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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. 3:07-cv-1510-MMC

CLASS ACTION

**NOTICE OF PENDENCY AND PROPOSED
SETTLEMENT OF CLASS ACTION**

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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

If you were charged by Verizon Wireless for third party mobile content that you did not subscribe for but that was subscribed for by the previous owner or user of your mobile telephone number, you could be entitled to benefits under a class action settlement.

The United States District Court, Northern District of California, authorized this notice. This is not a solicitation from a lawyer.

If you are a member of the class and the Court approves the settlement:

- You may be eligible to receive up to a \$15 refund in the form of a credit on your Verizon Wireless bill or a cash payment.
- Your legal rights are affected whether you act or don't act. Please read this notice carefully.

YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT:	
SUBMIT A CLAIM FORM	The only way to get a refund.
EXCLUDE YOURSELF	Get no refund. This is the only option that allows you to ever be part of any other lawsuit against Verizon Wireless about the legal claims in this case.
OBJECT	Write to the Court about why you don't like the settlement.
GO TO A HEARING	Ask to speak in Court about the fairness of the settlement.
DO NOTHING	Get no refund. Give up rights.

- These rights and options—**and the deadlines to exercise them**—are explained in this notice.
- The Court in charge of this case has preliminarily approved the settlement but still has to decide whether to give final approval to the settlement. Refunds will be made if the Court finally approves the settlement and after any appeals are resolved. Please be patient.

QUESTIONS? CALL (877) 283-6564 OR VISIT WWW.SIMSCLASSETTLEMENT.COM

1 UNITED STATES DISTRICT COURT
2 NORTHERN DISTRICT OF CALIFORNIA

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1 **BASIC INFORMATION**

2 **1. Why did I get this notice package?**

3 You were sent this material because it appears you may be a past or present Verizon Wireless
4 Subscriber (“Subscriber”) who was assigned a mobile telephone number previously assigned
5 to another owner and/or users, and who paid charges for third party mobile content (such as
6 ring tones, stock tips, horoscopes, jokes, etc.) that were authorized by the prior owner and/or
users of that mobile telephone number and not authorized by you, and for which you have not
received a full credit or refund.

7 The Court ordered this notice to be sent to you because you have a right to know about a
8 proposed settlement of a class action lawsuit, and about your options, before the Court decides
whether to give final approval to the settlement. If the Court gives its final approval and after
9 any appeals are resolved, you will receive the refunds that the settlement allows.

10 This package explains the lawsuit, the settlement, your legal rights, what benefits are
available, who is eligible for them, and how to get them.

11 The Court in charge of the case is the United States District Court for the Northern District of
12 California, and the case is known as *Sims v. Cellco Partnership d/b/a Verizon Wireless, a
13 Delaware General Partnership*, Case No. 3:07-cv-1510-MMC (N.D. Cal.). The person who
sued is called Plaintiff, and the company she sued, Cellco Partnership d/b/a Verizon Wireless
14 (“Verizon Wireless”), is called the Defendant.

14 **2. What is this lawsuit about?**

15 The lawsuit alleges that some Verizon Wireless Subscribers were assigned a “recycled”
16 mobile telephone number and were charged for third party mobile content that they had not
authorized, but rather were purportedly authorized by the previous owner and/or users of that
17 mobile telephone number. The lawsuit alleges that this resulted in unauthorized charges to
Subscribers’ accounts and seeks to represent a nationwide class of such Subscribers. Verizon
18 Wireless denies that it has done anything wrong. The settlement is not an admission of
wrongdoing.

19 **3. Why is this a class action?**

20 In a class action, one or more people, called Class Representatives (in this case Michelle
21 Sims), sue on behalf of people who have alleged similar claims. All these people are a Class
or Class Members. One court resolves the issues for all Class Members, except for those who
22 exclude themselves from the Class.

23 **4. Why is there a settlement?**

24 The Court did not decide in favor of Plaintiff or Defendant. Instead, both sides agreed to a
25 settlement. That way, they avoid the cost and risk of a trial and settlement benefits go to the
Class Members now instead of, if at all, years from now. The Class Representative and her
26 attorneys think the settlement is best for the Class Members.

1 **WHO IS IN THE SETTLEMENT**

2 To see if you will get a refund from this settlement, you first have to determine whether you
3 are a Class Member.

4 **5. How do I know if I am part of the settlement?**

5 The Court has decided that everyone who fits this description is a Class Member:

6 Those past or present Verizon Wireless Subscribers who, as reflected in Verizon Wireless’
7 records, were assigned a mobile telephone number previously assigned to another owner
8 and/or user, and who paid charges for third party mobile content that purportedly was
9 authorized by the prior owner and/or users of that mobile telephone number and not
authorized by the Settlement Class Member, and for which the Settlement Class Member has
not previously received a full credit or refund.

10 **6. Are there exceptions to being included?**

11 The Class does not include anyone who validly requests exclusion from the Settlement Class.
12

13 **7. I’m still not sure if I am included.**

14 If you are still not sure whether you are included, you can visit www.simsclassttlement.com
15 for more information or you can call counsel for the Settlement Class at 866-354-3015.

16 **THE SETTLEMENT BENEFITS—WHAT YOU GET**

17 **8. What does the settlement provide?**

18 Verizon Wireless will provide one million dollars (\$1,000,000) to the Settlement Class. If
19 you submit a valid claim form you will be entitled to a refund or credit of up to fifteen dollars
20 (\$15) as further described in Section 9 below. If the valid claims submitted by Class
21 Members total less than one million dollars (\$1,000,000), the difference between the amount
22 of the total claims and one million dollars (\$1,000,000) will be distributed in the form of hand
sets and minutes donated to the National Domestic Violence Hope Line, or similar charitable
organization(s) to be agreed upon by the parties.

23 **9. What can I get from the settlement?**

24 If you submit a valid claim form you will be entitled to a refund or credit in the amount of
25 fifteen dollars (\$15), unless full payment of the claims submitted by all Class Members would
26 exceed one million dollars (\$1,000,000), in which case you will instead receive a *pro rata*
27 share of the one million dollars (\$1,000,000) (“Refund Amount”). If you previously received
28 a partial credit or refund, you will receive a refund for the amount of Disputed Charges for
which you did not previously receive a credit or refund, up to a maximum of the Refund
Amount.

1 The Refund Amount shall be provided as follows: (a) in the form of a credit on your bill or,
2 in the sole discretion of Verizon Wireless, in the form of a cash payment, if you are a current
3 Subscriber; (b) in the form of a cash payment if you are a former Subscriber who is not
4 delinquent on your closed accounts for an amount in excess of \$15; and (c) if you are a former
5 Subscriber who is delinquent on your closed account, then you will receive a credit on the
6 delinquent account in an amount equal to the Refund Amount that otherwise would have been
7 payable under the settlement or, in the sole discretion of Verizon Wireless, a cash payment.

8 **HOW YOU GET A REFUND —SUBMITTING A CLAIM FORM**

9 **10. How can I get a refund?**

10 You must submit a claim form. You can either complete the form included with this notice
11 and mail it to Sims Settlement Administrator, P.O. Box 4109, Portland OR 97208-4109 or, in
12 the alternative, go to www.simsclasssettlement.com and submit a claim form electronically.
13 Make sure to follow all of the instructions on the claim form. **In order to be considered for
14 a refund, your claim form must be postmarked or received no later than June 12, 2009.
15 If your claim form is not postmarked or received by the required date, your claim will
16 be rejected, and you will be deemed to have waived all rights to receive any benefits
17 under this settlement.**

18 **11. When would I get my refund?**

19 The Court will hold a hearing on July 24, 2009 at 9:00 a.m., to decide whether to give final
20 approval to the settlement. If the Court gives final approval to the settlement, there may be
21 appeals. The appeal process can take time, perhaps more than a year. Please be patient.

22 **12. What am I giving up to get a refund or stay in the Class?**

23 Unless you exclude yourself, you stay in the Class, and that means that you can't sue,
24 continue to sue, or be part of any other lawsuit against Verizon Wireless about the legal issues
25 in this case. It also means that all of the Court's orders will apply to you and legally bind you.

26 **EXCLUDING YOURSELF FROM THE SETTLEMENT**

27 If you don't want a refund from this settlement, but you want to keep the right to sue or
28 continue to sue Verizon Wireless on your own about the legal issues in this case, then you
must take steps to get out. This is called excluding yourself -- or is sometimes referred to as
opting out of the Settlement Class.

1 **13. How do I get out of the settlement?**

2 To exclude yourself from the settlement, you must send a letter by mail saying that you want
3 to be excluded from *Sims v. Cellco Partnership d/b/a Verizon Wireless, a Delaware General*
4 *Partnership*, Case No. 3:07-cv-1510-MMC (N.D. Cal.). Be sure to include your name,
5 address, your current telephone number, and your signature and the name and number of the
6 case. You must mail your exclusion request postmarked no later than June 12, 2009, to:

7 Sims Settlement Administrator
8 P.O. Box 4109
9 Portland, OR 97208-4109

10 You can't exclude yourself on the phone or by fax or e-mail. If you ask to be excluded, you will
11 not get any refund, and you cannot object to the settlement. You will not be legally bound by
12 anything that happens in this lawsuit. You may be able to sue (or continue to sue) Verizon
13 Wireless in the future about the legal issues in this case. **In order to be valid, any request for
14 exclusion must be received or postmarked no later than June 12, 2009.**

15 **14. If I exclude myself, do I still receive benefits from this settlement?**

16 No. If you exclude yourself, do not send in a claim form to ask for a refund. But, you may sue,
17 continue to sue, or be part of a different lawsuit against Verizon Wireless about the legal issues in
18 this case.

19 **15. If I don't exclude myself, can I sue Verizon Wireless for the same thing later?**

20 No. Unless you exclude yourself, you give up the right to sue Verizon Wireless for the claims
21 that this settlement resolves. You must exclude yourself from *this* Class to pursue your own
22 lawsuit. Remember, your exclusion must be received or postmarked on or before June 12, 2009.

23 **THE LAWYERS REPRESENTING YOU**

24 **16. Do I have a lawyer in this case?**

25 The Court has appointed Jay Edelson of KamberEdelson, LLC and John G. Jacobs of The Jacobs
26 Law Firm, Chtd., to be the lead attorneys representing the Class. They are called the "Lead Class
27 Counsel." You will not be charged for these lawyers. If you want to be represented by your own
28 lawyer in this case, you may hire one at your own expense.

1 **17. How will the lawyers be paid?**

2 Class Counsel will ask the Court for attorneys' fees and expenses in the amount of \$289,980.07,
3 and an award to Plaintiff in the amount of \$1,000 for her services in helping to prosecute this
4 case. The Court has expressed no opinion about what amount would be appropriate
5 compensation for Class Counsel or Plaintiff and may award less than these amounts. Under the
6 proposed settlement, any amount awarded will be paid separately by Verizon Wireless and will
7 not come out of any funds for refunds to Class Members.
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1 **OBJECTING TO THE SETTLEMENT**

2 You can tell the Court that you don't agree with the settlement or some part of it.

3 **18. How do I tell the Court that I don't like the settlement?**

4 If you're a Class Member, you can object to the settlement if you don't like any part of it. You
5 can give reasons why you think the Court should not approve it. The Court will consider your
6 views. To object, you must send a letter (or legal "brief") saying that you object to the
7 settlement in *Sims v. Cellco Partnership d/b/a Verizon Wireless, a Delaware General*
8 *Partnership*, Case No. 3:07-cv-1510-MMC (N.D. Cal.). Be sure to include your name, address,
9 telephone number, your Verizon Wireless phone number, your signature, the reasons you object
10 to the settlement, and any supporting papers or other materials you intend to rely on for your
11 objection. You must also specifically identify the Disputed Charges you incurred (and the
12 mobile telephone number on which they were incurred) so that the Court can verify that you are
13 a member of the class.

14 **In order to be considered, any objection and supporting papers or other materials must be**
15 **received no later than June 12, 2009, by all of the following addressees:**

COURT	CLASS COUNSEL	DEFENSE COUNSEL
Clerk of the Court United States District Court for the Northern District of California San Francisco Division 450 Golden Gate Avenue 16th Floor San Francisco, CA 94102	Jay Edelson KamberEdelson, LLC 350 North LaSalle Suite 1300 Chicago, IL 60654	Penelope A. Preovolos Morrison & Foerster LLP 425 Market Street San Francisco, CA 94105- 2482

19 **19. What's the difference between objecting and excluding yourself from the Class?**

20 Objecting is simply telling the Court that you don't like something about the settlement. You
21 can object only if you stay in the Class. Excluding yourself is telling the Court that you don't
22 want to be part of the Class. If you exclude yourself, you have no basis to object, because the
23 case no longer affects you.

24 **THE COURT'S SETTLEMENT HEARING**

25 The Court will hold a hearing to decide whether to give final approval to the settlement. You
26 may attend, and you may ask to speak, but you don't have to.

1 **20. When and where will the Court hold the Settlement Hearing?**

2 The Court will hold a Settlement Hearing at 9:00 a.m. on July 24, 2009, at the United States
3 District Court for the Northern District of California, San Francisco Division, Courtroom 7 (19th
4 Floor), located at 450 Golden Gate Avenue, San Francisco, California, 94102. At this
5 hearing the Court will consider whether the settlement is fair, reasonable, and adequate. If there
6 are objections, the Court will consider them. The Court will listen to people who have asked to
7 speak at the hearing. The Court may also consider how much to pay Class Counsel, and whether
8 to approve an incentive award for Ms. Sims. After the hearing, the Court will decide whether to
9 give final approval to the settlement. We do not know how long these decisions will take. The
10 Settlement Hearing may be moved to a different date or time without notice.

11 **21. Do I have to come to the hearing?**

12 No. Class Counsel will answer questions the Court may have. But, you are welcome to come at
13 your own expense. If you send an objection, you don't have to come to Court to talk about it.
14 As long as your written objection was received on time, the Court will consider it. You may also
15 pay your own lawyer to attend, but it's not necessary. Finally, you may seek to intervene in the
16 action, but you need not do so.

17 **22. May I speak at the hearing?**

18 You may ask the Court for permission to speak at the Settlement Hearing. To do so, you must
19 send a letter informing the Court of your "Notice of Intention to Appear" in "*Sims v. Cellco*
20 *Partnership d/b/a Verizon Wireless, a Delaware General Partnership*, Case No. 3:07-cv-1510-
21 MMC." Be sure to include your name, address, telephone number, and your signature. Your
22 Notice of Intention to Appear must be received by the Clerk of the Court, Class Counsel, and
23 Defense Counsel, at the three addresses listed in question 18, no later than **June 12, 2009**. You
24 cannot speak at the hearing if you excluded yourself.

25 **IF YOU DO NOTHING**

26 **23. What happens if I do nothing at all?**

27 If you do nothing, you'll get no money from this settlement. But, unless you exclude yourself,
28 you won't be able to start a lawsuit, continue with a lawsuit, or be part of any other lawsuit
against Verizon Wireless about the legal issues in this case, ever again.

GETTING MORE INFORMATION

24. How do I get more information?

This notice is necessarily an incomplete summary of the settlement and its terms. You are free
to inspect the court files from 9:00 a.m. to 4:00 p.m. at the office of the Clerk of the Court,
United States District Court for the Northern District of California, 16th Floor, 450 Golden Gate

1 Avenue, San Francisco, California, 94102. You can call KamberEdelson LLC, one of the law
2 firms representing the class, at 866-354-3015 if you have any questions. Before doing so, please
3 read this full notice carefully. **Questions may not be directed to the Court.**

4 **25. What if I have a new address?**

5 If this Notice was sent to you at your current address, you do not have to do anything more to
6 receive future notices concerning this case. However, if this Notice was forwarded to you, or if
7 it was otherwise sent to you at an address that is not current, you should immediately send a
8 letter to Sims Settlement Administrator, P.O. Box 4109, Portland OR 97208-4109, referencing
9 this Notice and including your past and current mailing addresses. You should also provide a
10 telephone number where you can be reached with any questions.

11 Date: February 13, 2009.