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14 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
15 **FOR THE COUNTY OF SAN DIEGO**

16
17 EDUARDO TOVAR, on behalf of himself,
other aggrieved employees, and the State of
18 California,

19 Plaintiff,

20 vs.

21 SUNSHINE COMMUNICATIONS, INC., an
Arizona corporation; and DOES 1 through
22 100,

23 Defendants.
24

Case No. 37-2020-00042998-CU-OE-CTL

*[Case assigned for all purposes to the Hon.
Timothy Taylor, Dept. C-72]*

**~~PROPOSED~~ ORDER AND JUDGMENT
APPROVING THE PARTIES' PAGA
SETTLEMENT AGREEMENT**

Action Filed: November 23, 2020
Trial Date: None Set

~~**PROPOSED**~~ **ORDER**

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2 1. The Court has received and considered the application of Plaintiff Eduardo Tovar as an
3 aggrieved employee, and as private attorney general under the Labor Code Private Attorneys General Act
4 of 2004, §§ 2698, *et seq.* (“PAGA”), for approval of the Parties’ Joint Stipulation for Settlement
5 (“Settlement”). **GOOD CAUSE** having been shown, the Court hereby enters the following Order
6 approving the Settlement and entering Judgment on its terms.

7 2. This Order hereby adopts and incorporates by reference the terms and conditions of the
8 Settlement. The “Aggrieved Employees” shall be defined as all current and former hourly, non-exempt
9 employees of Defendant Sunshine Communications, Inc. who worked for Defendant in California at any
10 time during the PAGA Period, as defined in the Settlement.

11 3. The Court has considered all relevant factors for determining the fairness of the
12 Settlement, and has concluded that all such factors weigh in favor of approving the Settlement. In
13 particular, the Court finds that the Settlement was reached following meaningful discovery and
14 investigation conducted by Plaintiff; that the Settlement is the result of serious, informed, adversarial, and
15 arm’s-length negotiations between the Parties; and that the terms of the Settlement are in all respects fair,
16 adequate, and reasonable.

17 4. In so finding, the Court has considered all evidence presented, including evidence
18 regarding the strength of Plaintiff’s PAGA claims; the risk, expense, and complexity of the claims
19 presented; the likely duration of further litigation; the amount offered in settlement; the extent of
20 investigation and discovery completed; and the experience and views of counsel. The Parties have
21 provided the Court with sufficient information about the nature and magnitude of the claims being settled,
22 as well as the impediments to recovery, to make an independent assessment of the reasonableness of the
23 terms to which the Parties have agreed.

24 5. Accordingly, the Court hereby finds that the Settlement is, in all respects, fair, reasonable,
25 and adequate, and hereby directs implementation of all remaining terms, conditions, and provisions of the
26 Settlement.

27 6. The Court hereby approves, as to form and content, the Explanatory Letter submitted by
28 the Parties and included as Exhibit A to the Settlement.

1 7. The Court hereby appoints Phoenix Settlement Administrators as the Settlement
2 Administrator.

3 8. The Court hereby ordered Defendant to provide Aggrieved Employee information to the
4 Settlement Administrator, and to fund the Gross Settlement Amount, pursuant to the terms of the
5 Settlement.

6 9. The Settlement is not an admission by Defendant, nor is this Order a finding of the validity
7 of any allegations or of any wrongdoing by Defendant. Neither this Order, the Settlement, nor any
8 document referred to herein, nor any action taken to carry out the Settlement, may be construed as, or may
9 be used as, an admission of any fault, wrongdoing, omission, concession, or liability whatsoever by or
10 against Defendant.

11 10. The settlement of civil penalties under PAGA in the amount of approximately
12 \$146,351.04 is hereby approved. Seventy-Five Percent (75%), or approximately \$109,763.28, shall be
13 paid to the California Labor and Workforce Development Agency. The remaining Twenty-Five Percent
14 (25%), or approximately \$36,587.76, shall be paid to Aggrieved Employees and distributed among
15 Aggrieved Employees as set forth in the Settlement.

16 11. The Court hereby awards \$110,000⁴ in attorneys' fees, and \$9,498.96 in litigation costs
17 and expenses, to Haines Law Group, APC.

18 12. The Court approves an enhancement award of \$5,000 to Eduardo Tovar.

19 13. The Court approves settlement administration costs of \$4,150 to the Settlement
20 Administrator, Phoenix Settlement Administrators.

21 14. The Court approves the scope of the release. Following entry of this Order and Final
22 Judgment and the Settlement being fully funded, Plaintiff and Aggrieved Employees will have released
23 all of the Released PAGA Claims against the Released Parties, as those terms are defined in the
24 Settlement.

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27 ⁴ The Settlement contains an "Escalator Clause" that increases the Gross Settlement Amount if the number of affected
28 pay periods increases beyond a sum identified in the Escalator Clause (unless Defendant elects to cut off the PAGA
Period prior to the date the Escalator Clause is triggered). In the event the Escalator Clause is triggered and the Gross
Settlement Amount increases, the amounts paid to the LWDA, Aggrieved Employees, and in attorneys' fees shall
increase commensurately, as provided in the Settlement.


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15. Upon entry of this Final Order and Judgment, and the Settlement being fully funded, the Court permanently enjoins and forever bars the Plaintiff or the Aggrieved Employees from instituting or prosecuting against the Released Parties any of the PAGA Released Claims which were resolved as part of the Settlement. Without affecting the finality of this Final Order and Judgment in any way, the Court retains jurisdiction to enforce the terms of the Settlement.

16. Plaintiff shall file a disbursement declaration with the Court on or before August 31, 2022.

IT IS SO ORDERED, ADJUDGED, AND DECREED.

Dated: 12/17/2021



Honorable Timothy Taylor
Judge of the Superior Court