

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

ROCHELLE L. WILCOX (State Bar No. 197790)
DAVIS WRIGHT TREMAINE LLP
865 S. Figueroa St., Suite 2400
Los Angeles, California 90017-2566
Telephone (213) 633-6800
Fax (213) 633-6899
Email: rochellewilcox@dwt.com

STEPHEN M. RUMMAGE (*Admitted Pro Hac Vice*)
KENNETH E. PAYSON (*Admitted Pro Hac Vice*)
DAVIS WRIGHT TREMAINE LLP
1201 Third Avenue, Suite 2200
Seattle, WA 98101-3045
Telephone (206) 622-3150
Fax (206) 757-7700
Email: steverummage@dwt.com; kenpayson@dwt.com

Attorneys for Defendant CLEARWIRE CORPORATION,
erroneously sued as CLEARWIRE, INC.

IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

| | | |
|--|---|---|
| SHARON NEWTON, individually and on |) | Case No. 2:11-cv-00783-WBS-DAD |
| behalf of all others similarly situated, |) | |
| |) | JOINT STATUS REPORT, STIPULATION, |
| Plaintiffs, |) | AND [PROPOSED] ORDER STAYING |
| |) | ACTION |
| vs. |) | |
| |) | |
| CLEARWIRE, INC., |) | |
| |) | |
| Defendant. |) | |
| |) | |

JOINT STATUS REPORT AND STIPULATION

On February 4, 2013, the parties filed a Joint Status Report [Dkt. 52] advising the Court that: (i) on December 20, 2012, the court in *Dennings v. Clearwire Corporation*, Case No. 2:10-cv-01859-JLR (W.D. Wash.), entered a Settlement Order and Final Judgment granting final approval of the parties' settlement which, among other things, resolved the claims Ms. Newton asserted in the above-captioned action; and (ii) on January 18, 2013, objectors Gordon Morgan and Jeremy De La Gaza filed a Notice of Appeal of the Settlement Order and Final Judgment.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

On February 14, 2013, the Court entered an Order [Dkt. 53]: (i) vacating the scheduling conference scheduled for *February 19, 2013*; (ii) staying this matter until *August 5, 2013*; and (iii) ordering the parties to file a Joint Status Report no later than *August 5, 2013*.

The parties, by and through their attorneys of record, provide this Joint Status Report advising the Court that:

- On April 22, 2013, the Ninth Circuit granted plaintiffs’ motion for summary affirmance of the *Dennings* district court’s Settlement Order and Final Judgment; the summary affirmance order became final on June 3, 2013.
- On May 3, 2013, the *Dennings* district court granted class counsel’s motion for attorneys’ fees and expenses.
- On June 3, 2013, objectors appealed that order. The objectors’ appeal from the order awarding fees remains pending.
- Because the fee award will determine the amount available to pay class members’ claims, settlement payments will not be made until the Court resolves the pending appeal.

The parties, therefore, respectfully request that the Court continue to stay this case pending final affirmance on appeal of the fee award in *Dennings*, at which time the parties intend to file a stipulation and proposed order with this Court dismissing this action with prejudice and without award of costs to either party.

Respectfully submitted this 5th day of August, 2013.

| | |
|----------------------------|-----------------------|
| For Clearwire Corporation: | For Plaintiff: |
| DAVIS WRIGHT TREMAINE LLP | AUDET & PARTNERS, LLP |

| | |
|--|--|
| By: <u>/s/ Kenneth E. Payson</u> Kenneth E. Payson (<i>admitted pro hac vice</i>) | By: <u>/s/ Jonas Mann (authorized on 8/5/13)</u> Jonas Mann |
|--|--|

| | |
|--|---|
| Attorneys for Defendant CLEARWIRE CORPORATION | Of Attorneys for Plaintiff SHARON NEWTON |
|--|---|

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

ORDER

IT IS SO ORDERED.

The Court APPROVES the parties' stipulation and STAYS this matter until *February 5, 2014*. The parties shall file a Joint Status Report no later than *February 5, 2014*. **The Scheduling Conference is continued to February 18, 2014 at 2:00 p.m.**

Dated: August 7, 2013



WILLIAM B. SHUBB
UNITED STATES DISTRICT JUDGE

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

CERTIFICATE OF SERVICE

I hereby certify that on this day, I caused to be electronically filed the foregoing document with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following counsel of record:

Michael McShane (mmcshane@audetlaw.com)
Jonas Mann (jmann@audetlaw.com)
Audet & Partners, LLP
221 Main Street, Suite 1460
San Francisco, CA 94105

Bryce Miller (bmmiller@baillonhome.com)
Baillon Thome Jozwiak Miller & Wanta LLP
222 South Ninth Street, Suite 2955
Minneapolis, MN 55402

DATED this 5th day of August, 2013.

s/ Kenneth E. Payson

Kenneth E. Payson (*admitted pro hac vice*)
Davis Wright Tremaine LLP
1201 Third Avenue, Suite 2200
Seattle, Washington 98101-3045
Telephone: (206) 622-3150
Fax: (206) 757-7700
E-mail: kenpayson@dwt.com