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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

CORNELIUS WREN, et al.,
Plaintiffs,
v.
UNITED COMMTEL, L.L.C.,
Defendant.

Case No. [12-cv-06022-JD](#)

**ORDER APPROVING SETTLEMENT
AND DISMISSING ACTION**

This matter is before the Court on the parties’ Amended Joint Motion for Approval of Settlement and Motion for Entry of Agreed Judgment. Dkt. No. 58. Following the hearing on that motion, the parties submitted a revised and executed settlement agreement pursuant to the agreement of the parties and order of the Court. Dkt. Nos. 61, 62. The Court now approves the revised Settlement Agreement and Release (“revised settlement”), filed on the ECF docket as Dkt. No. 62, Ex. A, and dismisses the case.

Because this is the settlement of a putative class action prior to -- and without -- certification, the Court directed that the parties address the factors set forth in *Diaz v. Trust Territory of the Pacific Islands*, 876 F.2d 1401, 1408-11 (9th Cir. 1989). The parties have done so, and the Court is satisfied that the putative class members will not be prejudiced by the revised settlement. The putative class members’ claims are neither settled nor released, and their claims are hereby dismissed without prejudice.

The parties’ proposed revised settlement also includes the compromise of plaintiffs’ claims brought under Section 216(b) of the Fair Labor Standards Act, 29 U.S.C. § 201, et seq., which requires the Court’s scrutiny and approval. After reviewing the parties’ amended motion, revised settlement agreement, and the entire record in this action, the Court concludes that the proposed

1 revised settlement is a fair and reasonable resolution of a bona fide dispute, and the Court
2 consequently approves the settlement of the FLSA claims.

3 The Court otherwise approves and enters as an order of the Court all terms and conditions
4 of the revised settlement. As discussed at the hearing, the Court declines to enter the proposed
5 agreed judgment against defendant United Commtel, LLC (in the amount of \$175,000.00, plus
6 post-judgment interest accruing at the rate of 5% per annum, as well as costs of court and costs
7 incurred in satisfying the judgment) at this time. Plaintiffs may, however, move to re-open this
8 case and seek entry of the agreed judgment pursuant to the terms of the parties' agreement, should
9 there be an uncured default by United Commtel as set forth in the revised settlement. The Court
10 will enter the agreed judgment at that time, so long as plaintiffs can show that the parties' agreed-
11 upon conditions have been met.

12 This action is consequently dismissed with prejudice pursuant to the terms of the revised
13 settlement agreement as to the individual plaintiffs and defendant (as defined in the revised
14 settlement agreement) who are parties to that agreement. The dismissal is without prejudice as to
15 the putative class members as they are described in the complaint in this matter.

16 **IT IS SO ORDERED.**

17 Dated: October 16, 2014

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20 JAMES DONATO
21 United States District Judge
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