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12 State of California

13 **SUPERIOR COURT OF CALIFORNIA**
14 **COUNTY OF ALAMEDA**

15 EDGAR DIAZ and JOE TRIGO, individually
16 and on behalf of all others similarly situated,

17 Plaintiffs,

18 vs.

19 TAK COMMUNICATIONS CA, INC.; TAK
COMMUNICATIONS, INC.; and DOES 1-25,
20 inclusive,

21 Defendants.
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Case No: RG20064706

CLASS ACTION

*Assigned for All Purposes to Judge Y. Winifred
Smith, Dept. 21*

**ORDER OF FINAL APPROVAL AND
JUDGMENT**

Date: April 23, 2021

Time: 10:00 a.m.

Reservation Number: R-2228006

Date Action Filed: June 12, 2020

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ORDER OF FINAL APPROVAL AND JUDGMENT

TO ALL PARTIES AND THEIR RESPECTIVE COUNSEL OF RECORD:

The Motion for Final Approval of Class-Action Settlement came before the Court on April 23, 2021, at 10:00 a.m., for a hearing and Order of Final Approval and Judgment (“Final Order”). Consistent with the Court’s Order Granting Plaintiff’s Motion for Preliminary Approval of Class Action Settlement (“Preliminary Approval Order”), filed and entered on December 11, 2020, the Settlement Agreement (“Settlement”), and due and adequate notice having been given to all Class Members as required in the Preliminary Approval Order, and the Court having considered all papers filed and proceedings had herein and otherwise being fully informed and good cause appearing therefore, it is hereby **ORDERED, ADJUDGED, AND DECREED AS FOLLOWS:**

1. All terms used herein shall have the same meaning as defined in the Settlement;
2. The term “Class Member(s)” means all current or former hourly, non-exempt employees who worked as Technicians for Defendants in the state of California between May 22, 2019 and August 4, 2020.
3. The term “Collective Member(s)” means individuals who (1) have submitted Opt-In Consent Forms in the federal lawsuit *Diaz, et al. v. TAK Communications CA, Inc., et al*, California District Court, Eastern District of California, Case No. 2:20-at-00481, on or before June 26, 2020, or who demonstrate that they would have opted-in to the federal lawsuit between June 26, 2020 and August 1, 2020 but for the dismissal of the federal lawsuit, as of August 4, 2020, and (2) worked as technicians for Defendants between May 22, 2019, or three years prior to the Opt-In Date for Opt-In Plaintiffs, whichever is earliest, and August 4, 2020.
4. The term “Released Parties” means means Defendants TAK Communications CA, Inc. and TAK Communications, Inc. (“Defendants”) and their present and former parent companies, subsidiaries, related or affiliated companies, and their shareholders, officers, directors, employees, agents, attorneys, insurers, successors and assigns, and any individual or entity that could be liable for any of the Released Claims, and Defendants’ Counsel.
5. “Participating Class Members” means all Class Members who do not request an exclusion.

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6. This Court has continuing jurisdiction over the subject matter of this Action and over all Parties to this Action, including all Participating Class Members and Opt-In Plaintiffs, until the Settlement is fully administered. (Cal. R. Ct. 3.769(h)).
7. All Participating Class Members and Opt-In Plaintiffs and all Released Claims are covered by and included within the Settlement and this Final Order.
8. The Court hereby finds the Settlement was entered into in good faith pursuant to and within the meaning of California Code of Civil Procedure § 877.6. The Court further finds that the Settlement is fair, reasonable and adequate and that Plaintiffs have satisfied the standards and applicable requirements for final approval of this class action settlement under California law, including the provisions of California Code of Civil Procedure § 382 and Federal Rule of Civil Procedure 23, approved for use by the California state courts in *Vasquez v. Superior Court* (1971) 4 Cal.3d 800, 821.
9. The Court finds that the Settlement has been reached as a result of intensive, serious and non-collusive arms-length negotiations. The Court further finds that the Parties have conducted extensive and costly investigation and research, and counsel for the Parties are able to reasonably evaluate their respective positions. The Court also finds that Settlement at this time will avoid additional substantial costs, as well as avoid the delay and risks that would be presented by the further prosecution of the Action. The Court has reviewed the benefits that are being granted as part of the Settlement and recognizes the significant value to the Participating Class Members and Opt-In Plaintiffs.
10. The Court finds that the Settlement Class is properly certified as a class for settlement purposes only, and orders that the Settlement Class be certified for settlement purposes only. The Court also finds that the Settlement Collective, consisting of the Opt-In Plaintiffs, is properly certified as a collective pursuant to the FLSA for settlement purposes only, and orders that the Settlement Collective be certified for settlement purposes only.
11. Distribution of the Notice Packet directed to the Class Members as set forth in the Settlement has been completed in conformity with the Preliminary Approval Order, including individual notice to all Class Members who could be identified through reasonable effort, and the best notice practicable under the circumstances. The Notice of Class and Collective Action Settlement provided due and adequate notice of the proceedings and of the matters set forth therein, including the proposed Settlement, to all

1 persons entitled to the Notice Packet, and the Notice Packet and its distribution fully
2 satisfied the requirements of due process.

3 12. The Court finds that zero Class Members have objected to the Settlement and zero Class
4 Members have requested exclusion from the Settlement.

5 13. The Court hereby approves the Settlement, and directs the Parties to effectuate the
6 Settlement according to its terms.

7 14. As of the date of entry of this Final Order, each and every Released Claim of each and
8 every respective Participating Class Member and Opt-In Plaintiff is and shall be deemed
9 to be conclusively released as against the Released Parties. As of the date of this Final
10 Order, Plaintiffs and each and every Class Member who has not submitted a valid
11 Request for Exclusion is hereby released and forever barred and enjoined from
12 prosecuting the Released Claims, except as to such rights or claims as may be created by
13 the Settlement, against Defendants and the Released Parties.

14 15. “Released Claims” include all claims from May 22, 2019, or three years prior to the Opt-
15 In Date for Opt-In Plaintiffs, whichever is earliest, to November 4, 2020,¹ set forth as
16 follows, pursuant to the Settlement:

- 17 a. Opt-In Plaintiffs: Opt-In Plaintiffs release all Releasees from the following rights
18 or claims: any and all claims under the Fair Labor Standards Act, 29 U.S.C. §§
19 201, *et seq.*, based on or arising out of the same factual predicates of the Action.
- 20 b. California Class Members: The California Class Members release the Releasees
21 from the following rights or claims: any and all claims under California law,
22 based on or arising out of the same factual predicates of the Action, the
23 Complaint, and/or the allegations in the Complaint, including (a) all claims that
24 were or could have been raised in the Actions; and (b) all claims that are based
25 on or relate to the purported payment or nonpayment of compensation (including,
26 but not limited to, wages, minimum wage, straight time, overtime, bonuses,
27 incentive compensation, and/or premium pay), meal or rest period premiums or
28 penalties, reimbursement of business expenses, improper wage statements,
improper recordkeeping, unfair business practices, including related premiums,
statutory penalties, civil penalties, liquidated damages, interest, punitive

¹ The release period for PAGA claims runs from May 22, 2019 to November 4, 2020.

1 damages, costs, attorneys' fees, injunctive relief, declaratory relief, or accounting,
2 whether such causes of action are in tort, contract, or pursuant to a statutory
3 remedy.

4 c. As to California Class Members who are not Opt-In Plaintiffs and who cash,
5 deposit, or otherwise negotiate their Settlement Award checks shall also release
6 any and all claims against the Releasees under the Fair Labor Standards Act, 29
7 U.S.C. §§ 201, *et seq.*, arising from or related to their work for Defendants in the
8 State of California, based on these same factual predicates.

9 d. As to California Class Members who are not Opt-In Plaintiffs and who do not
10 cash or deposit their Settlement Award checks, shall not release any claims
11 against the Released Parties under the Fair Labor Standards Act, 29 U.S.C. §§
12 201, *et seq.*

13 16. The Court finds and orders that the Settlement is and constitutes a fair, reasonable and
14 adequate compromise of the Released Claims against Defendants and the Released
15 Parties.

16 17. The Parties entered into the Settlement to resolve the dispute that has arisen between
17 them and to avoid the burden, expense and risk of continued litigation. In entering into
18 the Settlement, Defendants do not admit, and specifically deny, it has violated any state,
19 federal, or local law; violated any regulations or guidelines promulgated pursuant to
20 any statute or any other applicable laws, regulations or legal requirements; or engaged
21 in any other unlawful conduct with respect to its employees. Neither this Final Order,
22 the Settlement, nor any document referred to herein, nor any action taken to carry out the
23 Settlement, shall be construed as an admission or concession by Defendants of any such
24 violations or failures to comply with any applicable law. Except as necessary in a
25 proceeding to enforce the terms of the Settlement, the Settlement and its terms and
26 provisions shall not be offered or received as evidence in any action or proceeding to
27 establish any liability or admission on the part of Defendants or to establish the
28 existence of any condition constituting a violation of, or a non-compliance with state,
federal, local or other applicable law.

18. The Court hereby enters judgment in the entire Action as of the filing date of this Final
Order, pursuant to the terms set forth in the Settlement. Without affecting the finality of
this Final Order in any way, the Court hereby retains continuing jurisdiction over the

1 interpretation, implementation and enforcement of the Settlement and all orders entered
2 in connection therewith pursuant to California Code of Civil Procedure § 664.6.

3 19. The Court hereby finds the Individual Settlement Payments provided for under the
4 Settlement and the Notice of Class and Collective Action Settlement to be fair and
5 reasonable in light of all the circumstances. The Court, therefore, orders the calculations
6 and the payments to be made and administered in accordance with the terms of the
7 Settlement and the Notice of Class and Collective Action Settlement.

8 20. The Court hereby approves and orders payment in the amount of \$35,000.00 from the
9 Gross Settlement Amount for the Labor and Workforce Development Agency Payment,
10 \$26,250.00 of which is payable to the California Labor Workforce Development Agency.

11 21. The Court hereby confirms Plaintiffs Edgar Diaz and Joe Trigo as Class Representatives
12 and Schneider Wallace Cottrell Konecky LLP and Berger Montague P.C. as Class
13 Counsel in the Action.

14 22. The Court hereby approves and orders the Class Representative Enhancement Payments
15 to Plaintiffs Diaz and Trigo, in the amount of \$10,000.00 each from the Gross Settlement
16 Amount for their efforts on behalf of the Class.

17 23. Pursuant to the terms of the Settlement, and the authorities, evidence and argument
18 submitted by Class Counsel, the Court hereby awards Class Counsel attorneys' fees in
19 the amount of \$399,999.99, and attorneys' costs in the amount of \$16,880.15, from the
20 Gross Settlement Amount as final payment for and complete satisfaction of any and all
21 Attorneys' Fees and Costs incurred by and/or owed to Class Counsel and any other
22 person or entity related to the Action. The Court further orders that the award of
23 Attorneys' Fees and Costs set forth in this Paragraph shall be administered pursuant to
24 the terms of the Settlement, and transferred and/or made payable to Schneider Wallace
25 Cottrell Konecky LLP and Berger Montague P.C. as Class Counsel in the Action.

26 24. The Court also hereby approves and orders payment from the Gross Settlement Amount
27 for actual claims administration expenses incurred by the Claims Administrator,
28 Simpluris Settlement Administrators, in the amount of \$27,500.00.

29 25. Provided the Settlement becomes effective under the terms of the Settlement, the Court
30 also hereby orders that the deadline for making the Court-approved Individual Settlement
31 Payments, the Labor and Workforce Development Agency Payment, Attorneys' Fees
32 and Costs payment, and Service Awards (i.e., Class Representative Enhancement

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Payments) is as set forth in the Implementation Schedule within the Notice of Motion and Motion for Final Approval of Class and Collective Action Settlement.

26. The Court also hereby finds that there were no objections to the Settlement raised by any persons on the record at the hearing on the Final Order.

IT IS SO ORDERED. LET JUDGMENT BE ENTERED ACCORDINGLY.

Dated: _____

THE HONORABLE WINIFRED Y. SMITH
JUDGE OF THE SUPERIOR COURT