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UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO DIVISION

MICHELLE SIMS, individually and on behalf of a  
class of similarly-situated individuals,

Plaintiff,

v.

CELLCO PARTNERSHIP d/b/a VERIZON  
WIRELESS, a Delaware general partnership,

Defendant.

Case No. 07-1510 MMC

[Hon. Maxine Chesney]

CLASS ACTION

~~PROPOSED~~ ORDER  
PRELIMINARILY APPROVING  
SETTLEMENT AND PROVIDING  
FOR NOTICE AND HEARING

**~~PROPOSED~~ ORDER PRELIMINARILY APPROVING SETTLEMENT,  
CERTIFYING THE SETTLEMENT CLASS, AND PROVIDING FOR NOTICE AND  
HEARING**

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

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

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

13 NOW, THEREFORE, IT IS HEREBY ORDERED:

14 1. The Court preliminarily approves the Stipulation and the Settlement set forth therein,  
15 subject to further consideration and final approval at the Settlement Hearing described below.

16 2. Pursuant to Federal Rule of Civil Procedure 23, the Court certifies, solely for purposes  
17 of effectuating this Settlement, a Settlement Class defined as: all past or present Verizon  
18 Wireless Subscribers who were assigned a mobile telephone number previously assigned to  
19 another owner or user, and who paid charges for third party mobile content that were authorized  
20 by the prior owner and/or users of that mobile telephone number and not by the present  
21 Subscriber, and for which the present Subscriber has not received a full credit or refund.  
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23 3. The Court appoints Jay Edelson of KamberEdelson, LLC and John G. Jacobs of The  
24 Jacobs Law Firm, Chtd. as Lead Class Counsel, and further appoints Jay Edelson and Myles  
25 McGuire of KamberEdelson, LLC, John G. Jacobs and Bryan G. Kolton of The Jacobs Law  
26 Firm, Chtd., and Terry M. Gordon of Law Offices of Terry M. Gordon as Class Counsel.  
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1 c. No later than March 13, 2009, the Settlement Administrator shall cause a  
2 copy of the Notice and Claim Form to be sent by first class mail to the addresses provided by  
3 Verizon Wireless.

4 d. No later than July 10, 2009, Verizon Wireless' Counsel shall serve on  
5 Class Counsel and file with the Court proof, by affidavit or declaration, that the Settlement  
6 Administrator has performed the functions described above.

7 7. All members of the Settlement Class who do not submit a valid request for  
8 exclusion in accordance with ¶10 below shall be bound by all determinations and judgments in  
9 the Action concerning the Settlement, whether favorable or unfavorable to the Settlement Class.

10 8. Settlement Class Members may enter an appearance in the Action, at their own  
11 expense, individually or through counsel of their own choice. If they do not enter an appearance,  
12 they will be represented by Class Counsel.

13 9. Pending final determination of whether the Settlement should be approved,  
14 neither Plaintiff nor any Settlement Class Member, either directly, representatively, or in any  
15 other capacity, shall commence or prosecute against any of the Released Parties, any action or  
16 proceeding in any court or tribunal asserting any of the Released Claims.

17 10. Any person falling within the definition of the Settlement Class may, upon  
18 request, be excluded from the Settlement Class. Any such Person must submit to the Settlement  
19 Administrator a request for exclusion ("Request for Exclusion"), to be received or postmarked  
20 no later than June 12, 2009. A Request for Exclusion must state: (a) the name, address, and  
21 telephone number of the Person requesting exclusion, and (b) that the Person wishes to be  
22 excluded from the Settlement Class. All Persons who submit valid and timely Requests for  
23 Exclusion in the manner set forth in this paragraph shall have no rights under the Stipulation,  
24 shall not share in the settlement relief, and shall not be bound by the Stipulation or the Final  
25 Judgment.  
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1           11. Any Settlement Class Member may appear and show cause (if he or she has any):  
2 (1) why the proposed Settlement of the Action should or should not be approved as fair, just,  
3 reasonable and adequate; (2) why a Final Judgment and Order of Dismissal With Prejudice  
4 should or should not be entered thereon; and/or (3) why attorneys' fees and expenses should or  
5 should not be awarded to Plaintiff's Counsel. However, no Settlement Class Member or any  
6 other Person shall be entitled to contest the approval of the terms and conditions of the proposed  
7 Settlement, or, if approved, the Final Judgment and Order of Dismissal With Prejudice to be  
8 entered thereon approving the same, or the attorneys' fees and expenses to be awarded to  
9 Plaintiff's Counsel unless that Person has (a) delivered by hand or sent by overnight or first-class  
10 mail written objections and copies of any papers and briefs such that they are received no later  
11 than June 12, 2009, to Jay Edelson, KamberEdelson LLP, 350 North LaSalle, Suite 1300,  
12 Chicago, IL 60654, and Penelope A. Prevolos, Morrison & Foerster LLP, 425 Market Street,  
13 San Francisco, CA 94105-2482, and (b) filed said objections, papers and briefs with the Clerk of  
14 the Court, United States District Court for the Northern District of California, 16th Floor, 450  
15 Golden Gate Avenue, San Francisco, California 94102, on or before June 12, 2009. Any  
16 Settlement Class Member who does not make his or her objection in the manner provided herein  
17 shall be deemed to have waived such objection and shall forever be foreclosed from making any  
18 objection to the fairness or adequacy of the proposed Settlement as incorporated in the  
19 Stipulation, to the Final Judgment and Order of Dismissal With Prejudice, and/or to the award of  
20 attorneys' fees and reimbursement of expenses to Plaintiff's Counsel, unless otherwise ordered  
21 by the Court.

22           12. The application by Class Counsel for attorneys' fees or reimbursement of  
23 expenses shall be filed and served no later than July 10, 2009.

24           13. All papers in support of the Settlement and in response to any objections shall be  
25 filed and served July 10, 2009.

26           14. At or after the Settlement Hearing, the Court shall determine whether any  
27 application for attorneys' fees or reimbursement of expenses shall be approved.  
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