provided by the Legislature when it enacted New York Labor Law (“NYLL”) § 220. If anything, the Amici highlight why the certified questions should be answered as Respondent advocates: they insist that prevailing-wage rights are fundamentally statutory yet simultaneously ask this Court to transform those statutory obligations into judicially-implied contractual promises enforceable in private damages actions. That contradiction confirms the defect in Appellants’ and Amici’s theory. If the right is statutory, the Legislature defines the remedy. If the claim is contractual, the contract’s terms—including its limitations—define the remedy.

The Court should therefore decline Amici’s invitation to recast this case as presenting a claim under NYLL § 220 (it doesn’t) and broad referendum on labor policy, agency resources, or collective-bargaining economics. Those subjects belong to the Legislature and, in the case of collective bargaining, principally to federal labor law. They do not supply a basis to alter settled New York contract principles to manufacture a private remedy the Legislature itself did not provide in the statute.

RELEVANT PROCEDURAL BACKGROUND

Defendant-Respondent Comfort Systems USA (Syracuse), Inc. d/b/a ABJ Fire Protection Co., Inc. (“Respondent”) is a full-service alarm and sprinkler company. (Appendix (“A”) 9). Plaintiff-Appellants Kevin Maddison (“Maddison”) and David Walton (“Walton,” and together with Maddison, “Appellants”) are former employees of Respondent. (A9). The at-issue contracts contain a clause shortening the statute of

limitations for a cause of action against Respondent to one year, stating, “No action shall be brought against [ABJ] more than one year after accrual of the cause of action.” (A10). The at-issue contracts (excepting two) do not state that Respondent will pay prevailing wages to individuals performing inspection and testing work. (A10-A11). On March 30, 2017, over two years after Appellants’ employment with Respondent ended, Maddison commenced an action alleging, *inter alia*, a third-party beneficiary claim for breach of contract. (A12).

On February 27, 2020, District Court Judge Lawrence E. Kahn granted Respondent’s motion for summary judgment. (A47-A65). Judge Kahn held that Appellants brought a breach of contract claim as third-party beneficiaries, not a claim under NYLL § 220. (A55-A57). As such, Judge Kahn correctly held that Appellants could not recover as third-party beneficiaries on their *breach of contract* claim because (among other reasons): Appellants’ claims were time-barred under the express terms of the contracts they sued upon (A56-57); and, alternatively, Appellants’ claims fail because the contracts they sued upon do not provide that they will be paid prevailing wages (A57-A59).

Appellants appealed Judge Kahn’s decision to the United States Court of Appeals for the Second Circuit (“Second Circuit”). Thereafter, the Second Circuit certified the following narrow questions to this Court in its opinion, *Walton v. Comfort Systems USA (Syracuse), Inc.*, 155 F4th 144 (2d Cir 2025):

1. Is the promise to pay prevailing wages implicit in every public

works contract so that individuals employed on public works projects may sue their employers for breach of contract to enforce the prevailing wage requirement under NYLL § 220 even if the employer’s written contract does not include the statutorily required promise to pay prevailing wages?

2. Are agreements to shorten the statute of limitations in public works contracts to one year enforceable against workers bringing third-party beneficiary breach of contract claims to enforce the prevailing wage law?

(A45). This Court accepted the certified questions on October 16, 2025. (A4).

On December 12, 2025, Appellants filed their opening brief advocating, *inter alia*, that the first certified question should be answered in the affirmative and the second certified question should be answered in the negative.³ On January 27, 2026, Respondent filed its brief in response, advocating for the opposite conclusion.⁴ Appellants filed their reply brief on March 10, 2026.⁵

Thereafter, the Amici each moved for leave to file their respective briefs, which the Court granted on April 16, 2026. *See Walton v. Comfort Sys. USA (Syracuse), Inc.*, -- NY3d ---, 2026 NY Slip Op 66405(U) (NY Apr. 16, 2026) (granting City leave to file amicus curiae brief); *Walton v. Comfort Sys. USA (Syracuse), Inc.*, -- NY3d ---, 2026 NY Slip Op 66406(U) (NY Apr. 16, 2026) (granting Carpenters Councils leave to file amicus curiae brief); *Walton v. Comfort Sys. USA (Syracuse), Inc.*, -- NY3d ---, 2026 NY

³ The Appellants’ opening brief is referred to as “Appellants’ Brief” or “App. Br.”.

⁴ Respondent’s brief is referred to as “Respondent’s Brief” or “Resp. Br.”.

⁵ Appellants’ reply brief is referred to as “Appellants’ Reply Brief” or “App. Reply Br.”.

Slip Op 66407(U) (NY Apr. 16, 2026) (granting BCTC leave to file amicus curiae brief); *Walton v. Comfort Sys. USA (Syracuse), Inc.*, -- NY3d ---, 2026 NY Slip Op 66408(U) (NY Apr. 16, 2026) (granting Local One leave to file amicus curiae brief); *Walton v. Comfort Sys. USA (Syracuse), Inc.*, -- NY3d ---, 2026 NY Slip Op 66409(U) (NY Apr. 16, 2026) (granting DOL leave to file amicus curiae brief). The Court required each amicus curiae to file their brief with the Court within seven days of the order. *Id.* Local One did not file its brief within the Court's seven-day deadline.

The Amici either repeat Appellants' arguments or go far beyond the certified questions, focusing extensively on NYLL § 220 and, surprisingly, on the comprehensive administrative scheme the Legislature created, for workers, to resolve wage disputes. They expound at length about labor policy and the benefits of NYLL § 220 – ignoring that this case does not involve a NYLL § 220 claim. They dedicate almost no brief space to the second, statute of limitations, certified question – a tacit concession that the contractual limitation contained in the fire alarm contracts at-issue here is valid and enforceable, and that there is no legal or reasoned basis to hold otherwise.

Specifically, the City's Brief largely echoes Appellants' arguments that workers should have a contractual cause of action even when the contract does not provide for the payment of prevailing wages. *Compare* City Br. at 5-13 *with* App. Br. at 3-18 *and* App. Reply Br. at 3-13; *see also* Resp. Br. at 1-25 (responding to same). Then in immediate contradiction, the City then urges the Court to ignore the *contract* altogether

and apply statute of limitations rules governing *statutory* claims. *See* City Br. at 13-16. In other words, the City asks the Court to rewrite both the contracting parties' agreements and settled New York law by reading into the contract prevailing wage terms that do not exist, while simultaneously insisting that existing contractual terms—including agreed-upon limitations periods—should be ignored. *See id.*, at 15 (arguing illogically that, despite the fact that this case involves a breach of contract claim, that “*the contract should not control the issue*”) (emphasis added). The City's position ultimately seeks to convert a contract dispute into a private statutory enforcement action that the Legislature did not authorize.

Meanwhile, the Carpenters Councils' Brief functions as a policy paper rather than legal argument. It devotes a substantial portion of its brief to economic statistics, labor history, public health policy, tax revenues and generalized critiques of the construction industry—none of which are relevant to the certified questions.⁶ Notably, the Carpenters Councils' Brief repeatedly mischaracterizes the nature of this case as involving a “statutory right” under NYLL § 220, and even opens their brief by

⁶ *See, e.g.*, Carpenters Councils' Br. at 6-8 (discussing “collective bargaining” and the “importance of unions”); *id.* at 11-12 (referencing the “testimony of New York Republican Congressman” relating to unrelated *federal* legislation); *id.* at 13 (discussing the “purchasing power” of “blue-collar workers”); *id.* at 14 (discussing health insurance and retirement plans); *id.* at 15 (discussing the “average monthly premium for family [medical] coverage”); *id.* at 16 (raising arguments regarding the “continuing assaults on the Affordable Care Act”); *id.* at 16-18 (discussing multi-employer benefit funds); *id.* at 19-20 (discussing workers' compensation, construction injury rates and “lackluster safety practices”); *id.* at 21-24 (discussing apprenticeship programs); *id.* at 24-25 (discussing income tax revenues); *id.* at 25-28 (making sweeping and generalized assertions about the “construction industry,” including wage theft, undocumented workers, misclassification, under-reporting of tax liabilities, payroll fraud, and unsafe working conditions).

misstating the certified questions. *See* Carpenters Councils’ Br. at 2, 29. By ignoring that this case arises from a third-party beneficiary breach of contract claim, Carpenters’ Councils’ Brief sidesteps the actual issues before the Court. And its arguments for the benefits of prevailing wage law and collective bargaining are better suited for the Legislature – not in a forum dedicated to applying the law and judicial principles.

BCTC’s Brief similarly collapses statutory wage obligations with contractual enforcement, warning that employers must not be allowed to “contract out” of “prevailing wage obligations.” BCTC Br. at 6. But the obligation to pay prevailing wages is statutory, not contractual – and workers’ *statutory* right to prevailing wages is entirely unaffected by contract. *See* Resp. Br. at 5-11. As BCTC and other Amici acknowledge, the Legislature created potent administrative tools –investigations, penalties, debarment, and procurement sanctions – to police statutory noncompliance. *See* BCTC Br. at 14-15. And while BCTC’s Brief speculates about harm to “vulnerable workers,” it ignores both the fact that the administrative enforcement mechanisms provided by the Legislature are unaffected by the Court’s decision on the certified questions *and* the serious legal consequences flowing from the failure to enforce agreed-upon contract terms in *contract cases*.

Even if this Court accepts Local One’s late Brief, it likewise epitomizes the central flaw running through all Amici briefs: it assumes that the enforcement of

private contract somehow endangers prevailing wage enforcement.⁷ It does not. By asserting that the certified questions implicate NYLL § 220’s policy objectives relating to “union and non-union contractors” or somehow threaten municipalities’ compliance with the *statute*, Local One misstates both the posture and stakes of this appeal, which addresses contractual claims – not statutory claims. *See* Local One Br. at 4-9. Absent any statutory authority, public policy, or contractual language to support its position, Local One ultimately asks the Court to manufacture private enforcement rights the Legislature deliberately withheld.

Finally, the DOL’s Brief centers on policy arguments untethered to Appellants’ *contractual* claim. For example, the DOL’s brief expounds upon NYLL § 220’s administrative enforcement mechanisms, DOL’s administrative procedures and authority, resource constraints, and alleged enforcement timelines to argue (implicitly) that courts should expand private litigation to ease the agency’s burden. *See* DOL Br. at 7-11, 14-19, 22-28. But in doing so, the DOL highlights the opposite proposition: the Legislature deliberately created a comprehensive administrative enforcement mechanism and *declined* to authorize private suits. The DOL’s brief thus seeks judicial supplementation of a statutory framework the Legislature crafted – and limited – by design. DOL does not cite a single case or authority to support any of its sweeping

⁷ Local One was required to file their amicus curiae brief within seven days of April 16, 2026. *See Walton v. Comfort Sys. USA (Syracuse), Inc.*, -- NY3d ---, 2026 NY Slip Op 66408(U) (NY Apr. 16, 2026). However, Local One’s Brief was not received by the Court until April 29, 2026 and, therefore, was filed late and should not be considered by the Court.

assertions that a one-year limitations period is unreasonable or unenforceable; as discussed below, it is demonstrably reasonable.

Simply put, Amici's arguments are either repetitive or misplaced.

ARGUMENT

I. AMICI CANNOT RECAST THIS CONTRACT CASE AS A STATUTORY ENFORCEMENT ACTION.

The Amici's central argument seeks to collapse the distinction between the statutory regime established by NYLL § 220 and the separate contractual theory under which Appellants actually sued. That attempt – to secure the advantages of both frameworks while accepting the constraints of neither – should be rejected.

This case comes to the Court on certified questions rooted in contract. (A45). Appellants did not plead a direct statutory cause of action under NYLL § 220; instead, they elected to sue as alleged third-party beneficiaries for breach of contract. (A12). The District Court correctly treated the claims accordingly, and the certified questions do the same. (A45, A47-A65). Once Appellants chose to proceed on a contract theory, ordinary contract principles govern.

As discussed above and below, several Amici argue that the rights at issue derive from statute, not contract, and therefore cannot be constrained by contractual language. *See, e.g.*, DOL Br. at 1-2; City Br. at 8-13; BCTC Br. at 3, 6-7. But if the rights at issue are statutory, then they are subject to the remedial choices made by the Legislature. *See, e.g., Konkur v. Utica Academy of Science Charter Sch.*, 38 NY3d 38, 42-44

(2022) (finding no statutory private right of action “inferred” where Legislature provided a robust and “significant [administrative] enforcement mechanisms” in the statute itself). As the DOL corroborates, NYLL § 220 establishes a robust administrative enforcement framework and grants the fiscal officer significant enforcement authority. *See* Labor Law § 220(7). It does not create any “inferred” private right of action. The Amici try to have it both ways: they insist the claim is statutory to avoid the contracts’ terms, while simultaneously asking this Court to recognize a privately enforceable implied contract promise in order to preserve the very cause of action they say does not depend on contract at all.

For example, the DOL asserts that the issue before this Court concerns whether “private employers may limit the ability of employees to enforce their statutory right to prevailing wages in court...”. DOL Br. at 1. That characterization is incorrect. The questions before this Court do not involve a claim to enforce a *statutory right* – but a third-party beneficiary *contractual* claim. In fact, DOL’s Brief reinforces the Legislature’s creation of a robust administrative enforcement mechanisms that did *not* provide for a private right of action for workers to bring NYLL § 220 claims. The DOL’s discussion of the “recent extension of the prevailing wage law” by the Legislature underscores this point. *See* DOL Br. at 18-20. Had the Legislature wished to extend the available remedies provided by the prevailing wage law, it could have done so – it did not. *See, e.g., Yerry v. Goodswell*, 4 AD2d 395, 403 (3rd Dept 1957) (“We are not here concerned with the question of whether the public remedy provided by

the Legislature is an adequate or effective one; it is enough for us to observe, upon an analysis of the statute, that this is the remedy which the Legislature decided should be made available to the public”) *aff’d* 4 NY2d 999 (1958).

The BCTC Brief similarly presents rhetorically-charged assertions based upon issues that are not before this Court. *See* BCTC Br. at 6 (asserting employers may not “contract themselves out of prevailing wage obligations”); *id.* at 11 (arguing “workers should not be induced or obliged to accept less than the prevailing wage”). But employer “prevailing wage obligations” and worker “prevailing wage” protections under NYLL § 220 are unaffected by this case. Indeed, workers (generally) and Appellants (here) at all times have (and had) direct administrative remedies available to them in the event of alleged failure to pay prevailing wages. BCTC’s Brief admits as much, as it (like other Amici) discusses the mechanisms in place, provided by the Legislature, to disincentivize and penalize underpayment of wages. BCTC Br. at 13-15.⁸

⁸ BCTC’s assertion that New York’s competitive bidding requirements would somehow be undermined by enforcing the actual terms of public contracts is confusing and entirely conclusory. On its face, General Municipal Law § 103 operates at the procurement stage, before a contract is awarded. Contract terms are negotiated and executed after the bidding process has concluded and a contractor is selected.

Nor does BCTC explain how declining to expand contractual remedies “emboldens” contractors to violate the prevailing wage law or cheat workers, as they repeatedly assert. Contractors remain fully subject to NYLL § 220’s enforcement regime, including administrative investigations, back-wage assessments, debarment, and other statutory penalties—as BCTC concedes. BCTC Br. at 15. BCTC fails to explain why these existing enforcement tools are inadequate.

Local One similarly argues that if workers were unable to sue when prevailing wage language is not present in a contract, this “would allow municipalities and public contracting agencies to completely avoid prevailing wage requirements by simply refusing to include prevailing wage provisions in their contracts” and that “Municipal subdivisions cannot choose to opt-out of Labor Law 220’s mandates.” Local One Br. at 7-9. These arguments are misplaced. Again, the obligation to pay prevailing wages under NYLL § 220 is unaffected by the certified questions. And the Amici routinely note throughout their papers that there are remedial and punitive penalties for failure to comply with the prevailing wage requirements in the statute itself. *See, e.g.*, BCTC Br. at 15; Carpenters Councils’ Br. at 6; DOL Br. at 5-7. Finally, Local One dedicates extensive brief space to arguing that workers have a right to sue as third-party beneficiaries when the at-issue contract expressly guarantees them payment, or otherwise contains a contractual clause and agreement to comply with “all applicable laws.” *See* Local One Br. at 9-13.⁹ These cases are inapposite – as it is undisputed that the contracts at issue here do not contain any such provisions.

⁹ For example, Local One relies upon *De La Cruz v. Caddell Dry Dock & Repair Co., Inc.*, 21 NY3d 530 (2013) for the proposition that the workers were entitled to sue for prevailing wages even where the contracting parties “did not intend for those workers to receive prevailing wages.” *See* Local One Br. at 9. But in *De La Cruz*, there was no dispute that at-issue contracts contained “contractual provisions requiring the payment of the prevailing rate of wages...”. *Id.* at 532-533. Similarly, in *Stennett v. Movenway Transfer & Stor., Inc.*, 97 AD3d 655, 657 (2d Dept 2012), the Court considered contracts that, unlike here, “included prevailing wage provisions.” *See* Local One Br. at 10.

Finally, it does not advance Amici’s position—weaved throughout their briefs—to argue that NYLL § 220 “reads into” every public-works contract. *See* DOL Br. at 1-2, 4-5; City Br. at 8-13; BCTC Br. at 3, 6-7, 12; Local One Br. at 14-16.¹⁰ At most, that reflects the unremarkable proposition that public contracts must comply with governing law and, where required, contain a prevailing-wage stipulation. But the existence of a statutory command does not create a judicially-enforceable promise running to third parties.

In *Fata*, this Court permitted a contract action because the agreement itself contained the prevailing-wage undertaking and incorporated the wage schedule fixed by the fiscal officer. *Fata v S.A. Healy Co.*, 289 NY 401, 404-07 (1943). *Fata* did not hold that courts may imply an omitted promise into any public-works contract whenever the statute required such a term. To the contrary, *Fata* distinguished between an obligation that “existed only by fiat of the Legislature” and a contractual undertaking that is actually embodied in the agreement. *Id.* at 404-07.

Similarly, this Court has required express contractual language demonstrating an intent to benefit and permit enforcement by a third party. *See Dormitory Auth. of the*

¹⁰ The City’s Brief argues, for example, that NYLL § 220(3)(a) requires a provision in a contract regarding prevailing wages and that this is “an *indication* that the Legislature intended there to be a private cause of action.” City Br. at 11 (emphasis added). But the Legislature does not act by “indication.” Had the Legislature intended to provide workers with a private cause of action to pursue unpaid wages under NYLL § 220, it would have done so explicitly. *See* Resp. Br. at 14-21 (citing cases). The City readily concedes that reading contractual language into a contract that does not otherwise exist will create “contracting costs and litigation burdens from prevailing wage claims” which “present real concerns.” City Br. at 4.

State of N.Y. v Samson Constr. Co., 30 NY3d 704, 710 (2018); *Port Chester Elec. Constr. Corp. v Atlas*, 40 NY2d 652, 655 (1976). Amici offer no coherent basis for exempting these contracts from those settled principles.

In addition, where the statutory scheme was ignored before contract formation, New York courts have refused to read into the contract terms that do not exist (despite the noncompliance). For example, in *Brang*, the Third Department rejected a contractor's attempt to recover against a public entity based on the failure to annex the prevailing-wage schedule before bidding, holding that no liability arose on a theory of contractual breach under those circumstances. *See Brang Co. v State Univ. Constr. Fund*, 47 AD2d 178, 179-80 (3d Dept 1975). Although *Brang* did not address third-party-beneficiary rights, it clearly reinforces the governing principle here – that statutory noncompliance does not license courts to rewrite contracts or to supply *contractual* remedies untethered from the agreement forming the basis of the breach of contract claim.

II. AMICI IDENTIFY NO BASIS TO REFUSE ENFORCEMENT OF THE CONTRACTUAL LIMITATIONS PROVISION.

The Amici's argument against the one-year limitations provision depends on abandoning the contract theory on which this case was brought. Once Appellants elected to sue as third-party beneficiaries, their rights rose no higher than the contracts they seek to enforce. *See Timberline Elec. Supply Corp. v. Ins. Co. of N.A.*, 72 AD2d 905, 906 (4th Dept 1979), *affd* 52 NY2d 793 (1980). *See also* Resp. Br. at 27, 32-

33. They cannot invoke a supposed contractual promise while repudiating the agreements' express limitations language.

New York law strongly favors enforcement of reasonable contractual limitations periods. CPLR § 201 expressly provides that an action must be commenced within the otherwise applicable limitations period “unless a different time is prescribed by law or a shorter time is prescribed by written agreement.” CPLR § 201. And this Court has long held that contracting parties may agree to shorten the period for suit, provided the agreed period is reasonable and no statute forbids it. *John J. Kassner & Co. v City of N. Y.*, 46 NY2d 544, 550-51 (1979). *See also* Resp. Br. at 27-31.

The Amici identify no provision of NYLL § 220, or any other New York statute, that bars such an agreement in this context. The Legislature did not choose to prohibit contractual shortening here, just as it did not create a private cause of action under NYLL § 220 directly in the first place. *See* Resp. Br. at 34-37. The Legislature has (in fact) endorsed that one year is a reasonable period of time for an employee to sue for underpayment of wages. *See* NYLL § 220-g (providing one-year for employees to “bring an action to recover from” a bond for “unpaid wages ... due to persons furnishing labor to either the contractor or subcontractor” and said action “may be brought against the contractor ... within one year of the date of the last alleged underpayment”). What Amici ask this Court to do is create a special exception for one subset of contract claims based solely on alleged policy concerns and create a

backdoor private cause of action for a NYLL § 220 claim that the Legislature did not even enact into law. This Court should decline that invitation.

The City's and DOL's Briefs suggesting that enforcing the one-year limitations period would somehow impair administrative enforcement is misplaced. *See* City Br. at 12-13; DOL Br. at 21. The administrative process under NYLL § 220 is mandatory, not permissive, and exists independently of any private contract action. *See* NYLL § 220(7) (fiscal officer "shall" investigate on verified complaint). Nothing in NYLL § 220 conditions agency enforcement on the availability, timing, or success of a third-party-beneficiary lawsuit. The fiscal officer's authority to investigate verified complaints and enforce the statute does not rise or fall with the viability of a private contract claim. And this case itself illustrates the point: the contractual limitations provision did not prevent Appellants' resort to the administrative process. *See* Resp. Br. at 15, n. 2. To the extent that the administrative process is burdensome or resource-intensive for the DOL, that concern is for the Legislature – not this Court – to address. The very fact that Amici urge the Court to enlarge private contract remedies because the agency supposedly needs help enforcing NYLL § 220 confirms that the remedy they seek is not found in NYLL § 220 itself.

Likewise, the DOL's contention that a one-year contractual limitations period is inherently unreasonable in the prevailing wage context, based upon the length of time the DOL may take to investigate *and resolve* these claims (*see* DOL Br. at 21, 27-29) misses the point. How long it takes the DOL to resolve a claim *after it is filed* is

irrelevant to whether one year is a reasonable period for a worker to bring a contractual claim. And in any event, as the DOL itself concedes, straightforward cases – like this one – are often investigated *and* resolved administratively in less than a year. *See* DOL Br. at 8, 28.¹¹

Indeed, and most notably, the Legislature directed the fiscal officer (DOL and the NYC Comptroller) to complete investigations under NYLL § 220 within *six months*. Section 220(7) provides, in relevant part, that: “Such fiscal officer shall make either an order, determination or any other disposition, including but not limited to an agreed upon settlement and/or stipulation, within six months from the date of filing of such verified complaint, and where a compliance investigation is made without the filing of a verified complaint, within six months from the date a compliance investigation is initiated by such fiscal officer.” This supports the Legislature’s expectation that prevailing wage cases be investigated in six months (well within the one-year limitations period). *See also* Resp. Br. at 34 n.11.

¹¹ The DOL’s conjecture that a shortened contractual limitations period risks misleading workers into believing they lack any sort of administrative remedy is unsupported. DOL Br. at 22. Common-sense dictates otherwise: a worker who consults counsel regarding a contractual claim will surely be advised of statutory remedies. Likewise, the DOL’s assertion that workers require up to a year merely to discover their entitlement to prevailing wages is unsupported and implausible – as the DOL cites no authority or data for this sweeping claim. *See* DOL Br. at 26-27. Again logic and reason counsel in favor of the opposite conclusion: if a worker was underpaid, the worker will immediately learn of the wage differential upon commencing a new job.

Moreover, the City’s reliance on CPLR § 214(2) demonstrates its misunderstanding of the certified question.¹² CPLR § 214(2) addresses the limitations period for “a liability, penalty or forfeiture created or imposed by statute,” and New York courts apply it where the liability “would not exist but for the statute.” *See* CPLR § 214(2). *See also Contact Chiropractic, P.C. v. New York City Tr. Auth.*, 31 NY3d 187, 196 (2018) (applying CPLR § 214(2) three-year statute of limitations where the “benefits in dispute are not provided by a contract”). The City’s CPLR § 214(2) argument ignores that Appellants assert a breach of contract claim, seek a contractual remedy, and are bound by the terms of the contract. As noted by the First Department, while terms of a contract may be mandated by law, “this does not alter the fact that the dispute is fundamentally contractual in nature and not a creature of statute.” *Mandarino v. Travelers Prop. Cas. Ins. Co.*, 37 AD3d 775, 778 (2d Dept 2013).¹³

In short, the City’s reliance on CPLR § 214(2) collapses the very distinction New York law insists upon: the difference between statutory liability that exists only because the Legislature created it, and contractual liability that exists by agreement.

¹² In *Gaidon v. Guardian Life Ins. Co. of Am.*, 96 NY2d 201 (2001), a case cited by the City (City Br. at 14), this Court not surprisingly found that the three-year statutory period applied to claims brought under a statute: General Business Law § 349. *See Gaidon*, 96 NY2d at 209-10. The statute at issue in *Gaidon* provided for a private cause of action (*see id.*, at 210)—no such private remedy exists under NYLL § 220.

¹³ The City’s citation to *John J. Kassner & Co. v. City of N. Y.*, 46 NY2d 544 (1979) supports Respondents’ position. *See* City Br. at 15. There, the Court enforced a contractually-shortened limitations period and reaffirmed that CPLR § 201 permits such agreements so long as they are reasonable.

The certified questions concern the latter. CPLR § 214(2) concerns the former. Treating them as interchangeable does not clarify the issues before this Court – it obscures them. In any event, the City’s reliance on CPLR § 214(2) is also irrelevant, because pursuant to CPLR § 201, statutory limitations periods may still be contractually limited. *See* Resp. Br. at 30-31. CPLR § 201 is nowhere confined to contract claims, as the City suggests. *See* City Br. at 15. Instead, it applies to all limitations periods “specified in this article,” which (of course) includes CPLR § 214(2).

Similarly, Local One argues that parties cannot agree to a contractual limitation provision that disclaims third-party beneficiary rights. Local One Br. at 16. This is a red-herring. This case does not involve contracts that contain a disclaimer of third-party beneficiary rights, and neither Local One, the Appellants, nor any other Amici can point to any statutory right or public policy supporting that workers are entitled to a full six years to bring a third-party beneficiary breach of contract claim for prevailing wages.

The non-binding cases Local One relies upon—including *Wroble v. Shaw Envtl. & Infrastructure Eng’g of N.Y., P.C.*, 166 AD3d 520 (1st Dept 2018), *Santana v. San Mateo Constr. Corp.*, 234 AD3d 562 (1st Dept 2025), and *Gordon v. Triumph Constr. Corp.*, 246 AD3d 435 (1st Dept 2026)—do not hold that a contract cannot prescribe reasonable limits, such as a shortened limitations period, consistent with the CPLR.

This distinction is critical, as the present case does not involve a contractual disclaimer of third-party beneficiary rights; it involves a CPLR-compliant, one-year limitations period governing any action brought on the contract. New York law has long and consistently enforced such provisions, even where the underlying obligation is statutorily informed. *See* CPLR § 201; Resp. Br. at 30-31. And this Court has expressly recognized that statutory enforcement authority may coexist with procedural bars applicable to private damages actions. *See, e.g., Cayuga-Onondaga Counties Bd. of Coop. Educ. Servs. v. Sweeney*, 89 NY2d 395, 403 (1996); *Fata*, 289 NY at 406 (recognizing that “perhaps in most cases ... limitations ... may apply to the contractual obligation”).

III. POLICY ARGUMENTS ABOUT WORKER VULNERABILITY, COLLECTIVE BARGAINING, AND EXTRA-RECORD STUDIES DO NOT BEAR ON THE CERTIFIED QUESTIONS.

Much of the Amici’s briefing—particularly that of the labor organizations—makes various assertions that workers are vulnerable, that prevailing-wage underpayments undermine workers’ bargaining power, and that enforcing contracts as written would destabilize collective bargaining agreements and union benefit structures. *See, e.g.,* BCTC Br. at 13-16 (discussing competitive bidding policy and “responsible” bidder case law); *id.* at 16-17 (arguing about “vulnerability” as between union and non-union workers); Carpenters Councils’ Br. at 8-12 (arguing about the “dismal science” of industrial economics); *id.* at 12-25 (discussing studies and statistics relating to construction family incomes, health insurance and retirement plans,

construction injuries, apprenticeship programs, and tax revenues, among other things).¹⁴ These policy arguments have no bearing on the certified questions before this Court.

To begin, the suggestion that this Court should modify New York contract law in order to influence collective-bargaining dynamics is misplaced. Collective bargaining and labor disputes are governed principally by federal labor law.

Nor do Amici's broad and unsupported predictions justify the judicial modification of agreements, including application of contractual promises absent from the agreement. The Legislature adopted prevailing-wage protections in NYLL § 220 and assigned enforcement to the relevant fiscal officer. It did not require that courts may imply and privately enforce any statutorily required term notwithstanding the actual text of the contract and notwithstanding express contractual limitations on suit. That approach would do far more harm than good. It would fundamentally rewrite contracts after the fact, permit selective enforcement of only those terms

¹⁴ For example, BCTC argues that the Court's "decision will have the largest impact on the state's most vulnerable workers." BCTC Br. at 16. This ignores that all workers are protected by NYLL § 220. Similarly, Carpenters Councils' claim that enforcing negotiated contractual limitations would somehow disrupt collective bargaining or competitive bidding rests on a fundamental and categorical error. Neither regime depends on the availability of implied third-party contract claims: prevailing wages are set and enforced by statute and administrative mechanisms, while collective bargaining agreements are governed by federal law under the NLRA. Competitive bidding is governed at the procurement stage by statutes such as General Municipal Law § 103, which already provide independent consequences for non-compliant contractors. Amici offer no plausible explanation for how declining to expand private remedies after a contract is awarded could "embolden" misconduct or distort processes that operate independently of such litigation.

favorable to a claimant, and eliminate the ordinary consequences of bringing an untimely contract action.

If every statutory requirement may be judicially implied and enforced by a third party regardless of the written agreement, then there is no principled stopping point. Courts would be invited to treat statutory compliance obligations as privately enforceable contract promises even when the contract omits them, even when the Legislature created solely an administrative enforcement scheme (and did not explicitly provide for a private right of action), and even when the contract contains express conditions or limitations on suit.

The better course is the one advanced by Respondents, which is consistent with, and reconciles, both New York contract law and the statutory text. Public entities and contractors remain bound by NYLL § 220. Workers remain protected by NYLL § 220 and the fiscal officer remains charged with enforcement under the statutory mechanisms the Legislature enacted. For workers who choose to forego the complaint process under NYLL § 220 (or seek to double-dip and file both an administrative claim and breach of contract action, like here) and sue on a contract theory, the workers must accept any limitations in the contract they seek to enforce. That rule respects the Legislature's choices, parties' agreements, and settled New York contract doctrine. The Amici's proposed rule respects none of them.

CONCLUSION

The Amicus briefs do not supply a sound basis to alter the answers compelled by the text of the contracts, the CPLR, and the Legislature's choices in adopting NYLL § 220. The first certified question should be answered in the negative, and the second certified question should be answered in the affirmative.

Dated: Fairport, New York
May 1, 2026

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CERTIFICATE OF COMPLIANCE WITH RULE 500.13(c)

I, Jessica F. Pizzutelli, certify that the attached RESPONDENT’S BRIEF IN OPPOSITION TO *AMICUS CURIAE*, containing 6,025 words, complies with the Court’s word count limit as described in Rule 500.13(c).

Dated: Rochester, New York
May 1, 2026

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**AFFIDAVIT OF SERVICE
BY OVERNIGHT FEDERAL
EXPRESS NEXT DAY AIR**

I, Tyrone Heath, 1702 Clay Avenue, Apt 11, Bronx, New York 10457, being duly sworn, depose and say that deponent is not a party to the action, is over 18 years of age and resides at the address shown above or at

On May 1, 2026

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the address(es) designated by said attorney(s) for that purpose by depositing **3** true copy(ies) of same, enclosed in a properly addressed wrapper in an Overnight Next Day Air Federal Express Official Depository, under the exclusive custody and care of Federal Express, within the State of New York.

Sworn to before me on May 1, 2025



MARIANA BRAYLOVSKIY
Notary Public State of New York
No. 01BR6004935
Qualified in Richmond County
Commission Expires March 30, 2030



Job# 515465