

**IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS
WESTERN DIVISION**

**DAVID POINTER; MICHAEL MONDAY;
and MICHAEL HALL, all individually and
on behalf of all others similarly situated**

PLAINTIFFS

v.

No. 4:17-cv-772-DPM

**DIRECTV LLC; DAVID MOSES, d/b/a Sky
Connect, Endeavor Communications,
Endeavor Holdings, and Sky High
Communications; MOSES CAPITAL
GROUP LLC; and MOSES HOLDINGS LLC**

DEFENDANTS

ORDER

1. The Court appreciates the parties' response to the issues the Court raised during the recent telephone conference. The revised proposed joint stipulation and settlement agreement and revised proposed notice address the Court's concerns well.

2. The Court certifies the following group as a collective action for settlement purposes, and as a settlement class:

All satellite installation and repair technicians who worked for David Moses d/b/a Endeavor Communications from 30 October 2015 to 5 July 2019, who provided installation and repair services for DIRECTV customers, who were not managers, and who were classified as independent contractors at any time during this period.

As the Court held when it conditionally certified the collective action, *No. 68*, the forty technicians who worked for the Moses entities are similarly situated. They may have been misclassified as independent contractors and not paid proper wages. *Wandrey v. CJ Professional Satellites, Inc.*, 2014 WL 4425799, at *4-5 (W.D. Ark. 9 Sept. 2014). The group also qualifies as a class under Federal Rule of Civil Procedure 23. Misclassification is the core claim; there are approximately forty affected workers; and the named plaintiffs will adequately represent the class. The Court appoints Jerry Garner, John Holleman, and Timothy Steadman of Holleman & Associates, P.A., as class counsel. They are able and experienced.

3. The Court tentatively concludes that the proposed settlement of the collective action and the class action is fair and reasonable. In due course, the Court is likely to give its final approval. FED. R. CIV. P. 23(e); *Wineland v. Casey's General Stores, Inc.*, 267 F.R.D. 669, 675-77 (S.D. Iowa 2009) (FLSA group and Rule 23 class). The settlement shows a good-faith compromise between the parties about what DirecTV owes the technicians who worked with Moses and his entities. Also, the Court concludes (for the purposes of notice) that the proposed attorney's fees are reasonable overall considering the work involved. The Court will revisit its assessment at the fairness hearing.

4. The Court tentatively approves the revised joint stipulation and settlement agreement, *No 96-1*, and approves the notice of class action settlement, *No 96-2*.

5. The Court schedules the fairness hearing for 3:00 p.m. on Wednesday, 13 November 2019 in courtroom B-155 at the Richard Sheppard Arnold United States Courthouse, 600 West Capitol Ave., Little Rock, Arkansas 72201.

6. Here's the schedule:

- 13 September 2019 - Deadline to complete notice mailing.
- 11 October 2019 - Deadline for any objector's lawyer to file an appearance in this case.
- 18 October 2019 - Objections or opt-outs due.
- 25 October 2019 - Motion for final approval of settlement due.
- 13 November 2019 - Fairness hearing.

Notice should be mailed as soon as practicable.

So Ordered.

DP Marshall Jr.
D.P. Marshall Jr.
United States District Judge

16 July 2019