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14 CA, INC.

15 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
16 **FOR THE COUNTY OF ALAMEDA**

17 ROSHAUN JOHNSON, on behalf of himself and
18 all others similarly situated, and the general
public,

19 *Plaintiff,*

20 v.

21 TAK COMMUNICATIONS CA, INC., a
22 California corporation; and DOES 1 through 50,
inclusive,

23 *Defendants.*

Case No. 22CV013892

PAGA SETTLEMENT AGREEMENT

24 Complaint Filed: July 6, 2022
Trial Date: None Yet Set

PAGA SETTLEMENT AGREEMENT

This PAGA Settlement Agreement (“Agreement”) is made by and between plaintiff Roshaun Johnson (“Plaintiff”) and defendant TAK Communications CA, Inc. (“TAK” or “Defendant”). The Agreement refers to Plaintiff and Defendant collectively as “Parties,” or individually as “Party.”

1. DEFINITIONS.

1.1. “Action” means the Plaintiff’s class action and PAGA lawsuit alleging wage and hour violations against Defendant captioned *Roshaun Johnson v. TAK Communications CA Inc.* initiated on July 6, 2022 and pending in Superior Court of the State of California, County of Los Alameda, Case Number 22CV013892.

1.2. “Administrator” means Simpluris, Inc., the neutral entity the Parties have agreed to appoint to administer the Settlement.

1.3. “Administration Expenses Payment” means the amount the Administrator will be paid from the Gross Settlement Amount to reimburse its reasonable fees and expenses in accordance with the Administrator’s “not to exceed” bid submitted to the Court in connection with approval of this Settlement.

1.4. “Aggrieved Employee” means a non-exempt or hourly employee of Defendant who was employed as a Technician (or similar position) during the PAGA Period.

1.5. “Aggrieved Employee Data” means Aggrieved Employee identifying information in TAK’s possession including the Aggrieved Employee’s name, last-known mailing address, Social Security number, and number of PAGA Pay Periods.

1.6. “Aggrieved Employee Address Search” means the Administrator’s investigation and search for current Aggrieved Employee mailing addresses using all reasonably available sources, methods and means including, but not limited to, the National Change of Address database, skip traces, and direct contact by the Administrator with Aggrieved Employees.

1.7. “Court” means the Superior Court of California, County of Alameda.

1.8. “Defense Counsel” means Brandon R. McKelvey and Timothy B. Nelson of Medina McKelvey, LLP (counsel for TAK).

1 1.9. "Effective Date" means the date by when both of the following have occurred: (a) the Court
2 enters a Judgment on its Order Approving the PAGA Settlement and (b) the Judgment is final. The
3 Judgment is final as of the latest of the following occurrences: (a) the day the Court enters Judgment if
4 no objections are filed to this settlement or if all objections are withdrawn prior to the Court ruling on
5 them; or (b) sixty-one (61) days after the date of entry of the settlement approval order if objections are
6 filed and overruled and no appeal is taken from the order approving the settlement; or (c) if a timely
7 appeal is made, ten (10) business days after the final resolution of that appeal if the appeal is rejected,
8 the settlement is upheld, and the settlement approval order is no longer subject to further judicial review.

9 1.10. "Gross Settlement Amount" means \$280,000.00 which is the total amount Defendant
10 agrees to pay under the Settlement except as provided in Section 8, below. The Gross Settlement
11 Amount will be used to pay Individual PAGA Payments, the LWDA PAGA Payment, PAGA Counsel
12 Fees Payment, PAGA Counsel Litigation Expenses Payment, and the Administrator's Expenses
13 Payment.

14 1.11. "Individual PAGA Payment" means the Aggrieved Employee's *pro rata* share of 25% of
15 the PAGA Penalties calculated according to the number of Pay Periods the Aggrieved Employee worked
16 during the PAGA Period.

17 1.12. "Judgment" means the judgment entered by the Court based upon the Final Approval.

18 1.13. "LWDA" means the California Labor and Workforce Development Agency, the agency
19 entitled, under Labor Code section 2699, subd. (i).

20 1.14. "LWDA PAGA Payment" means the 75% of the PAGA Penalties paid to the LWDA
21 under Labor Code section 2699, subd. (i).

22 1.15. "Net Settlement Amount" means the Gross Settlement Amount, less the following
23 payments in the amounts approved by the Court: the LWDA PAGA Payment, PAGA Counsel Fees
24 Payment, PAGA Counsel Litigation Expenses Payment, PAGA Representative Incentive Award, and the
25 Administration Expenses Payment. The remainder is to be paid to Aggrieved Employees as Individual
26 PAGA Payments.

27 1.16. "PAGA Counsel" means Shaun Setareh, Jose Maria D. Patino, Jr., and Maxim Gorbunov
28 of Setareh Law Group, the attorneys representing the Plaintiff in the Action.

1.17. "PAGA Counsel Fees Payment" and "PAGA Counsel Litigation Expenses Payment" mean the amounts allocated to PAGA Counsel for reasonable attorneys' fees and reimbursement of expenses, respectively, incurred to prosecute the Action.

1.18. "PAGA Pay Period" means any Pay Period during which an Aggrieved Employee worked for TAK for at least one day during the PAGA Period.

1.19. "PAGA Period" means the period from July 1, 2021 to the date of approval of the Settlement by the Court.

1.20. "PAGA" means the Private Attorneys General Act (Labor Code §§ 2698 *et seq.*).

1.21. "PAGA Notice" means Plaintiff's July 1, 2022 letter to Defendant and the LWDA providing notice pursuant to Labor Code section 2699.3, subd.(a) attached to this Agreement as **Exhibit A**.

1.22. "PAGA Penalties" means the total amount of PAGA civil penalties to be paid from the Gross Settlement Amount, allocated 25% to the Aggrieved Employees and 75% to LWDA in settlement of PAGA claims.

1.23. "Plaintiff" or "PAGA Representative" means Roshaun Johnson, the named plaintiff in the Action.

1.24. "Approval Order" means the proposed Court Order Granting Approval of PAGA Settlement.

1.25. "Released PAGA Claims" means the claims being released by the Plaintiff and PAGA Counsel and as described in Paragraph 5 below.

1.26. "Released Parties" means Defendant and each of its former and present directors, officers, shareholders, owners, members, attorneys, insurers, predecessors, successors, assigns, subsidiaries, and affiliates.

1.27. "Settlement" means the disposition of the Action effected by this Agreement and the Judgment.

1.28. "Defendant" means named Defendant TAK Communications CA Inc.

1.29. "PAGA Representative Incentive Award" means the amount allocated to Plaintiff for his role, service, and risks undertaken as the PAGA Representative of the State of California in this Action.

1 **2. RECITALS.**

2 2.1. On July 1, 2022, Plaintiff sent a letter to the Labor and Workforce Development Agency
3 (“LWDA”), stating that he intended to pursue a representative action under the PAGA for civil penalties
4 against Defendant for the following alleged violations of the California Labor Code: Labor Code
5 sections 201, 202, 203, 204, 223, 226, 226.7, 510, 558, 1194, 1197, 1197.1, 1198, 1199, and 2802.

6 2.2. On July 6, 2022, Plaintiff commenced this Action by filing a class action Complaint
7 alleging causes of action against Defendant. Plaintiff’s Complaint sought damages, on his behalf and on
8 behalf of a class of all non-exempt or hourly employees who were employed as technicians, for the
9 following alleged violations of the California Labor Code: (1) failure to provide meal periods (Labor
10 Code sections 204, 223, 226.7, 512 and 1198); (2) failure to provide rest periods (Labor Code sections
11 204, 223, 226.7, and 1198); (3) failure to pay hourly wages (Labor Code sections 223, 510, 1194,
12 1194.2, 1197, 1197.1, and 1198); (4) failure to indemnify (Labor Code section 2802); (5) failure to
13 provide accurate written wage statements (Labor Code section 226); (6) failure to timely pay all final
14 wages (Labor Code sections 201, 202, and 203); and (7) unfair competition (Business and Professions
15 Code section 17200 *et seq.*)

16 2.3. On September 6, 2022, Plaintiff filed a First Amended Complaint, which added a cause of
17 action for civil penalties pursuant to the PAGA based on the same Labor Code violations alleged in the
18 Complaint. Plaintiff’s First Amended Complaint is the operative complaint in the Action (the
19 “Operative Complaint”). Defendant denies the allegations in the Operative Complaint, denies any
20 failure to comply with the laws identified in the Operative Complaint and denies any and all liability for
21 the causes of action alleged.

22 2.4. Pursuant to Labor Code section 2699.3, subd.(a), Plaintiff gave timely written notice to
23 Defendant and the LWDA by sending the PAGA Notice.

24 2.5. On December 16, 2022, the Parties participated in an all-day mediation presided over by
25 Lynne Bassis, Esq., which led to this Agreement to settle the Action.

26 2.6. Prior to mediation, Plaintiff obtained, through informal discovery, employee and payroll
27 data, policy documents, and additional information regarding TAK’s non-exempt, hourly employees in
28

California who worked as technicians during the PAGA Period, which Plaintiff's Counsel reviewed and analyzed.

2.7. The Parties, PAGA Counsel and Defense Counsel represent that they are not aware of any other pending matter or action asserting claims that will be extinguished or affected by the Settlement.

3. MONETARY TERMS.

3.1. Gross Settlement Amount. Except as otherwise provided by Paragraph 9 below, Defendant promises to pay \$280,000.00 and no more as the Gross Settlement Amount. Defendant has no obligation to pay the Gross Settlement Amount prior to the deadline stated in Paragraph 6.1 of this Agreement. The Administrator will disburse the entire Gross Settlement Amount without asking or requiring Aggrieved Employees to submit any claim as a condition of payment. None of the Gross Settlement Amount will revert to Defendant.

3.2. Payments from the Gross Settlement Amount. The Administrator will make and deduct the following payments from the Gross Settlement Amount, in the amounts specified by the Court in the Final Approval:

3.2.1. To PAGA Counsel: A PAGA Counsel Fees Payment of not more than 33 1/3% which is currently estimated to be \$93,333.33 and PAGA Counsel Litigation Expenses Payment of not more than \$15,000.00. Defendant will not oppose requests for Court approval of these payments provided that they do not exceed these amounts. Plaintiff and/or PAGA Counsel will file an application or motion for PAGA Counsel Fees Payment and PAGA Litigation Expenses Payment. If the Court approves a PAGA Counsel Fees Payment and/or a PAGA Counsel Litigation Expenses Payment less than the amounts requested, the Administrator will allocate the remainder to the Net Settlement Amount. Released Parties shall have no liability to PAGA Counsel or any other Plaintiff's Counsel arising from any claim to any portion any PAGA Counsel Fee Payment and/or PAGA Counsel Litigation Expenses Payment. The Administrator will pay the PAGA Counsel Fees Payment and PAGA Counsel Expenses Payment using one or more IRS 1099 Forms. PAGA Counsel assumes full responsibility and liability for taxes owed on the PAGA Counsel Fees Payment and the PAGA Counsel Litigation Expenses Payment and holds Defendant harmless, and indemnifies Defendant, from any dispute or controversy regarding any division or sharing of any of these Payments.

1 3.2.2. To the PAGA Representative: A PAGA Representative Incentive Award not to
2 exceed \$5,000.00 for Plaintiff's role, service, and risks undertaken as the PAGA Representative of the
3 State of California in this Action.

4 3.2.3. To the Administrator: An Administrator Expenses Payment not to exceed
5 \$7,500.00 owing of good cause and as approved by the Court. To the extent the Administration
6 Expenses are less or the Court approves payment less than \$7,500.00, the Administrator will retain the
7 remainder in the Net Settlement Amount. Simpluris, Inc. has been selected as the Administrator, based
8 upon its "not to exceed" bid of \$4,000.00.

9 3.2.4. To the LWDA and Aggrieved Employees: PAGA Penalties to be paid from the
10 Gross Settlement Amount—equal to the Gross Settlement Amount less the PAGA Counsel Fees
11 Payment, PAGA Counsel Litigation Expenses Payment, PAGA Representative Incentive Award, and
12 Administrator Expenses Payment—with 75% allocated to the LWDA PAGA Payment and 25%
13 allocated to the Individual PAGA Payments.

14 3.2.4.1. The Administrator will calculate each Individual PAGA Payment by (a)
15 dividing the amount of the Aggrieved Employees' 25% share of PAGA Penalties (i.e., the Net
16 Settlement Amount) by the total number of PAGA Period Pay Periods worked by all Aggrieved
17 Employees during the PAGA Period and (b) multiplying the result by each Aggrieved Employee's
18 PAGA Period Pay Periods. Aggrieved Employees assume full responsibility and liability for any taxes
19 owed on their Individual PAGA Payment.

20 3.2.4.2. If the Court approves PAGA Penalties of less than the amount requested,
21 the Administrator will allocate the remainder to the Net Settlement Amount. The Administrator will
22 report the Individual PAGA Payments on IRS 1099 Forms.

23 **4. SETTLEMENT FUNDING AND PAYMENTS.**

24 4.1. Aggrieved Employee Pay Periods. Based on a review of its records to date, Defendant
25 estimates there are _____ Aggrieved Employees who worked a total _____ of PAGA Pay Periods from
26 July 3, 2021 through _____.

27 4.2. Aggrieved Employee Data. Within 21 days of the complete execution of this Agreement,
28 Defendant will simultaneously deliver the Aggrieved Employee Data to the Administrator in the form of

1 a Microsoft Excel spreadsheet. To protect Aggrieved Employees' privacy rights, the Administrator
2 must maintain the Aggrieved Employee Data in confidence, use the Aggrieved Employee Data only for
3 purposes of this Settlement and for no other purpose, and restrict access to the Aggrieved Employee
4 Data to Administrator employees who need access to the Aggrieved Employee Data to effect and
5 perform under this Agreement. Defendant has a continuing duty to immediately notify PAGA Counsel
6 if it discovers that the Aggrieved Employee Data omitted employee identifying information and to
7 provide corrected or updated Aggrieved Employee Data as soon as reasonably feasible. Without any
8 extension of the deadline by which Defendant must send the Aggrieved Employee Data to the
9 Administrator, the Parties and their counsel will expeditiously use best efforts, in good faith, to
10 reconstruct or otherwise resolve any issues related to missing or omitted Aggrieved Employee Data.

11 4.3. Funding of Gross Settlement Amount. Defendant shall fully fund the Gross Settlement
12 Amount by transmitting the funds to the Administrator no later than 14 days after the Effective Date.

13 4.4. Payments from the Gross Settlement Amount. Within 14 days after Defendant funds the
14 Gross Settlement Amount, the Administrator will mail checks for all Individual PAGA Payments, the
15 LWDA PAGA Payment, the Administration Expenses Payment, the PAGA Counsel Fees Payment, the
16 PAGA Counsel Expenses Payment, and the PAGA Representative Incentive Award. Disbursement of
17 the PAGA Counsel Litigation Expenses Payment shall not precede disbursement of Individual PAGA
18 Payments.

19 4.4.1. The Administrator will issue checks for the Individual PAGA Payments and send
20 them to the Aggrieved Employees via First Class U.S. Mail, postage prepaid along with the Notice of
21 PAGA Representative Action Settlement (attached hereto as **Exhibit B**). The face of each check shall
22 prominently state the date (180 days after the date of mailing) when the check will be voided. The
23 Administrator will cancel all checks not cashed by the void date. Before mailing any checks, the
24 Settlement Administrator must update the recipients' mailing addresses using the National Change of
25 Address Database.

26 4.4.2. The Administrator must conduct an Aggrieved Employee Address Search for all
27 Aggrieved Employees whose checks are returned undelivered without USPS forwarding address. Within
28 7 days of receiving a returned check the Administrator must re-mail checks to the USPS forwarding

1 address provided or to an address ascertained through the Aggrieved Employee Address Search. The
2 Administrator need not take further steps to deliver checks to Aggrieved Employees whose re-mailed
3 checks are returned as undelivered. The Administrator shall promptly send a replacement check to any
4 Aggrieved Employee whose original check was lost or misplaced, requested by the Aggrieved Employee
5 prior to the void date.

6 4.4.3. For any Aggrieved Employee whose Individual PAGA Payment check is uncashed
7 and cancelled after the void date, the Administrator shall transmit the funds represented by such checks
8 to the California Controller's Unclaimed Property Fund in the name of the Aggrieved Employee.

9 4.4.4. The payment of Individual PAGA Payments shall not obligate Defendant to confer
10 any additional benefits or make any additional payments to the Aggrieved Employees (such as 401(k)
11 contributions or bonuses) beyond those specified in this Agreement.

12 **5. RELEASES OF CLAIMS.** Pursuant to the requirements of Labor Code sections 2698, *et seq.*,
13 Plaintiff is the designated agent of the California Labor and Workforce Development Agency
14 ("LWDA"), and is proceeding as a private attorney general, by bringing this enforcement action to
15 recover civil penalties on behalf of the LWDA and for the group of Aggrieved Employees.

16 The Parties agree, and Plaintiff agrees, that effective on the date when Defendant fully funds the
17 entire Gross Settlement Amount, the LWDA shall release the Released Parties from any claim for civil
18 penalties arising out of the Released Claims. As consideration for this release, the LWDA shall receive
19 75% of the PAGA Payment, consistent with the requirements of the Labor Code sections 2698, *et seq.*
20 The Aggrieved Employees shall receive 25% of the PAGA payment consistent with the requirements of
21 the Labor Code sections 2698, *et seq.*

22 5.1 Plaintiff's Release. Effective on the date when Defendant fully funds the entire Gross
23 Settlement Amount as well as general release payment in accordance with the separate individual
24 settlement agreement entered between the Parties for general release of Plaintiff's individual claims,
25 Plaintiff and his respective former and present spouses, representatives, agents, attorneys (including
26 PAGA Counsel), heirs, administrators, successors, and assigns generally, release and discharge Released
27 Parties from all claims, transactions, or occurrences that occurred during the PAGA Period, including,
28 but not limited to: (a) all claims that were, or reasonably could have been, alleged, based on the facts

1 contained in the Operative Complaint and the PAGA Notice (“Plaintiff’s Release”). Plaintiff’s Release
2 does not extend to any claims or actions to enforce this Agreement, or to any claims for vested benefits,
3 unemployment benefits, disability benefits, social security benefits, workers’ compensation benefits that
4 arose at any time, or based on occurrences outside the PAGA Period. Plaintiff acknowledges that
5 Plaintiff may discover facts or law different from, or in addition to, the facts or law that Plaintiff now
6 knows or believes to be true but agrees, nonetheless, that Plaintiff’s Release shall be and remain
7 effective in all respects, notwithstanding such different or additional facts or Plaintiff’s discovery of
8 them.

9 5.2 Release by Aggrieved Employees: Effective on the date when Defendant fully funds the
10 entire Gross Settlement Amount all Aggrieved Employees are deemed to release, on behalf of
11 themselves and their respective former and present representatives, agents, attorneys, heirs,
12 administrators, successors, and assigns, the Released Parties from all claims for PAGA penalties that
13 were alleged, or reasonably could have been alleged, based on the PAGA Period facts stated in the
14 Operative Complaint and the PAGA Notice (“Released Claims”).

15 5.3 Release by PAGA Counsel: Effective on the date when Defendant fully funds the entire
16 Gross Settlement Amount PAGA Counsel release on behalf of their present and former attorneys,
17 employees, agents, successors and assigns the Released Parties from all claims for PAGA Counsel Fees
18 incurred in connection with the Operative Complaint and the PAGA Period facts stated in the Operative
19 Complaint and the PAGA Notice.

20 **6. MOTION OR APPLICATION FOR APPROVAL OF SETTLEMENT.** The Parties agree to
21 jointly prepare and file an application or motion for approval of this Settlement.

22 6.1. Plaintiff’s Responsibilities. Plaintiff will prepare and deliver to Defense Counsel all
23 documents necessary for obtaining approval of this Settlement under Labor Code Section 2699, subd.
24 (f)(2)) including (i) a draft proposed Order Granting Approval of PAGA Settlement; (ii) a signed
25 declaration from the Administrator attaching its “not to exceed” bid for administering the Settlement and
26 attesting to its willingness to serve; competency; operative procedures for protecting the security of
27 Aggrieved Employee Data; amounts of insurance coverage for any data breach, defalcation of funds or
28 other misfeasance; all facts relevant to any actual or potential conflicts of interest with Aggrieved

1 Employees or the LWDA; and the nature and extent of any financial relationship with Plaintiff, PAGA
2 Counsel or Defense Counsel; (iii) a signed declaration from PAGA Counsel firm attesting to its timely
3 transmission to the LWDA of all necessary PAGA documents (initial notice of violations (Labor Code
4 section 2699.3, subd. (a)), Operative Complaint (Labor Code section 2699, subd. (1)(1)), this Agreement
5 (Labor Code section 2699, subd. (1)(2)); (iv) a redlined version of the parties' Agreement showing all
6 modifications made to the Model Agreement ready for filing with the Court; and (v) all facts relevant to
7 any actual or potential conflict of interest with Aggrieved Employees and/or the Administrator. In their
8 Declarations, Plaintiff and PAGA Counsel shall aver that they are not aware of any other pending matter
9 or action asserting claims that will be extinguished or adversely affected by the Settlement.

10 6.2. Responsibilities of PAGA Counsel. PAGA Counsel and Defense Counsel are jointly
11 responsible for expeditiously finalizing and filing the application or motion for approval of this
12 Settlement no later than 60 days after the full execution of this Agreement and, if necessary, obtaining a
13 prompt hearing date for the motion and appearing in Court to advocate in favor of the motion. PAGA
14 Counsel is responsible for delivering the Court's Preliminary Approval to the Administrator. Prior to
15 filing a motion for approval of the Settlement, PAGA Counsel shall file an application for dismissal
16 without prejudice of the class claims alleged in the Operative Complaint in accordance with California
17 Rules of Court, Rule 3.770.

18 6.3. Duty to Cooperate. If the Parties disagree on any aspect of the proposed application or
19 motion for approval of this Settlement and/or the supporting declarations and documents, PAGA
20 Counsel and Defense Counsel will expeditiously work together on behalf of the Parties by meeting in
21 person or by telephone, and in good faith, to resolve the disagreement. If the Court does not grant the
22 motion for approval of this Settlement or conditions its approval on any material change to this
23 Agreement, PAGA Counsel and Defense Counsel will expeditiously work together on behalf of the
24 Parties by meeting in person or by telephone, and in good faith, to modify the Agreement and otherwise
25 satisfy the Court's concerns.

26 **7. SETTLEMENT ADMINISTRATION.**

27 7.1. Selection of Administrator. The Parties have jointly selected Simpluris, Inc. to serve as the
28 Administrator and verified that, as a condition of appointment, Simpluris, Inc. agrees to be bound by this

Agreement and to perform, as a fiduciary, all duties specified in this Agreement in exchange for payment of Administration Expenses. The Parties and their Counsel represent that they have no interest or relationship, financial or otherwise, with the Administrator other than a professional relationship arising out of prior experiences administering settlements.

7.2. Employer Identification Number. The Administrator shall have and use its own Employer Identification Number for purposes of calculating payroll tax withholdings and providing reports state and federal tax authorities.

7.3. Qualified Settlement Fund. The Administrator shall establish a settlement fund that meets the requirements of a Qualified Settlement Fund ("QSF") under U.S. Treasury Regulation section 468B-1.

7.4. Administrator Duties. The Administrator has a duty to perform or observe all tasks to be performed or observed by the Administrator contained in this Agreement or otherwise.

8. AGGRIEVED EMPLOYEE SIZE ESTIMATES AND ESCALATOR CLAUSE

Based on its records, Defendant estimates that, as of the date of this Settlement Agreement, there are 579 Aggrieved Employees who worked 8,934 Pay Periods from July 1, 2021 to November 23, 2022. The settlement as negotiated contemplates a PAGA Pay Period count through court approval. However, should the actual number of PAGA Pay Periods worked by the Aggrieved Employees exceed fifteen percent (15%) of this figure (i.e., 10,720 PAGA Pay Periods from July 1, 2021 to the date of Court approval), Defendant, at its sole and exclusive discretion, may elect to: (1) set the PAGA Period as of the date that the PAGA Pay Period count hits the 15% cap of 10,720 PAGA Pay Periods; or (2) consent to have the Gross Settlement Amount increased by the percentage that the actual number of PAGA Pay Periods exceeds the permitted 15% cap of 10,720 PAGA Pay Periods.

9. CONTINUING JURISDICTION OF THE COURT.

The Parties agree that, after entry of Judgment, the Court will retain jurisdiction over the Parties, Action, and the Settlement solely for purposes of (i) enforcing this Agreement and/or Judgment, (ii) addressing settlement administration matters, and (iii) addressing such post-Judgment matters as are permitted by law.

1 9.1. Waiver of Right to Appeal. Provided the Judgment is consistent with the terms and
2 conditions of this Agreement, specifically including the PAGA Counsel Fees Payment and PAGA
3 Counsel Litigation Expenses Payment, the Parties, their respective counsel waive all rights to appeal
4 from the Judgment, including all rights to post-judgment and appellate proceedings, the right to file
5 motions to vacate judgment, motions for new trial, extraordinary writs, and appeals. The waiver of
6 appeal does not include any waiver of the right to oppose such motions, writs or appeals. If another party
7 appeals the Judgment, the Parties' obligations to perform under this Agreement will be suspended until
8 such time as the appeal is finally resolved and the Judgment becomes final, except as to matters that do
9 not affect the amount of the Net Settlement Amount.

10 **10. ADDITIONAL PROVISIONS.**

11 10.1. No Admission of Liability or Representative Manageability for Other Purposes. This
12 Agreement represents a compromise and settlement of highly disputed claims. Nothing in this
13 Agreement is intended or should be construed as an admission by Defendant that any of the allegations
14 in the Operative Complaint have merit or that Defendant has any liability for any claims asserted; nor
15 should it be intended or construed as an admission by Plaintiff that Defendant's defenses in the Action
16 have merit. The Parties agree that representative treatment is for purposes of this Settlement only. If,
17 for any reason the Court does not approve this Settlement, Defendant reserves all available defenses to
18 the claims in the Action, and Plaintiff reserves the right to contest Defendant's defenses. The
19 Settlement, this Agreement and Parties' willingness to settle the Action will have no bearing on, and will
20 not be admissible in connection with, any litigation (except for proceedings to enforce or effectuate the
21 Settlement and this Agreement).

22 10.2. Integrated Agreement. Upon execution by all Parties and their counsel, this Agreement
23 together with its attached exhibits shall constitute the entire agreement between the Parties relating to
24 the Settlement, superseding any and all oral representations, warranties, covenants, or inducements made
25 to or by any Party.

26 10.3. Attorney Authorization. PAGA Counsel and Defense Counsel separately warrant and
27 represent that they are authorized by Plaintiff and Defendant, respectively, to take all appropriate action
28 required or permitted to be taken by such Parties pursuant to this Agreement to effectuate its terms, and

1 to execute any other documents reasonably required to effectuate the terms of this Agreement including
2 any amendments to this Agreement.

3 10.4. Cooperation. The Parties and their counsel will cooperate with each other and use their
4 best efforts, in good faith, to implement the Settlement by, among other things, modifying the
5 Settlement Agreement, submitting supplemental evidence and supplementing points and authorities as
6 requested by the Court. In the event the Parties are unable to agree upon the form or content of any
7 document necessary to implement the Settlement, or on any modification of the Agreement that may
8 become necessary to implement the Settlement, the Parties will seek the assistance of a mediator and/or
9 the Court for resolution.

10 10.5. No Prior Assignments. The Parties separately represent and warrant that they have not
11 directly or indirectly assigned, transferred, encumbered, or purported to assign, transfer, or encumber to
12 any person or entity and portion of any liability, claim, demand, action, cause of action, or right released
13 and discharged by the Party in this Settlement.

14 10.6. No Tax Advice. Neither Plaintiff, PAGA Counsel, Defendant nor Defense Counsel are
15 providing any advice regarding taxes or taxability, nor shall anything in this Settlement be relied upon as
16 such within the meaning of United States Treasury Department Circular 230 (31 CFR Part 10, as
17 amended) or otherwise.

18 10.7. Modification of Agreement. This Agreement, and all parts of it, may be amended,
19 modified, changed, or waived only by an express written instrument signed by all Parties or their
20 representatives, and approved by the Court.

21 10.8. Agreement Binding on Successors. This Agreement will be binding upon, and inure to the
22 benefit of, the successors of each of the Parties.

23 10.9. Applicable Law. All terms and conditions of this Agreement and its exhibits will be
24 governed by and interpreted according to the internal laws of the state of California, without regard to
25 conflict of law principles.

26 10.10. Cooperation in Drafting. The Parties have cooperated in the drafting and preparation of
27 this Agreement. This Agreement will not be construed against any Party on the basis that the Party was
28 the drafter or participated in the drafting.

10.11. Confidentiality. To the extent permitted by law, all agreements made, and orders entered during Action and in this Agreement relating to the confidentiality of information shall survive the execution of this Agreement.

10.12. Use and Return of Aggrieved Employee Data. Information provided to PAGA Counsel pursuant to Cal. Evid. Code §1152, and all copies and summaries of the PAGA Data provided to PAGA Counsel by Defendant in connection with the mediation, other settlement negotiations, or in connection with the Settlement, may be used only with respect to this Settlement, and no other purpose, and may not be used in any way that violates any existing contractual agreement, statute, or rule of court. Not later than 90 days after the Administrator discharges its obligation to pay out of all Settlement funds, Plaintiff shall destroy all paper and electronic versions of Aggrieved Employee Data received from Defendant unless, prior to the Administrator's payment of all Settlement Funds, Defendant makes a written request to PAGA Counsel for the return, rather than the destruction, of Aggrieved Employee Data.

10.13. Headings. The descriptive heading of any section or paragraph of this Agreement is inserted for convenience of reference only and does not constitute a part of this Agreement.

10.14. Calendar Days. Unless otherwise noted, all reference to "days" in this Agreement shall be to calendar days. In the event any date or deadline set forth in this Agreement falls on a weekend or federal legal holiday, such date or deadline shall be on the first business day thereafter.

10.15. Notice. All notices, demands or other communications between the Parties in connection with this Agreement will be in writing and deemed to have been duly given as of the third business day after mailing by United States mail, or the day sent by email or messenger, addressed as follows:

To Plaintiff:
Shaun Setarch (SBN 204514)
shaun@setarehlaw.com
Jose Maria D. Patino, Jr. (SBN 270194)
jose@setarehlaw.com
Maxim Gorbunov (SBN 343128)
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SETAREH LAW GROUP
9665 Wilshire Boulevard, Suite 430
Beverly Hills, California 90212
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Facsimile: (310) 888-0109

To TAK Communications CA Inc.:
Brandon R. McKelvey (SBN 217002)
brandon@medinamckelvey.com
Timothy B. Nelson (SBN 235279)
tim@medinamckelvey.com
MEDINA McKELVEY LLP
925 Highland Pointe Drive, Suite 300
Roseville, California 95678
Telephone: (916) 960-2211

10.16. Execution in Counterparts. This Agreement may be executed in one or more counterparts by facsimile, electronically (i.e. DocuSign), or email which for purposes of this Agreement shall be accepted as an original. All executed counterparts and each of them will be deemed to be one and the same instrument if counsel for the Parties will exchange between themselves signed counterparts. Any executed counterpart will be admissible in evidence to prove the existence and contents of this Agreement.

10.17. Stay of Litigation. The Parties agree that upon the execution of this Agreement the litigation shall be stayed, except to effectuate the terms of this Agreement. The Parties further agree that upon the signing of this Agreement that pursuant to CCP section 583.330 to extend the date to bring a case to trial under CCP section 583.310 for the entire period of this settlement process.

The Parties hereby execute this Agreement.

Dated: 4/14/2023

Roshaun Johnson


ID qaAhsnia8wfcnWjG9wpM35p

Dated:

TAK Communications CA Inc.

By: _____

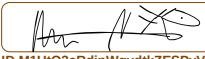
[NAME]

[TITLE]

1 APPROVED AS TO FORM:

2 Dated: 4/23/2023

SETAREH LAW GROUP

3
4 By:  ID M1UtQ3aRdinWgydtkZESPvVd

5 Shaun Setareh
6 Jose Patino
7 Maxim Gorbunov
8 Attorneys for Plaintiff ROSHAUN JOHNSON

9 Dated:

MEDINA McKELVEY LLP

10
11 By: _____

12 Brandon R. McKelvey
13 Timothy B. Nelson
14 Attorneys for Defendant TAK COMMUNICATIONS CA,
15 INC.

1 To TAK Communications CA Inc.:
2 Brandon R. McKelvey (SBN 217002)
3 brandon@medinamckelvey.com
4 Timothy B. Nelson (SBN 235279)
5 tim@medinamckelvey.com
6 MEDINA McKELVEY LLP
7 925 Highland Pointe Drive, Suite 300
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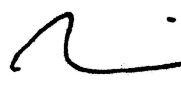
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21 Dated: March ___, 2023

Roshaun Johnson

22
23
24 Dated: April 26, 2023

TAK Communications CA Inc.

25 By: 
26 _____

27 Micah Mauney

28 President/CEO

1 APPROVED AS TO FORM:

2 Dated: March ___, 2023

SETAREH LAW GROUP

3
4 By: _____

5 Shaun Setareh
6 Jose Patino
7 Maxim Gorbunov
8 Attorneys for Plaintiff ROSHAUN JOHNSON

9 Dated: April 26, 2023

MEDINA McKELVEY LLP

10
11 By:  _____

12 Brandon R. McKelvey
13 Timothy B. Nelson
14 Attorneys for Defendant TAK COMMUNICATIONS CA,
15 INC.