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**SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF SACRAMENTO**

SCOTT CAHN, individually and on behalf
of himself and all others similarly situated,

Plaintiff,

v.

J.J.R. ENTERPRISES, INC., doing business
as CALTRONICS BUSINESS SYSTEMS,
a California Corporation; and DOES 1-50,
inclusive,

Defendants.

Case No. 34-2020-00284704

Assigned for All Purposes to:
Hon. Lauri A. Damrell

**[PROPOSED] ORDER GRANTING
PRELIMINARY APPROVAL OF CLASS
AND PAGA ACTION SETTLEMENT**

Date: August 18, 2023

Time: 9:00 a.m.

Dept: 28

1 This matter came before the Court on the application of Plaintiff Scott Cahn ("Plaintiff")
2 for preliminary approval of a class and PAGA action settlement (the "Preliminary Approval
3 Motion"). The Court considered the proposed Stipulation of Settlement ("Settlement") attached
4 as **Exhibit 1** to the Declaration of James R. Hawkins, the submissions of counsel, and all other
5 papers filed in this action. This Order incorporates, by reference, the definitions in the
6 Settlement. The matter having been submitted, and good cause appearing therefore, this Court
7 **HEREBY ORDERS THE FOLLOWING:**

8 1. The provisions of the Settlement are hereby preliminarily approved. The Court
9 finds that the Settlement appears to be fair, adequate, and reasonable to Plaintiff and the
10 Settlement Class, free of collusion and indicia of unfairness, and within the range of possible
11 judicial approval. The Court also finds that the Settlement resulted from arm's length
12 negotiations and is sufficient to warrant the dissemination of Class Notice to Class Members.

13 2. Pursuant to California Code of Civil Procedure section 382 and California Rule of
14 Court 3.769, and for purposes of, and solely in connection with the Settlement, the Court finds
15 that each of the requirements for certification of the class set forth in Plaintiff's Preliminary
16 Approval Motion are met and hereby conditionally certifies the following Class:

17 **"Class Members" are defined as follows:**

18 "All persons who are or were employed by Defendant who submitted for mileage
19 reimbursement in the State of California at any time from August 28, 2016 through
20 December 15, 2022."

21 **"PAGA Aggrieved Employees" are defined as follows:**

22 "All persons who are or were employed by Defendant as non-exempt employees
23 and all exempt employees who submitted for mileage reimbursement in the State
24 of California from August 28, 2019 through December 15, 2022."

25 The term "Settlement Class Members" refers to both the Class Members and PAGA
26 Aggrieved Employees.

27 3. Certification of the proposed Class for settlement purposes only is appropriate
28 under California Code of Civil Procedure section 382 and California Rule of Court 3.769. The
Court has considered the Settlement and the papers in support of the Motion for Preliminary

1 Approval and finds that the proposed Class is proper and should be certified, for settlement
2 purposes only, in the circumstances of this case. Specifically, the Court finds (a) that the Class is
3 ascertainable; (b) the Class is sufficiently numerous such that joinder of all members is
4 impracticable; (c) there are questions of law and fact common to the Class; (d) the named
5 Plaintiff's claims are typical of the claims of the Class; (e) the named Plaintiff and Plaintiff's
6 Counsels have and are able to adequately represent the Class; and (f) class-wide treatment of this
7 dispute is superior to other available methods for adjudicating the controversy. It is therefore
8 ordered that the Class is certified for settlement purposes only.

9 4. If the Settlement is terminated or not consummated, the certification shall be void.
10 In such case, Plaintiff, the Settlement Class Members, and Defendant J.J.R. Enterprises, Inc.
11 ("Defendant") shall be returned to their respective statuses as of the date immediately prior to the
12 execution of the Settlement and neither the Settlement nor this Preliminary Approval Order shall
13 have any bearing on, and neither shall be admissible in connection with (a) any issue in this action
14 or any claim raised under any other federal, state, or local law that was intended to be encompassed
15 within Plaintiff's Complaints; (b) whether certification would be appropriate in a non-settlement
16 context; (c) Defendant's liability for any final judgment or to any Class Member; and (d) any
17 judgment ultimately sought to be entered against Defendant or otherwise. If the Settlement is
18 terminated or not consummated, Defendant shall have reserved its rights to oppose any and all
19 class certification motions and to oppose the adequacy of the named Plaintiff as the representative
20 of any putative class or Plaintiff's Counsel as Class Counsel.

21 5. The Court appoints and designates the named Plaintiff Scott Cahn as the Class
22 Representative.

23 6. The Court appoints and designates James Hawkins, APLC as Class Counsel. Class
24 Counsel is authorized to act on behalf of the Class with respect to all acts or consents required by,
25 or which may be given, pursuant to the Settlement, and such other acts necessary to finalize the
26 Settlement and its terms. Any Class Member may enter an appearance through his or her own
27 counsel at such Class Member's own expense. Any Class Members who do not enter an
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1 appearance or appear on his or her own behalf will be represented by Class Counsel. Class Counsel
2 is located at the following address:

3 James R. Hawkins, Esq.
4 Christina M. Lucio, Esq.
5 **JAMES HAWKINS APLC**
6 9880 Research Drive, Suite 200
7 Irvine, CA 92618
8 Telephone: (949) 387-7200
9 Facsimile: (949) 387-6676
10 james@jameshawkinsaplc.com
11 christina@jameshawkinsapl.com

12 7. The Court hereby approves the terms provided for in the Settlement, finding them
13 to be fair and reasonable and in the best interests of the parties.

14 8. The Court hereby preliminarily approves the Settlement and the Gross Settlement
15 Amount of Four Hundred Twenty-Five Thousand Dollars (\$425,000.00), with the Net Settlement
16 Amount to be paid to Class Members who do not opt out or exclude themselves from the class
17 being calculated by subtracting the following from the Settlement Fund: (1) Class Counsel Fees
18 of 33 1/3% of the Gross Settlement amount, or One Hundred Forty-One Thousand Dollars and
19 Sixty-Seven Cents (\$141,666.67), (2) Class Counsel's reasonable costs not to exceed Eighteen
20 Thousand Dollars (\$18,000.00), (3) a Class Representative Enhancement Payment of Ten
21 Thousand Dollars (\$10,000.00) to Plaintiff Scott Cahn, (4) PAGA Penalties of Fifteen Thousand
22 Dollars (\$15,000.00), of which 75% will go to the LWDA (\$11,250.00) and 25% to the
23 Aggrieved Employees (\$3,750.00), and (5) Settlement Administration Costs up to Nine Thousand
24 Seven Hundred and Fifty Dollars (\$9,750.00). The Net Settlement Amount which will be paid as
25 Individual Settlement Shares to Class Members who do not opt out or exclude themselves is
26 anticipated to be approximately Two Hundred Thirty Thousand Five Hundred Eighty-Three
27 Dollars and Thirty-Three Cents (\$230,583.33). There is no reversion to Defendant.

28 9. The Court further preliminarily approves the formulas provided in the Settlement
for calculating Individual Settlement Payments and payments to PAGA Aggrieved Employees
based on the number of Workweeks a Class Member and/or PAGA Aggrieved Employees worked
during the Class Period and/or PAGA Period.

1 10. The Court finds on a preliminary basis that the Settlement, including the Class
2 Representative Enhancement Payment, Class Counsel Fees Payment, Class Counsel Costs, the
3 settlement administration fees, the PAGA Payment, and the allocation of payments to Class
4 Members, appears to be within the range of reasonableness of a settlement that could ultimately
5 be given final approval by this Court. It appears to the Court on a preliminary basis that the
6 Settlement is fair, adequate and reasonable as to all potential Class Members when balanced
7 against the probable outcome of further litigation relating to liability and damages issues. It also
8 appears that extensive and costly investigation, research and court proceedings have been
9 conducted so that counsels for the parties are able to reasonably evaluate their respective
10 positions. It appears to the Court that settlement at this time will avoid substantial additional
11 costs by all parties, as well as avoid the delay and risks that would be presented by the further
12 prosecution of this class action. It also appears that Settlement has been reached as result of
13 intensive, serious and non-collusive, arms-length negotiations.

14 11. The Court hereby approves, as to form and content, the Notice of Class Action
15 Settlement (“Class Notice”) to be sent to Class Members, which is attached as **Exhibit A** to the
16 Settlement attached hereto as **Exhibit 1**; the Request for Exclusion from Settlement (Opt-Out
17 Form), which is attached as **Exhibit B** to the Settlement; and the Objection Form, which is
18 attached as **Exhibit C** and to the Settlement. The Court finds that distribution of these documents
19 to the Class Members substantially in the manner and form set forth in the Settlement and this
20 Order meets the requirements of due process and shall constitute due and sufficient notice to all
21 parties entitled thereto.

22 12. The Court further finds the proposed Class Notice to be the best means practicable
23 of providing notice under the circumstances and when completed shall constitute due and
24 sufficient notice of the Action, proposed Settlement, and Final Approval hearing to all persons
25 affected by and/or authorized to participate in the Settlement, in full compliance with due process
26 and the requirements of the California Rules of Court and California Code of Civil Procedure.

27 13. The provisions of the Settlement relating to Class Notice, exclusion from the
28 Settlement, objection to the Settlement, payment of Individual Settlement Shares in connection

1 with the Settlement, and the Final Approval Hearing are deemed incorporated as if expressly set
2 forth in this Preliminary Approval Order and have the full force and effect of an Order of this
3 Court. Class Members shall have 60 days to object to the Settlement, request exclusion from the
4 Settlement, or dispute the workweeks allocated and identified in the Class Member's Notice,
5 unless the Class Members' notice was remailed, in which case the Class Member shall have 14
6 days, or until the original Response Deadline, whichever is later, to object, request exclusion, or
7 dispute their number of workweeks.

8 14. The Court appoints and designates Phoenix Settlement Administrators as the
9 Settlement Administrator. The Court hereby directs the Settlement Administrator to provide the
10 approved Class Notice, including the Request for Exclusion Form and the Objection Form, to
11 Class Members and administer the Settlement in accordance with the procedures set forth in the
12 Settlement attached as **Exhibit 1** to the Hawkins Declaration. The Notice will also be sent to the
13 PAGA Aggrieved Employees. PAGA Aggrieved Employees will not have an opportunity to
14 Request Exclusion from the Settlement or Object to the Settlement.

15 15. Any Class Member wishing to opt-out from the Settlement must postmark a
16 written Request for Exclusion to the Settlement Administrator containing all the required
17 information before the Response Deadline. The date of the postmark on the return mailing
18 envelope will be the exclusive means to determine whether a Request for Exclusion has been
19 timely submitted. Requests for Exclusion must be made individually and cannot be made on
20 behalf of a group or other Class Members. PAGA Aggrieved Employees may not opt out or
21 exclude themselves from the Settlement. Any Class Member who does not affirmatively opt-out
22 of the Settlement by submitting a timely and valid Request for Exclusion and all PAGA
23 Aggrieved Employees will be bound by all of its terms, including those pertaining to the Released
24 Class Claims and/or Released PAGA Claims, as well as any Judgment that may be entered by the
25 Court if it grants final approval to the Settlement. The Settlement Administrator shall file a
26 declaration concurrently with the filing of any motion for final approval, authenticating a copy of
27 every exclusion form received by the Settlement Administrator.
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1 16. To object to the Settlement, a Class Member must not submit a Request for
2 Exclusion and must submit a valid Objection before the Response Deadline. This deadline
3 applies notwithstanding any argument regarding alleged late receipt or non-receipt of the Notice
4 Packet. The Objection Form must be signed by the Class Member and contain all information
5 required by the Settlement. The postmark date of the filing and service will be deemed the
6 exclusive means for determining that the Objection Form is timely. All written objections,
7 supporting papers and/or notices of intent to appear at the Final Approval Hearing must (a) clearly
8 identify the case name and number *Cahn v. J.J.R. Enterprises, Inc.*, Case No. 34-2020-00284704;
9 (b) be submitted to the Settlement Administrator by mailing the objection to Phoenix Settlement
10 Administrators, P.O. Box 7208, Orange, CA 92863 on or before the Response Deadline. Class
11 Members who file and serve timely notices of objection will have a right to appear at the Final
12 Approval Hearing in order to have their objections heard by the Court. If the Court rejects the
13 Objection, the Class Member will receive an Individual Settlement Payment and will be bound by
14 the terms of the Settlement. Class Members who fail to object in the manner specified above will
15 be deemed to have waived all objections to the Settlement and will be foreclosed from making
16 any objections, whether by appeal or otherwise, to the Settlement. At no time will any of the
17 Parties or their counsel seek to solicit or otherwise encourage Class Members to submit written
18 objections to the Settlement or appeal from the Final Approval Order and Judgment. Class
19 Counsel will not represent any Class Member with respect to any such objections to this
20 settlement. Plaintiff agrees he shall not object to this Settlement.

21 17. Defendant must exercise any right to void the Settlement before the Final
22 Approval Hearing in accordance with the terms of the Settlement. Similarly, if Plaintiff wishes to
23 exercise any right to void the Settlement pursuant to the terms of the Settlement, he must exercise
24 any such right before the Final Approval Hearing.

25 18. Upon final approval and completion of administration, all Class Members who
26 have not submitted requests for exclusion and the Class Representative will be deemed to have
27 forever released and discharged the Released Claims applicable to them and waived their rights
28 for the applicable Released Claims, as set forth in the preliminarily approved Settlement.

1 19. The Court reserves the right to adjourn or continue the date of the Final Fairness
2 and Approval Hearing and all dates provided for in the Settlement without further notice to the
3 Class and retains jurisdiction to consider further applications concerning the Settlement.
4 However, Class Counsel will give notice to any objecting party of the continuance of any hearing
5 on the motion for Final Approval.

6 20. The Court order the following schedule for further proceedings:

- 7 a. No later than _____[30 calendar days after Preliminary Approval],
8 Defendant shall provide a list containing the names, last known addresses, phone
9 numbers, social security numbers, the dates of employment, and the number of
10 workweeks worked by each Class Member while employed during the Class
11 Period (the “Class Data”).
- 12 b. No later than _____[10 business days after receiving the Class Data],
13 the Settlement Administrator shall send the Notice Packet via first-class mail to
14 Class Members.
- 15 c. No later than _____[60 calendar days after the mailing of the Notice
16 Packet], Class Members may submit a request for exclusion from the Settlement in
17 accordance with the Settlement.
- 18 d. No later than _____[60 calendar days after the mailing of the Notice
19 Packet], Class Members may submit a dispute or challenge to the information in
20 the Notice in accordance with the Settlement.
- 21 e. No later than _____[60 calendar days after the mailing of the Notice
22 Packet], Class Members may submit objections in accordance with the Settlement.
- 23 f. No later than _____ [21 court days prior to the Final Approval
24 Hearing], the Settlement Administrator shall provide Class Counsel and Defense
25 Counsel a declaration including a summary of compliance with notice procedures
26 and a list of all Class Members who sent timely requests to be excluded from the
27 Action, and all Class Members who objected to the settlement. The declaration
28 shall authenticate each request for exclusion and objection submitted.

1 g. A Final Approval Hearing shall be held before this Court on
2 _____ at _____ a.m./p.m. to determine all necessary
3 matters concerning the Settlement, including, whether this Court should grant final
4 approval, whether there should be any Fee and Expense Award and/or Service
5 Award, and the amounts of any such award.

6 21. Any objecting Class Member may appear, in person or by counsel, at the Final
7 Approval Hearing to show cause why the Settlement should not be approved as fair, adequate,
8 and reasonable, or to object to any request for a Fee and Expense Award and/or Service Award.
9 An objecting Class Member is not required to appear, in person or by counsel, at the Final
10 Approval Hearing to have his or her objection considered by the Court.

11 22. Nothing in this Preliminary Approval Order is, or may be construed as, an
12 admission or concession on any point of fact or law by or against the Plaintiff or Defendant.

13 23. Class Counsel, Defendant, and the Settlement Administrator are directed to carry
14 out their obligations under the Settlement.

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16 **IT IS SO ORDERED.**

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18 DATED: _____ By: _____
19 JUDGE OF THE SUPERIOR COURT
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