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8 **SUPERIOR COURT OF CALIFORNIA**  
9 **COUNTY OF SANTA CLARA**  
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12 CARLOS ADALBERTO MEJIA, individually  
13 and on behalf of all others similarly situated,

14 Plaintiff,

15 vs.

16 J.A. MOMANEY SERVICES, INC., a California  
17 Corporation; and DOES 1 through 20, inclusive,

18 Defendants.

Case No. 19CV356777

**ORDER RE: MOTION FOR  
PRELIMINARY APPROVAL OF  
CLASS AND REPRESENTATIVE  
ACTION SETTLEMENT**

19 The above-entitled action comes on for hearing before the Honorable Theodore C.  
20 Zayner on June 28, 2023, at 1:30 p.m. in Department 19. Having reviewed and considered the  
21 written submissions filed by the parties, and having listened carefully to comments of counsel,  
22 the court rules as follows:

23 **I. INTRODUCTION**

24 This putative class and representative action by plaintiffs Carlos Adalberto Mejia  
25 (“Mejia”) and Chris Alderson (“Alderson”) (collectively, “Plaintiffs”) arises out of various  
26 alleged wage and hour violations. The operative Second Amended Complaint (“SAC”), filed on  
27 January 27, 2022, sets forth the following causes of action: (1) Failure to Pay Minimum Wages;  
28 (2) Failure to Pay Overtime Wages; (3) Failure to Provide Meal Periods; (4) Failure to Permit

1 Rest Breaks; (5) Failure to Provide Accurate Itemized Wage Statements; (6) Failure to Pay All  
2 Wages Due Upon Separation of Employment; (7) Violation of Business and Professions Code  
3 §§ 17200, et seq.; and (8) Enforcement of Labor Code § 2698 et seq.

4 The parties reached a settlement. Plaintiffs moved for preliminary approval of the  
5 settlement.

6 On May 31, 2023, the court continued the motion for preliminary approval of settlement  
7 to June 28, 2023. In its minute order, the court noted that the PAGA release was overbroad and  
8 ordered the parties to meet and confer regarding the scope of the release. Next, the court  
9 directed Plaintiffs to designate a new *cy pres* recipient in compliance with Code of Civil  
10 Procedure section 384. The court further informed the parties that the settlement agreement must  
11 be modified to provide for two separate calculations and payments: one for payments related to  
12 the settlement of the class claims; and one for payments related to the settlement of the PAGA  
13 claim. Lastly, the court asked the parties to make several changes to the class notice.

14 On June 16 and June 21, 2023, Plaintiffs' counsel filed supplemental declarations and  
15 briefs with the court.

## 16 **II. LEGAL STANDARD**

17 Generally, “questions whether a settlement was fair and reasonable, whether notice to the  
18 class was adequate, whether certification of the class was proper, and whether the attorney fee  
19 award was proper are matters addressed to the trial court’s broad discretion.” (*Wershba v. Apple*  
20 *Computer, Inc.* (2001) 91 Cal.App.4th 224, 234-235 (*Wershba*), citing *Dunk v. Ford Motor Co.*  
21 (1996) 48 Cal.App.4th 1794 (*Dunk*).

22 In determining whether a class settlement is fair, adequate and reasonable, the  
23 trial court should consider relevant factors, such as “the strength of plaintiffs’  
24 case, the risk, expense, complexity and likely duration of further litigation, the  
25 risk of maintaining class action status through trial, the amount offered in  
26 settlement, the extent of discovery completed and the stage of the proceedings, the  
27 experience and views of counsel, the presence of a governmental participant, and  
28 the reaction of the class members to the proposed settlement.”

(*Wershba, supra*, 91 Cal.App.4th at pp. 244-245, citing *Dunk, supra*, 48 Cal.App.4th at p. 1801  
and *Officers for Justice v. Civil Service Com’n, etc.* (9th Cir. 1982) 688 F.2d 615, 624  
(*Officers*).

1 “The list of factors is not exclusive and the court is free to engage in a balancing and  
2 weighing of factors depending on the circumstances of each case.” (*Wershba, supra*, 91  
3 Cal.App.4th at p. 245.) The court must examine the “proposed settlement agreement to the  
4 extent necessary to reach a reasoned judgment that the agreement is not the product of fraud or  
5 overreaching by, or collusion between, the negotiating parties, and that the settlement, taken as a  
6 whole, is fair, reasonable and adequate to all concerned.” (*Ibid.*, quoting *Dunk, supra*, 48  
7 Cal.App.4th at p. 1801 and *Officers, supra*, 688 F.2d at p. 625, internal quotation marks omitted.)

8 The burden is on the proponent of the settlement to show that it is fair and  
9 reasonable. However “a presumption of fairness exists where: (1) the settlement  
10 is reached through arm’s-length bargaining; (2) investigation and discovery are  
sufficient to allow counsel and the court to act intelligently; (3) counsel is  
experienced in similar litigation; and (4) the percentage of objectors is small.”

11 (*Wershba, supra*, 91 Cal.App.4th at p. 245, citing *Dunk, supra*, 48 Cal.App.4th at p. 1802.)

12 **III. DISCUSSION**

13 Having addressed in plaintiff’s supplemental filings the concerns expressed by the court  
14 in its order of May 31, 2023, to the satisfaction of the court, the motion for preliminary approval  
15 is GRANTED.

16 Final Fairness hearing is set on January 24, 2024 at 1:30 p.m. in Department 19.

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20 Dated: June 28, 2023



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22 Hon. Theodore C. Zayner  
23 Judge of the Superior Court  
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