

SETTLEMENT AGREEMENT

This Settlement Agreement (“Settlement” or “Agreement”) is made and entered into between Plaintiff Eduardo Tovar (“Plaintiff”), acting in a Private Attorney General capacity, and Defendant Sunshine Communications, Inc. (“Defendant”).

I. DEFINITIONS

The following terms, when used in this Settlement, shall have the following meanings:

1. “Action” means the matter entitled *Eduardo Tovar v. Sunshine Communications, Inc.*, San Diego Superior Court Case No. 37-2020-00042998-CU-OE-CTL and as set forth in Plaintiff’s correspondence to the California Labor and Workforce Development Agency (“LWDA Letter”) dated on or about September 17, 2020.

2. “Aggrieved Employees” means all current and former hourly, non-exempt employees of Defendant Sunshine Communications, Inc. who worked for Defendant in California at any time during the PAGA Period.

3. “Defendant” means Sunshine Communications, Inc.

4. “Complaint” means the Representative Action Complaint entitled *Eduardo Tovar v. Sunshine Communications, Inc.*, San Diego Superior Court Case No. 37-2020-00042998-CU-OE-CTL originally filed on November 23, 2020.

5. “Court” means the Superior Court of California for the County of San Diego.

6. “Effective Date” means the date by which this Settlement is approved as provided herein and the Court’s Approval Order becomes binding. For purposes of this Settlement Agreement, the Approval Order becomes binding upon the later of: (1) in the event that the Settlement has received approval by the Court and there were no timely objections filed, or that any timely objections have been withdrawn, then the date the Court’s order of approval of the Settlement; (2) in the event that one or more timely objections has/have been filed and not withdrawn, then the day after the last day by which a notice of appeal of the Approval Order and/or of an order rejecting any motion to intervene may be timely filed, and none is filed; (3) if such an appeal is filed, and the Approval Order is affirmed, the day after the last date for filing a request for further review of the decision passes and no further review is requested; (4) if an appeal is filed and further review of the decision affirming the Approval Order is requested, the day after the request for review is denied with prejudice and/or no further review of the decision can be requested, or (5) if review is accepted, the day after the United States or California Supreme Court affirms the Settlement. The Effective Date cannot occur, and Defendant will not be obligated to fund this Settlement, until and unless there is no timely possibility of an appeal or further appeal that could potentially prevent this Settlement Agreement from becoming final and binding.

7. “Individual PAGA Payment” means the amount to be paid to each Aggrieved Employee based on the formula described herein.

8. “LWDA” means the California Labor and Workforce Development Agency.

9. “Gross Settlement Amount” is the non-reversionary sum of Two Hundred Seventy-Five Thousand Dollars and Zero Cents (\$275,000.00), which represents the total all-in amount payable under this Settlement by Defendant, including, without limitation, payments to all Aggrieved Employees, payment to the LWDA, payment of Plaintiff’s Counsel’s fees and costs, payment of Plaintiff’s enhancement award and payment to the Settlement Administrator for administration costs.

10. “Net Settlement Amount” is the amount remaining to distribute to the LWDA and Aggrieved Employees after the following amounts (if approved by the Court) are subtracted from the Gross Settlement Amount: (a) Plaintiff’s Counsel’s fees up to forty percent (40%) of the Gross Settlement Amount, currently estimated at \$110,000.00; (b) Plaintiff’s verified costs up to \$20,000.00 (c) Plaintiff’s enhancement award of \$5,000.00; and (d) verified administration costs up to \$6,000.00.

11. “PAGA” means the California Labor Code Private Attorneys General Act, California Labor Code § 2698, *et seq.*

12. “PAGA Period” means the time-period from April 6, 2019 through the sooner of (1) the date the Court grants final approval of this Settlement or (2) November 30, 2021. However, as described below, if the pay periods worked by Aggrieved Employees in the PAGA Period are more than 10% greater than 21,510 (i.e., a total of more than 23,661 pay periods), Defendant will have the option to elect to have the Gross Settlement Amount increase proportionally with the added pay periods (i.e., if there was a 15% increase in the number of pay periods above 21,510, Defendant shall increase the Gross Settlement Amount by 15%) or Defendant can elect to cut off the end of the PAGA Period at such a date that no more than 23,661 pay periods exist during the PAGA Period.

13. “Released Parties” means Defendant and its former, present and future owners, parents, subsidiaries, and all of their current, former and future officers, directors, members, managers, employees, consultants, partners, shareholders, joint venturers, agents, successors, assigns, accountants, insurers, or legal representatives.

14. “PAGA Released Claims” means any and all claims, rights, demands, liabilities and causes of action for civil penalties under the PAGA, against the Released Parties as pled in the operative complaint in the Action, or that could have been pled based on the facts alleged in the operative complaint in the Action, arising during the PAGA Period, including PAGA claims based on alleged: (a) failure to pay all minimum wages owed (Labor Code sections 204, 226.2, 558, 1182.12, 1194, 1194.2, 1197 and 1198); (b) failure to pay all overtime wages and/or double time compensation (Labor Code sections 204, 226.2, 510, 558, 1194 and 1198); (c) failure to provide meal periods, or premium pay for non-compliant meal periods (Labor Code sections 226.7, 512, 558 and 1198); (d) failure to authorize and permit rest periods, or premium pay for non-compliant rest periods (Labor Code sections 226.7, 226.2, 516, 558 and 1198); (e) failure to reimburse all necessary expenditures (Labor Code sections 2802 and 2804); (f) failure to provide accurate, itemized wage statements (Labor Code sections 226 and 226.2); (g) taking unlawful deductions from wages (Labor Code sections 221-223); (h) failure to pay all final wages and compensation earned at time of separation of employment (Labor Code sections 201-203); (i) failure to pay all earned wages at least twice during each calendar month (Labor Code section 204); (j) failure to maintain accurate records (Labor Code sections 1174, 1198, 1199); and any related claims for

attorneys' fees, costs, penalties and interest resulting therefrom.

15. "Parties" mean Plaintiff and Defendant, collectively.

16. "Plaintiff" means Eduardo Tovar.

17. "Plaintiff's Counsel" means Paul K. Haines, Tuvia Korobkin, and Alexandra R. McIntosh of Haines Law Group, APC.

18. "Settlement Administrator" means Phoenix Class Action Administration Solutions.

II. RECITALS

1. Plaintiff alleges that with regard to the Aggrieved Employees, Defendant: (1) failed to pay all minimum wages owed; (2) failed to pay all overtime and double time wages owed; (3) failed to provide legally compliant meal periods; (4) failed to authorize and permit rest periods; (5) failed to reimburse all necessary expenditures; (6) failed to provide accurate, itemized wage statements; (7) made unlawful deductions from wages; (8) failed to pay all final wages and compensation earned at time of separation of employment; (9) failed to pay all earned wages at least twice during each calendar month; and (10) failed to maintain accurate records, all of which result in liability for civil penalties under the PAGA.

2. On September 17, 2020, Plaintiff provided written notice to the LWDA and Defendant asserting claims for civil penalties pursuant to PAGA stemming from alleged violations of the California Labor Code described in Paragraph II.1 above.

3. On November 23, 2020, Plaintiff filed the operative Complaint in the Action.

4. During the pendency of the Action, the Parties engaged in informal discovery exchange prior to mediation. In response to Plaintiff's Counsel's informal discovery requests, Defendant provided Plaintiff's Counsel with information and documents pertaining to Plaintiff and other Aggrieved Employees and the claims in the Action in order for Plaintiff's Counsel to investigate Plaintiff's allegations and value the PAGA claim, including but not limited to time punch and payroll data.

5. On September 1, 2021, the Parties participated in mediation before mediator Jeffrey Krivis, Esq. With the assistance of Mr. Krivis, the Parties agreed to fully and finally resolve, subject to Court approval, the PAGA Released Claims as to Plaintiff and the Aggrieved Employees.

III. OPERATIVE TERMS OF SETTLEMENT AGREEMENT

The Parties agree as follows:

1. **Non-Admission.** Nothing in this Settlement shall be construed to be an admission by Plaintiff that his claims do not have merit or by Defendant of any liability or wrongdoing as to Plaintiff, Aggrieved Employees or any other person, and Defendant specifically disclaims any such liability or wrongdoing. The Parties have entered into this Settlement with the intention to avoid further disputes and litigation with the attendant inconvenience, expenses and risks. This

Settlement and any related court documents or orders are not and may not be cited or admitted as evidence of liability.

2. **Gross Settlement Amount.** Defendant shall pay Two Hundred Seventy-Five Thousand Dollars and Zero Cents (\$275,000.00) as the **non-reversionary** Gross Settlement Amount. Defendant will not pay more than the Gross Settlement Amount (subject to the Escalator Clause below). The payment of the Gross Settlement Amount shall be made within thirty (30) calendar days of the Effective Date. The Effective Date cannot occur, and Defendant will not be obligated to fund this Settlement, until and unless there is no timely possibility of an appeal or further appeal that could potentially prevent this Settlement Agreement from becoming final and binding. Defendant shall make the payment to the Settlement Administrator who will then distribute all payments.

3. **Escalator Clause.** Defendant represents that there are an estimated 21,510 total pay periods worked by the Aggrieved Employees during the PAGA Period. If the number of pay periods as reported to the Settlement Administrator following the Effective Date is more than 10% greater than this figure (i.e., if there are 23,661 or more pay periods worked during the PAGA Period), Defendant will have the option to elect to either (i) have the Maximum Settlement Amount increase proportionally with the added pay periods (i.e., if there was a 15% increase in the number of pay periods, Defendant shall increase the Maximum Settlement Amount by 15%) or to (ii) preempt the escalator by cutting off the end of the PAGA Period at such a date that no more than 2,151 additional pay periods would be included to the estimated 21,510 pay periods estimated during the PAGA Period.

4. **Net Settlement Amount.** The Parties agree that the following amounts should be subtracted from the Gross Settlement Amount, if approved by the Court, resulting in a Net Settlement Amount to distribute to the LWDA and Aggrieved Employees:

a. **Plaintiff's Counsel's Fees and Costs.** Defendant will not oppose Plaintiff's request for attorneys' fees in the amount up to forty percent (40%) of the Gross Settlement Amount (currently estimated at \$110,000.00), and costs incurred in prosecuting this Action up to \$20,000.00. In the event the Court approves a payment of less than these amounts, the difference will be added to the Net Settlement Amount. If the Court believes the attorneys' fees and/or costs should be reduced, the other terms of this Settlement will remain in effect and any such reduction will not affect the remaining terms, other than adjusting the Net Settlement Amount. Defendant, via the Settlement Administrator, will report these payments on IRS Form 1099 issued to Plaintiff's Counsel.

b. **Plaintiff's Enhancement Award.** Defendant will not oppose Plaintiff's request for an enhancement award in the amount of \$5,000.00 for his service to the LWDA and the Aggrieved Employees, and the risk he undertook by attaching his name to the Action. In the event the Court approves a payment of less than the requested amount, the difference will be added to the Net Settlement Amount. If the Court believes the enhancement award should be reduced, the other terms of the Settlement will remain in effect and any such reduction will not affect the remaining terms, other than adjusting the Net Settlement Amount. Defendant, via the Settlement Administrator, will report this payment on IRS Form 1099 issued to Plaintiff.

c. **Administration Costs.** Defendant will not oppose the Settlement Administrator's costs in the amount up to \$6,000.00 for administering the Settlement. In the event the Court approves a payment of less than this amount, the difference will be added to the Net Settlement Amount. Defendant, via the Settlement Administrator, will report this payment on IRS Form 1099 issued to the Settlement Administrator.

5. **Allocation of Net Settlement Amount.** The Net Settlement Amount shall be distributed pursuant to Labor Code § 2699(i) as follows:

a. 75% of the Net Settlement Amount shall be distributed to the LWDA.

b. 25% of the Net Settlement Amount shall be paid to Aggrieved Employees. This portion of the Net Settlement Amount shall be paid to all Aggrieved Employees pro rata based on the proportional number of pay periods worked by each Aggrieved Employee during the PAGA Period.

The Parties agree that should the Court deny approval of the Settlement based on the allocation of the Gross Settlement Amount or the Net Settlement Amount, the Parties agree to re-negotiate the allocation of funds in good faith in an effort to obtain approval of the Settlement.

6. **PAGA Released Claims.** Plaintiff agrees that upon entry of an Order approving the Settlement and full payment by Defendant of the Gross Settlement Amount, all Aggrieved Employees will release any and all PAGA Released Claims against the Released Parties that arose during the PAGA Period. Upon entry of the Order approving the Settlement and judgment entered thereon, as well as full payment by Defendant of the Gross Settlement Amount, Plaintiff and all Aggrieved Employees will be forever barred from pursuing any and all of the PAGA Released Claims that arose during the PAGA Period against the Released Parties.

7. **No Right to Opt-Out.** The Parties agree that there is no statutory right for any Aggrieved Employee to opt out or otherwise exclude himself or herself from the Settlement.

8. **Covenants and Representations by Plaintiff and Plaintiff's Counsel.**

a. Plaintiff represents and warrants that he has not assigned or transferred or purported to assign or transfer to any person or entity, any claim or portion thereof, or interest therein, which is or may be subject to this Settlement.

b. Plaintiff acknowledges that he has read this Settlement, that he fully understands his rights, privileges and duties under the Settlement, and enters into this Settlement freely and voluntarily, and without duress. Plaintiff further acknowledges that he had the opportunity to consult with his attorneys to explain the terms of this Settlement and the consequences of signing this Settlement.

10. **Notification to LWDA.** Plaintiff's Counsel will notify the LWDA of the settlement at the time the settlement is submitted to the court for approval, seek approval of the settlement, and perform any and all statutory tasks as required by law.

11. **Termination of Settlement.** If the Court does not approve the Settlement, if the Court does not enter judgment as provided for in this Settlement, or if appellate review is sought

and, on such review, the Court's decision is materially modified or reversed, or, except as otherwise set forth herein, if one or more of the material terms of the Settlement is not approved or is materially modified or reversed or found to be invalid, then either of the Parties shall have the right within ten (10) days of written notice thereof to elect to terminate the Settlement, in which case the Settlement shall have no force or effect, and the Parties shall be deemed to have reverted to their respective status as of the date and time immediately prior to the execution of this Settlement.

12. **Judgment.** As part of any Motion or stipulation to approve the Settlement, Plaintiff shall submit a proposed order and judgment which enters judgment in the Action in accordance with the terms of the Settlement and retains jurisdiction over the Action for the purpose of enforcing the terms of the Settlement following approval of the Settlement pursuant to Cal. Code Civ. Proc. § 664.6. This Settlement is expressly conditioned upon the Court entering judgment as set forth herein. The judgment will not release or bar any claims other than the PAGA Released Claims as to Plaintiff and Aggrieved Employees.

IV. ADMINISTRATION OF SETTLEMENT

1. **Settlement Administrator.** The Parties agree to use Phoenix Class Action Administration Solutions to handle the administration of this Settlement.

2. **Provision of Information for Aggrieved Employees.** Within fifteen (15) business days of the court signing the Approval Order, Defendant shall provide the Settlement Administrator with information for Aggrieved Employees. Defendant will in good faith compile from its records a list of Aggrieved Employees that will be in a computer-readable format, such as a Microsoft Excel spreadsheet, and shall include each Aggrieved Employee's full name, last known mailing address, total number of pay periods worked during the PAGA Period or dates of employment, and Social Security number. The list shall also include the sum total of all pay periods worked by Aggrieved Employees during the PAGA Period. Because Social Security numbers are included in the list, the Settlement Administrator will maintain the list in confidence, and access shall be limited to those with a need to use the list as part of the administration of the Settlement.

Within seven (7) business days of receiving the Aggrieved Employees' information from Defendant, the Settlement Administrator will circulate to counsel for both Parties an anonymized spreadsheet containing the estimated individual settlement payments to each Aggrieved Employee and the data used to calculate said payments. The Settlement Administrator shall obtain approval from all counsel of the calculations before mailing Individual PAGA Payments.

3. **Explanatory Letter and Individual PAGA Payments.** Upon receipt of the information for Aggrieved Employees, the Settlement Administrator will perform a search on the National Change of Address database to update the Aggrieved Employees' addresses.

Within five (5) business days of the Settlement being fully funded as provided above in section III.2, the Settlement Administrator shall mail copies of the explanatory letter, which has been mutually approved by the Parties and is attached hereto as **Exhibit A**, in both English and Spanish, along with Individual PAGA Payments to all Aggrieved Employees via regular First Class U.S. Mail.

The Settlement Administrator will calculate the amount to be received by each Aggrieved Employee, which will be based on the formula set forth in Section III.5., *supra*. The Settlement Administrator will send each Aggrieved Employee a check for his or his Individual PAGA Payment along with the explanatory letter. Checks will remain negotiable for 180 days. Each Individual PAGA Payment shall be deemed penalties/interest and reported using IRS Form 1099.

4. **Undeliverable Notices.** The Settlement Administrator shall exercise its best judgment to determine the current mailing address for each Aggrieved Employee. The address identified by the Settlement Administrator as the current mailing address shall be presumed to be the best mailing address for each Aggrieved Employee.

Any checks returned as non-deliverable on or before the check cashing deadline will be sent promptly via regular First-Class U.S. Mail to the forwarding address affixed thereto. If no forwarding address is provided, the Settlement Administrator will promptly attempt to determine the correct address, using a skip-trace or other similar search, using the name, address or Social Security number of the Aggrieved Employee involved and will perform a single re-mailing if a new address is located.

Defendant fully discharges its obligations to those Aggrieved Employees to whom they will pay an Individual PAGA Payment through the mailing of a check, regardless of whether such checks are actually received and/or negotiated by Aggrieved Employees. Funds represented by checks returned as undeliverable after a re-mailing, and funds represented by checks remaining un-cashed for more than 180 days after issuance, will be tendered to the State Controller's Office under the unclaimed property fund laws in the names of the Aggrieved Employees to whom the checks were issued.

5. **Payment of Remainder.** Within five (5) business days of the Settlement being fully funded, the Settlement Administrator will distribute the following additional payments: (1) the 75% share of the Net Settlement Amount to the LWDA; (2) Court-approved attorneys' fees and costs to Plaintiff's Counsel; (3) Court-approved enhancement award to Plaintiff; and (4) Court-approved administration costs to the Settlement Administrator.

6. **Accounting.** Within fifteen (15) business days of distribution of the Settlement funds, the Settlement Administrator will provide an accounting under oath to the Parties of the amounts paid from the Settlement.

7. **Tax Consequences.** Individual PAGA Payments made under this Settlement will be attributed 100% as penalties and interest and paid via IRS Form 1099 issued to each Aggrieved Employee. Neither Plaintiff nor Defendant, nor counsel for either of the Parties, makes any representations or warranties with respect to tax consequences of any payment under this Settlement.

V. **MISCELLANEOUS PROVISIONS**

1. **Mutual Preparation and Drafting.** The Parties have had a full opportunity to negotiate the terms and conditions of this Settlement. The Parties agree that the terms and conditions of this Settlement are the result of lengthy, intensive, arm's-length negotiations between the Parties and that neither Plaintiff nor Defendant shall be considered the "drafter" of this Settlement for purposes of having terms construed against that Party. This Settlement will not be

construed more strictly against one Party merely by virtue of the fact that it may have been prepared by counsel for one of the Parties, it being recognized that, because of the arm's-length negotiations between the Parties, all Parties have contributed to the preparation of this Settlement.

2. **Successors.** This Settlement shall be binding upon and inure to the benefit of the Parties hereto and their respective heirs, trustees, executors, assigns, administrators and successors.

3. **Costs and Fees.** The Parties shall each bear their own costs, attorneys' fees, expert fees, mediator fees and other fees incurred in connection with this Settlement, the Action and Plaintiff's claims, except as otherwise set forth specifically herein.

4. **Governing Law.** This Settlement shall be construed under and governed by the laws of the state of California. This Settlement shall be deemed to have been entered into in the County of San Diego, California, and all questions of validity, interpretation or performance of any of its terms or of any rights or obligations of the Parties to this Settlement shall be governed by California law. If any legal or equitable action is necessary to enforce the terms of this Settlement, it shall be brought in the State of California, County of San Diego.

5. **Complete Agreement.** The Parties each acknowledge and represent that no promise or representation not contained in this Settlement has been made to them and acknowledge and represent that this Settlement contains the entire understanding between them and contains all terms and conditions pertaining to the compromise and settlement of the PAGA Released Claims in the Action. This Settlement cannot be amended or modified except by a writing signed by counsel for the Parties hereto.

6. **Nullification of Settlement.** In the event that: (i) the Court does not approve the Settlement as provided herein; or (ii) the Settlement does not become final for any other reason, then this Settlement and any documents generated to bring it into effect, will be null and void, and the Parties will be returned to their original respective positions unless otherwise required under this Agreement.

7. **Judgment and Continued Jurisdiction.** After approval of this Settlement, the Court will have continuing jurisdiction solely for purposes of addressing: (i) the interpretation and enforcement of the terms of the Settlement, (ii) settlement administration matters, and (iii) such post-Judgment matters as may be appropriate under court rules or as set forth in this Settlement. Plaintiff will submit a proposed judgment in conformity with this Agreement to be entered by the Court, which shall constitute a final and binding resolution of the claims in the Action.

8. **Authorization to Enter into Settlement.** Counsel for all Parties warrant and represent that they are expressly authorized by the Parties whom they represent to negotiate this Settlement and to take all appropriate action required or permitted to be taken by such Parties pursuant to this Settlement to effectuate its terms, and to execute any other documents required to effectuate the terms of this Settlement. The Parties and their counsel will cooperate with each other and use their best efforts to effect the implementation of the Settlement. If the Parties are unable to reach agreement on the form or content of any document needed to implement the Settlement, or on any supplemental provisions that may become necessary to effectuate the terms of this Settlement, the Parties may seek the assistance of the Court to resolve such disagreement.

9. **Execution and Counterparts.** This Settlement is subject only to the execution of all Parties. However, the Settlement may be executed in one or more counterparts. All executed counterparts, and each of them, including facsimile and scanned copies of the signature page, will be deemed to be one and the same instrument, provided that counsel for the Parties will exchange among themselves original signed counterparts.

10. **Acknowledgement that the Settlement is Fair and Reasonable.** The Parties believe this Settlement is a fair, adequate and reasonable settlement of the Action, and have arrived at this Settlement after arm's-length negotiations by experienced counsel and with the assistance of an experienced mediator. The Parties further acknowledge that they are each represented by competent counsel and that they have had an opportunity to consult with their counsel regarding the fairness and reasonableness of this Settlement.

11. **Invalidity of Any Provision.** Before declaring any provision of this Settlement invalid, the Court will first attempt to construe the provision as valid to the fullest extent possible consistent with applicable precedents, so as to define all provisions of this Settlement valid and enforceable.

12. **Severability.** If any term or provision of this Settlement is held to be invalid or unenforceable, the remaining portions of this Settlement will continue to be valid and will be performed, construed and enforced to the fullest extent permitted by law, and the invalid or unenforceable term will be deemed amended and limited in accordance with the intent of the Parties, as determined from the face of the Agreement, to the extent necessary to permit the maximum enforceability or validation of the term or provision.

13. **Waiver.** No waiver of any condition or covenant contained in this Settlement or failure to exercise a right or remedy by any of the Parties hereto will be considered to imply or constitute a further waiver by such Party of the same or any other condition, covenant, right or remedy.

14. **Representation by Counsel.** The Parties acknowledge that they have been represented by counsel throughout all negotiations that preceded the execution of this Settlement, and this Settlement has been executed with the consent and advice of counsel and reviewed in full.

15. **Binding Agreement.** The Parties warrant that they understand and have full authority to enter into this Settlement, and further intend that this Settlement will be fully enforceable and binding on all Parties and agree that it will be admissible and subject to disclosure in any proceeding to enforce its terms under California Code of Civil Procedure section 664.6 and any other applicable statute or law, notwithstanding any mediation confidentiality provisions that otherwise might apply under federal or state law.

16. **Denial of Liability.** The Parties expressly recognize that the making of this Settlement does not in any way constitute an admission or concession of wrongdoing on the part of Defendant. Nothing in this Settlement, nor any action taken in implementation thereof, nor any statements, discussions or communications, nor any materials prepared, exchanged, issued or used during the course of this Action, is intended by the Parties to, nor will any of the foregoing constitute, be introduced, be used or be admissible in any way in any other judicial, arbitral, administrative, investigative or other forum or proceeding, as evidence of any violation of any federal, state or local law, statute, ordinance, regulation, rule or executive order, or any obligation

or duty at law or in equity. Notwithstanding the foregoing, this Settlement may be used in any Court proceeding that has as its purpose the interpretation, implementation or enforcement of the Settlement or any orders or judgments of the Court entered into in connection therewith.

17. **Enforcement Action**: In the event that one or more of the Parties institutes any legal action or other proceeding against any other Party or Parties to enforce the provisions of this Settlement Agreement or to declare rights and/or obligations under this Settlement Agreement, the successful Party or Parties will be entitled to recover from the unsuccessful Party or Parties reasonable attorneys' fees and costs, including expert witness fees incurred in connection with any enforcement actions.

IN WITNESS THEREOF, the Parties each acknowledge that they have read the foregoing Settlement, accept and agree to the provisions contained in this Settlement and hereby execute it voluntarily and with full understanding of its consequences.

Dated: 09/27/2021

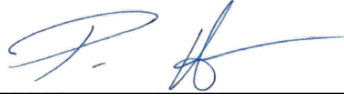

Eduardo tovar (Sep 27, 2021 10:17 PDT)
Eduardo Tovar, Plaintiff

Dated: _____

Sunshine Communications, Inc.
By Robert A. Straub
Chief Executive Officer

APPROVED AS TO FORM ONLY:

Dated: September 27, 2021

HAINES LAW GROUP, APC
By: 
Paul K. Haines
Attorneys for Plaintiff
Eduardo Tovar

Dated: _____

GORDON REES SCULLY MANSUKHANI, LLP
By: _____
Eulalio J. Garcia
Counsel for Defendant
Sunshine Communications, Inc.

or duty at law or in equity. Notwithstanding the foregoing, this Settlement may be used in any Court proceeding that has as its purpose the interpretation, implementation or enforcement of the Settlement or any orders or judgments of the Court entered into in connection therewith.


17. **Enforcement Action**: In the event that one or more of the Parties institutes any legal action or other proceeding against any other Party or Parties to enforce the provisions of this Settlement Agreement or to declare rights and/or obligations under this Settlement Agreement, the successful Party or Parties will be entitled to recover from the unsuccessful Party or Parties reasonable attorneys' fees and costs, including expert witness fees incurred in connection with any enforcement actions.

IN WITNESS THEREOF, the Parties each acknowledge that they have read the foregoing Settlement, accept and agree to the provisions contained in this Settlement and hereby execute it voluntarily and with full understanding of its consequences.

Dated: _____

Eduardo Tovar, Plaintiff

Dated: 9/24/21



Sunshine Communications, Inc.
By Robert A. Straub
Chief Executive Officer

APPROVED AS TO FORM ONLY:


Dated: _____

HAINES LAW GROUP, APC

By: _____
Paul K. Haines
Attorneys for Plaintiff
Eduardo Tovar

Dated: September 27, 2021

**GORDON REES SCULLY MANSUKHANI,
LLP**


By: _____
Eulalio J. Garcia
Counsel for Defendant
Sunshine Communications, Inc.

Re: Payment from Eduardo Tovar v. Sunshine Communications, Inc.
Superior Court of California for the County of San Diego; Case No. 37-2020-00042998-CU-OE-CTL

Date: / / 2021

SIMID
Name
Address

Dear Name:

Enclosed, please find a check made payable to you. This is your payment from the settlement of the lawsuit titled *Eduardo Tovar v. Sunshine Communications, Inc.*, Case No. 37-2020-00042998-CU-OE-CTL, pending in the Superior Court of the State of California for the County of San Diego (the "Action").

The Action was filed against Sunshine Communications, Inc. ("Sunshine") and includes a claim pursuant to the California Labor Code Private Attorneys General Act of 2004, California Labor Code § 2698, *et seq.* ("PAGA"). The Action was brought by Plaintiff Eduardo Tovar ("Plaintiff"), a former employee of Sunshine, on behalf of the State of California and other alleged aggrieved employees. You have been identified as one of the employees on whose behalf the case was brought.

Plaintiff claimed that Sunshine owed civil penalties under PAGA for alleged violations of the California Labor Code. The parties have reached a settlement of Plaintiff's claims, and on [DATE], the Court approved the settlement, including the amount of civil penalties to be paid under the settlement. A portion of the civil penalty settlement amount goes to the State of California's Labor and Workforce Development Agency. Another portion of the civil penalty settlement amount goes to employees of Sunshine who were allegedly affected by the alleged violations of the Labor Code. In agreeing to this settlement, Sunshine does not admit that it is liable in any way to current or former employees for any violations of the California Labor Code or any penalties. The Court has not decided the merits of Plaintiff's claims.

Pursuant to the settlement, enclosed is a check for your share of a portion of the civil penalties. This check will remain valid for 180 days from the date of issuance. If you do not cash your check within 180 days of issuance, the funds will be deposited by the Settlement Administrator with the California State Controller to be deposited in the Unclaimed Property Fund in your name. If you are still employed by Sunshine, your decision to cash the check will not affect your employment.

While you were not a party to the Action, you and the State of California have been bound by the settlement entered in this matter and approved by the Court, including the release contained in the settlement. The release pertains to civil penalties under PAGA only. The release includes all claims under the PAGA that were alleged in, or could have been alleged based on the facts alleged in, Plaintiff's complaint in the Actions, including claims for civil penalties, attorneys' fees, costs, or interest under the PAGA based on Sunshine's alleged violations of Labor Code sections 201-204, 221-223, 226, 226.2, 226.7, 510, 512, 516, 558, 1174, 1182.12, 1194, 1194.2, 1197, 1198, 1199, 2802, 2804, during the time period April 6, 2019 through <<END OF PAGA PERIOD>> (the "PAGA Period").

If you have any questions, you can contact Phoenix Settlement Administrators, the Settlement Administrator, at 1- - .