

HAINES LAW GROUP, APC
Paul K. Haines (SBN 248226)
phaines@haineslawgroup.com
Tuvia Korobkin (SBN 268066)
tkorobkin@haineslawgroup.com
Alexandra R. McIntosh (SBN 320904)
amcintosh@haineslawgroup.com
2155 Campus Drive, Suite 180
El Segundo, California 90245
Tel: (424) 292-2350
Fax: (424) 292-2355

Attorneys for Plaintiff

EULALIO J. GARCIA (SBN: 141642)
ejgarcia@grsm.com
GORDON REES SCULLY MANSUKHANI, LLP
101 W. Broadway, Suite 2000
San Diego, CA 92101
Telephone: (619) 544-7211
Facsimile: (619) 696-7124

Attorneys for Defendant

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SAN DIEGO

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

Plaintiff,

vs.

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

Defendants.

ELECTRONICALLY FILED
Superior Court of California,
County of San Diego

03/14/2022 at 11:54:00 AM

Clerk of the Superior Court
By Richard Day, Deputy Clerk

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

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

**AMENDED JOINT STIPULATION TO
AMEND SETTLEMENT AGREEMENT;
~~PROPOSED~~ ORDER**

TO THE COURT, THE PARTIES, AND THEIR ATTORNEYS OF RECORD:

Plaintiff EDUARDO TOVAR (“Plaintiff”) and Defendant SUNSHINE COMMUNICATIONS, INC. (“Defendant”) (collectively, the “Parties”), respectfully submit the following Amended Joint Stipulation to Amend Settlement Agreement as follows:

WHEREAS, the Parties previously reached a settlement (the “Settlement”) resolving Plaintiff’s claims under the Private Attorneys General Act (“PAGA”);

WHEREAS, on December 17, 2021, this Court approved the Settlement per Labor Code § 2699(l) and retained jurisdiction over the Settlement pursuant to Cal. Code Civ. Proc. § 664.6, and the Court issued a further order on January 5, 2022 that clarified one term of the December 17, 2021 Order;

WHEREAS, per the Settlement, Defendant is to pay a Gross Settlement Amount (“GSA”) of \$275,000;

WHEREAS, paragraph V.5. of the Settlement provides that the Settlement may be amended by a written instrument, signed by counsel for all Parties;

WHEREAS, per paragraph III.3. of the Settlement, 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 have the Maximum Settlement Amount increase proportionally with the added pay periods . . . or to cut 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;

WHEREAS, after the Court approved the Settlement and Defendant began preparing Aggrieved Employee information to send to the Settlement Administrator, Defendant discovered that the number of pay periods worked by Aggrieved Employees during the PAGA Period exceeded 23,661, and informed Plaintiff of this fact;

WHEREAS, the Parties subsequently met and conferred and negotiated in good faith, and the Parties agreed that in light of the increase in pay periods, the Parties would amend the PAGA

1 Period to August 10, 2019 to November 30, 2021. By doing so, Defendant calculates that the total
2 pay periods during the PAGA Period would now total 23,006;

3 WHEREAS, the Parties attended an *ex parte* hearing before this Court on March 3, 2022.
4 The Court inquired as follows: how many employees will not receive a settlement check if the
5 PAGA Period is amended to August 10, 2019 to November 30, 2021; and what is the total amount
6 that would have been paid to those employees. The Court also indicated that the Labor Workforce
7 Development Agency (“LWDA”) should be notified of the Parties’ request;

8 WHEREAS, if the PAGA Period is amended to August 10, 2019 to November 30, 2021,
9 the Parties, in consultation with the third-party administrator, calculated that a total of 26
10 employees will no longer be included in the Settlement, and estimate that those 26 employees
11 would have received an aggregate total of between \$251.72 and \$281.20 if the Settlement were
12 to remain unchanged¹;

13 WHEREAS, as indicated in the Proof of Service filed herewith, this Amended Joint
14 Stipulation to Amend Settlement Agreement and [Proposed] Order are being uploaded to the
15 LWDA on the same date that they are being submitted to the Court;

16 WHEREAS, this Stipulation shall not alter or amend any other term or condition of the
17 Settlement as approved by the Court on December 17, 2021, and all other portions of the
18 Settlement not affected by this amendment shall remain in full force and effect.

19 NOW, THEREFORE, the Parties, through their respective attorneys of record, hereby
20 stipulate and respectfully jointly request that the Court approve the modification to the Settlement
21 embodied in this Stipulation.

22 **IT IS SO STIPULATED.**

23 ///

24 ///

25
26 ¹ Specifically, if Defendant opted to modify the final date of the PAGA Period so that the
27 Escalator Provision would no longer be triggered, the 26 employees would receive a total of
28 approximately \$251.72; if, instead, Defendant opted to increase the Gross Settlement Amount in
proportion with the increase in pay periods, the 26 employees would receive a total of
approximately \$281.20.

Respectfully submitted,

Dated: March 10, 2022

HAINES LAW GROUP, APC

By:

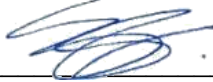


Paul K. Haines
Tuvia Korobkin
Alexandra R. McIntosh
Attorneys for Plaintiff

Dated: March 10, 2022

GORDON REES SCULLY MANSUKHANI, LLP

By:



Eulalio J. Garcia
Attorneys for Defendant

~~PROPOSED~~ ORDER

The Court, having received and reviewed the foregoing Amended Joint Stipulation to Amend Settlement Agreement, and GOOD CAUSE appearing, hereby GRANTS the Parties' request and ORDERS the following:

1. The Settlement is modified in accordance with the Parties' agreement outlined in the above Amended Stipulation. Specifically, the PAGA Period is now August 10, 2019 to November 30, 2021.

2. All other terms of the Settlement remain in full force and effect as approved by this Court on December 17, 2021 (and as subsequently clarified in the Court's January 5, 2022 Order).

IT IS SO ORDERED.

Dated: 3/17, 2022



Hon. Timothy Taylor
Judge of the Superior Court