

FILED  
SUPERIOR COURT OF CALIFORNIA  
COUNTY OF RIVERSIDE

SEP 07 2022

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8 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
9 COUNTY OF RIVERSIDE  
10

11 ELIZABETH MORENO, individually, on a  
12 representative basis, and on behalf of all  
13 others similarly situated;

14 Plaintiff,

15 vs.

16 J.J. KANE ASSOCIATES, INC., a New  
17 Jersey Corporation; and DOES 1 through 10,  
18 inclusive;

19 Defendants.  
20

Case No.: CVRI2101236  
[Assigned to Hon. Judge Craig Riemer, Dept  
1, for all purposes]

**[PROPOSED] ORDER GRANTING  
FINAL APPROVAL OF SETTLEMENT;  
AND ENTRY OF FINAL JUDGMENT**

Complaint filed: March 9, 2021

21 The Motion for Final Approval of the Settlement (the "Final Approval Motion") as set  
22 forth in the Second Amended Class Action Settlement Agreement and Release of Claims<sup>1</sup> (the  
23 "Settlement Agreement") came for hearing in Department 1 of the above entitled court. The  
24 Final Approval Motion was unopposed by Defendant J.J. Kane Associates, Inc. Having  
25 considered the Final Approval Motion, the Settlement Agreement, the Declarations, and all other  
26 materials properly before the Court and having conducted an inquiry pursuant to California  
27 Rules of Court, rule 3.769(g), the Court finds that the Settlement Agreement was entered by all  
28 parties in good faith, and the Settlement Agreement is approved. Due and adequate notice

<sup>1</sup> See Exhibit 1 to the Declaration of Brian Mankin in support of the Motion for Final Approval, which was  
concurrently filed on August 15, 2022.

1 having been given to the Class, and the Court having considered the Settlement Agreement, all  
2 papers filed and proceedings had herein and all oral and written comments received regarding the  
3 proposed settlement, and having reviewed the record in this Litigation, and good cause  
4 appearing,

5 IT IS HEREBY ORDERED, ADJUDGED, AND DECREED AS FOLLOWS:

6 1. The Court, for purposes of this Judgment and Order (“Judgment”), refers to all  
7 defined terms (i.e., terms with initial capitalization) as set forth in the Settlement Agreement.

8 2. The Court has jurisdiction over the subject matter over this Action, the Class  
9 Representative, the Class Members, the Aggrieved Employees, and Defendant.

10 3. The Court finds that the distribution of the Class Notice, Objection Form, Dispute  
11 Form and Exclusion Form (collectively attached as Exhibit “A” to the Declaration of Kevin Lee  
12 filed on August 15, 2022), as provided for in the Order Granting Preliminary Approval for the  
13 Settlement, constituted the best notice practicable under the circumstances to all Class Members  
14 and fully met the requirements of California law and due process under the California and United  
15 States Constitution. Based on evidence and other material submitted, the actual notice to the  
16 class was adequate.

17 4. The Court finds that the instant Action presented a good faith dispute of the  
18 claims alleged, and the Court finds in favor of settlement approval. Specifically, as defined in  
19 the Settlement Agreement, the claims on behalf of the Participating Class Members included  
20 Class Claims (as defined in the Settlement Agreement). Additionally, Plaintiff brought the  
21 PAGA Released Claims on behalf of the State of California and Aggrieved Employees.

22 5. There was 1 valid Request<sup>✓</sup> for Exclusion from the Settlement submitted by  
23 Rafael Roblero, who shall not become a Participating Class Member. Other than this individual,  
24 all Participating Class Members are entitled to payment pursuant to the Settlement and this  
25 Judgment. Furthermore, all Aggrieved Employees are entitled to payment pursuant to this  
26 Settlement and Judgment.

27 6. There were no objections to the Settlement.

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1           7.       The Court approves the Settlement, as set forth in the Settlement Agreement and  
2 each of the releases and other terms, as fair, just, reasonable, and adequate as to the Parties. The  
3 Parties are directed to perform in accordance with the terms set forth in the Settlement  
4 Agreement and this Order and Judgment.

5           8.       The Parties are to bear their own costs, except as otherwise provided in the  
6 Settlement Agreement and this Order and Judgment.

7           9.       For purposes of effectuating this Order and Judgment, this Court has certified the  
8 following Class: “all current and former ~~all current and former~~ hourly paid employees employed  
9 by Defendant in California at any time during the period of November 1, 2018, through January  
10 7, 2022” (the “Class Period”). The Court deems this definition sufficient for purposes of  
11 California Rules of Court, rule 3.765(a).

12           10.      With respect to the Settlement Class and for purposes of approving this  
13 Settlement, this Court finds and concludes as follows: (a) the Class Members are ascertainable  
14 and so numerous that joinder of all members is impracticable; (b) there are questions of law or  
15 fact common to the Settlement Class Members, and there is a well-defined community of interest  
16 among the Settlement Class Members with respect to the subject matter of the Action; (c) the  
17 claims of Class Representative are typical of the claims of the Class Members; (d) the Class  
18 Representative has fairly and adequately protected the interests of the Class Members; (e) a class  
19 action is superior to other available methods for an efficient adjudication of this controversy; and  
20 (f) the counsel of record for the Class Representative, i.e., Class Counsel, are qualified to serve  
21 as counsel for the Plaintiff in her individual and representative capacity and for the Settlement  
22 Class.

23           11.      By this Order and Judgment, the Class Representative shall release, relinquish,  
24 and discharge the Released Class Claims, as defined in the Settlement Agreement. Additionally,  
25 by this Judgment, each of the Participating Class Members shall be deemed to have, and by  
26 operation of the Judgment shall have, fully, finally, and forever released, relinquished, and  
27 discharged all Released Class Claims.

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1           12. By this Order and Judgment, Plaintiff and the State of California and its LWDA  
2 shall fully, finally, and forever release, relinquish and discharge Defendant and the Released  
3 Parties from all PAGA Released Claims, as defined in the Settlement Agreement. As to the  
4 PAGA Released Claims, this Order and Judgment shall have preclusive effect, under the  
5 doctrines of res judicata and collateral estoppel, and bind Plaintiff, the State of California and its  
6 LWDA, and Aggrieved Employees, to the fullest extent permitted by applicable law. See *Arias*  
7 *v. Superior Court*, 46 Cal.4th 969 (2009).

8           13. The Settlement is not an admission of wrongdoing or violation by Defendant or  
9 any of the other Released Parties, nor is this Judgment a finding of the validity of any claims in  
10 the Action or of any wrongdoing by Defendant or any of the other Released Parties. Neither this  
11 Settlement Approval Order, the Settlement, or the Judgment of Dismissal nor any document  
12 referred to herein, nor any action taken to carry out the Settlement are, may be construed as, or  
13 may be used as an admission by or against Defendant or any of the other Released Parties of any  
14 fault, wrongdoing or liability whatsoever. *in any action brought by the plaintiff*

*or any class member.*  
15           14. The "Gross Settlement Amount" to be paid under the Settlement Agreement is  
16 \$235,000. From this amount, Class Counsel sought an award of attorney's fees of \$78,333.33,  
17 litigation expenses of \$11,013.68, a Service Award for Class Representative Elizabeth Moreno of  
18 \$5,000, Settlement Administrator Costs of \$5,000 to Phoenix Administration, and \$15,000 to the  
19 LWDA for PAGA penalties and \$5,000 to the Aggrieved Employees. Defendant does not  
20 oppose these requests. The Court finds that the Settlement Amount is fair, reasonable and  
21 adequate, and awards the payments set forth below from the Settlement Amount:

- 22           A) \$78,333.33 to Class Counsel for attorneys fees;  
23           B) \$11,013.68 to Class Counsel for costs/expenses;  
24           C) <sup>2500</sup>\$5,000 to Class Representative Elizabeth Moreno as a Service Award;  
25           D) \$5,000 to the Settlement Administrator, Phoenix Administration;  
26           E) \$15,000 to the LWDA;  
27           F) \$5,000 to the Aggrieved Employees;

28       ///

1           G)     After deducting the foregoing payments from the Settlement Amount, the  
2 remainder shall form the Net Settlement Amount payable to the Participating Class  
3 Members as set forth in the Settlement Agreement and as calculated by the Settlement  
4 Administrator.

5           15.     Defendant is directed to fund the Settlement Amount in accordance with the  
6 Settlement Agreement and the timeline set forth below. Administrator is directed to calculate the  
7 Participating Class Member's Individual Settlement Payments from the Net Settlement Amount,  
8 as well as the Aggrieved Employees individual payment, and issue all payments within in  
9 accordance with the Settlement Agreement and the timeline set forth below:

|                                         |                                                                                                                                                                                     |
|-----------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 10     The date this Order is entered   | 11     The Effective Date occurs.                                                                                                                                                   |
| 12     15 days after the Effective Date | 13     Defendant is directed to issue the Gross Settlement Amount to the Settlement Administrator, plus separately pay its share of payroll taxes.                                  |
| 14     10 days after receipt of Payment | 15     Settlement Administrator to issue all payments.                                                                                                                              |
| 16     180 days after payment is issued | 17     Deadline for Participating Class Members and Aggrieved Employees to cash checks.                                                                                             |
| 18     April 28, 2023                   | 19     Counsel to file a declaration from the Settlement Administrator setting forth the disbursements that were actually made, including the status of issuing any uncashed funds. |
| 20     May 10, 2023                     | 21     Final Report Hearing re: status of funding.                                                                                                                                  |

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1           16.     The envelope transmitting the settlement checks shall bear the notation "YOUR  
2 CLASS ACTION SETTLEMENT CHECK IS ENCLOSED." Concurrently with mailing the  
3 settlement checks to the Participating Class Members and Aggrieved Employees, the Settlement  
4 Administrator shall include a Notice of Entry of Judgment to all Class Members either on a  
5 postcard or as a detachable portion of the check for the Participating Class Members, noting the  
6 following: "Please be advised that on [INSERT DATE] the Superior Court of California for the  
7 County of Riverside entered Judgment in the case entitled *Moreno v. J.J. Kane Associates, Inc.*,  
8 Case No. CVRI2101236, on behalf of the Participating Class Members and Aggrieved  
9 Employees, which includes all current and former all current and former hourly paid employees  
10 employed by Defendant in California at any time during the period of November 1, 2018,  
11 through January 7, 2022."

12           17.     Participating Class Members and Aggrieved Employees shall have 180 days to  
13 negotiate the settlement check from the date of issuance by the Settlement Administrator. If a  
14 check has not been cashed within 60 days after issuance, the Settlement Administrator shall mail  
15 a reminder postcard within 10 days thereafter and provide the Participating Class Member with  
16 the deadline to cash the check. If any check that is issued to a current employee of Defendant is  
17 returned to the Settlement Administrator as undeliverable and the Settlement Administrator is  
18 unable to locate a valid mailing address, then the Settlement Administrator shall arrange with the  
19 Defendant to have the check(s) delivered to the Participating Class Member at their place of  
20 employment. In the event that a Participating Class Members~~X~~ and/or Aggrieved Employees~~X~~ does  
21 not negotiate his/her check within this time period, the check will be canceled. The value of the  
22 unclaimed funds in the Settlement Administrator's account as a result of a failure to timely cash  
23 a settlement check shall be issued as follows:

24                   A.     Participating Class Member's uncashed checks will be issued to the  
25 California State Controller's Office in the name of the Class Member.

26                   B.     Aggrieved Employee's uncashed check will be issued to the California  
27 Labor Workforce and Development Agency.

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18. This document shall constitute a Judgment for purposes of California Rule of Court 3.769(h). The Court reserves exclusive and continuing jurisdiction over the Action, the Class Representative, the Class Members, the Aggrieved Employees, and Defendant for the purposes of supervising the implementation, enforcement, construction, administration, and interpretation of the Settlement Agreement and this Judgment.

IT IS SO ORDERED.

**Dated:**

September 7, 2022

Hon. Craig Riemer