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WHEREAS, a class action entitled *Sims v. Cellco Partnership d/b/a Verizon*Wireless, a Delaware General Partnership, Case No. 3:07-cv-1510-MMC (the "Action") is pending before the Court;

WHEREAS, Plaintiff having made application, pursuant to Federal Rule of Civil Procedure 23, for an order preliminarily approving the settlement of the Action, in accordance with a Stipulation of Settlement (the "Stipulation") which, together with the Exhibits annexed thereto sets forth the terms and conditions for a proposed settlement of the Action and for dismissal of the Action with prejudice upon the terms and conditions set forth therein; and the Court having read and considered the Stipulation and the Exhibits annexed thereto;

WHEREAS, all defined terms contained herein shall have the same meanings as set forth in the Stipulation.

## NOW, THEREFORE, IT IS HEREBY ORDERED:

- 1. The Court preliminarily approves the Stipulation and the Settlement set forth therein, subject to further consideration and final approval at the Settlement Hearing described below.
- 2. Pursuant to Federal Rule of Civil Procedure 23, the Court certifies, solely for purposes of effectuating this Settlement, a Settlement Class defined as: all past or present Verizon Wireless Subscribers who were assigned a mobile telephone number previously assigned to another owner or user, and who paid charges for third party mobile content that were authorized by the prior owner and/or users of that mobile telephone number and not by the present Subscriber, and for which the present Subscriber has not received a full credit or refund.
- 3. The Court appoints Jay Edelson of KamberEdelson, LLC and John G. Jacobs of The Jacobs Law Firm, Chtd. as Lead Class Counsel, and further appoints Jay Edelson and Myles McGuire of KamberEdelson, LLC, John G. Jacobs and Bryan G. Kolton of The Jacobs Law Firm, Chtd., and Terry M. Gordon of Law Offices of Terry M. Gordon as Class Counsel.

- 4. A hearing (the "Settlement Hearing") shall be held before this Court on July 24, 2009, at 9:00 a.m., at the United States District Court for the Northern District of California, San Francisco Division, Courtroom 7 (19th Floor), located at 450 Golden Gate Avenue, San Francisco, California, to determine whether the proposed Settlement of the Action on the terms and conditions provided for in the Stipulation is fair, just, reasonable, and adequate to each of the Settling Parties and the Settlement Class and should be approved by the Court; whether a Final Judgment and Order of Dismissal With Prejudice as defined in Section 1.7 of the Stipulation should be entered herein; and to determine the amount of fees and expenses that should be awarded to Plaintiff's Counsel and the amount of the incentive award that shall be awarded to Plaintiff.
- 5. The Court approves, as to form and content, both the Notice of Pendency and Settlement of Class Action and Settlement Hearing Thereon and the Claim Form, attached, respectively, as Exhibit 1 and Exhibit 2 hereto, and finds that mailing and distribution of the Notice and Claim Form substantially in the manner and form set forth in ¶ 6 of this Order meets the requirements of Rule 23 of the Federal Rules of Civil Procedure and due process, and is the best notice practicable under the circumstances and shall constitute due and sufficient notice to all persons entitled thereto.
- 6. Verizon Wireless' Counsel is hereby authorized to retain EPIQ Systems, Inc. (the "Settlement Administrator") to mail the class notice and administer the notice procedure as more fully set forth below:
- a. Verizon Wireless shall provide the most recent names and addresses of Settlement Class Members, as contained in Verizon Wireless' books and records as of the date of filing of the Order for Notice and Hearing, to the Settlement Administrator.
- b. No later than February 20, 2009, the Settlement Administrator shall cause a copy of the Notice and Claim Form to be posted on the internet at:

  www.simsclasssettlement.com. Verizon Wireless will also make available a copy of the Notice and Claim Form on the Legal Notices section of its website.

- c. No later than March 13, 2009, the Settlement Administrator shall cause a copy of the Notice and Claim Form to be sent by first class mail to the addresses provided by Verizon Wireless.
- d. No later than July 10, 2009, Verizon Wireless' Counsel shall serve on Class Counsel and file with the Court proof, by affidavit or declaration, that the Settlement Administrator has performed the functions described above.
- 7. All members of the Settlement Class who do not submit a valid request for exclusion in accordance with ¶10 below shall be bound by all determinations and judgments in the Action concerning the Settlement, whether favorable or unfavorable to the Settlement Class.
- 8. Settlement Class Members may enter an appearance in the Action, at their own expense, individually or through counsel of their own choice. If they do not enter an appearance, they will be represented by Class Counsel.
- 9. Pending final determination of whether the Settlement should be approved, neither Plaintiff nor any Settlement Class Member, either directly, representatively, or in any other capacity, shall commence or prosecute against any of the Released Parties, any action or proceeding in any court or tribunal asserting any of the Released Claims.
- 10. Any person falling within the definition of the Settlement Class may, upon request, be excluded from the Settlement Class. Any such Person must submit to the Settlement Administrator a request for exclusion ("Request for Exclusion"), to be received or postmarked no later than June 12, 2009. A Request for Exclusion must state: (a) the name, address, and telephone number of the Person requesting exclusion, and (b) that the Person wishes to be excluded from the Settlement Class. All Persons who submit valid and timely Requests for Exclusion in the manner set forth in this paragraph shall have no rights under the Stipulation, shall not share in the settlement relief, and shall not be bound by the Stipulation or the Final Judgment.

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- 11. Any Settlement Class Member may appear and show cause (if he or she has any): (1) why the proposed Settlement of the Action should or should not be approved as fair, just, reasonable and adequate; (2) why a Final Judgment and Order of Dismissal With Prejudice should or should not be entered thereon; and/or (3) why attorneys' fees and expenses should or should not be awarded to Plaintiff's Counsel. However, no Settlement Class Member or any other Person shall be entitled to contest the approval of the terms and conditions of the proposed Settlement, or, if approved, the Final Judgment and Order of Dismissal With Prejudice to be entered thereon approving the same, or the attorneys' fees and expenses to be awarded to Plaintiff's Counsel unless that Person has (a) delivered by hand or sent by overnight or first-class mail written objections and copies of any papers and briefs such that they are received no later than June 12, 2009, to Jay Edelson, KamberEdelson LLP, 350 North LaSalle, Suite 1300, Chicago, IL 60654, and Penelope A. Preovolos, Morrison & Foerster LLP, 425 Market Street, San Francisco, CA 94105-2482, and (b) filed said objections, papers and briefs with the Clerk of the Court, United States District Court for the Northern District of California, 16th Floor, 450 Golden Gate Avenue, San Francisco, California 94102, on or before June 12, 2009. Any Settlement Class Member who does not make his or her objection in the manner provided herein shall be deemed to have waived such objection and shall forever be foreclosed from making any objection to the fairness or adequacy of the proposed Settlement as incorporated in the Stipulation, to the Final Judgment and Order of Dismissal With Prejudice, and/or to the award of attorneys' fees and reimbursement of expenses to Plaintiff's Counsel, unless otherwise ordered by the Court.
- 12. The application by Class Counsel for attorneys' fees or reimbursement of expenses shall be filed and served no later than July 10, 2009.
- 13. All papers in support of the Settlement and in response to any objections shall be filed and served July 10, 2009.
- 14. At or after the Settlement Hearing, the Court shall determine whether any application for attorneys' fees or reimbursement of expenses shall be approved.

- 15. Neither the Stipulation, nor any of its terms or provisions, nor any of the negotiations or proceedings connected with it, shall be construed as: (1) an admission or concession by Defendants of the truth of any of the allegations in the Action, or of any liability, fault, or wrongdoing of any kind; or (2) an admission or concession by Plaintiff and/or the Settlement Class of any infirmity in the claims asserted in the Action.
- 16. The Court reserves the right to adjourn the date of the Settlement Hearing without further notice to the members of the Settlement Class, and retains jurisdiction to consider all further applications arising out of or connected with the proposed Settlement. The Court may approve the Settlement, with such modifications as may be agreed to by the Settling Parties, if appropriate, without further notice to the Settlement Class.

Dated: February 18, 2009

By: Order of the United States
District Court for the Northern District
of California

Hor Maxine M. Chesney
UNITED STATES DISTRICT
JUDGE