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IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA

TINA WALTER, CHRISTOPHER BAYLESS	)	Case No. 09-2136 SC
and ERIC SCHUMACHER, individually	)	
and on behalf of all others	)	ORDER DENYING MOTION FOR
similarly situated,	)	<u>SETTLEMENT</u>
	)	
Plaintiffs,	)	
	)	
v.	)	
	)	
HUGHES COMMUNICATIONS, INC., and	)	
HUGHES NETWORK SYSTEMS, LLC,	)	
	)	
Defendants.	)	
	)	

Before the Court is a Motion for Preliminary Approval of Settlement and Conditional Class Certification, brought by Plaintiffs Tina Walter, Christopher Bayless, and Eric Schumacher ("Plaintiffs"). ECF No. 60 ("Mot.") Defendants Hughes Communications, Inc. and Hughes Network Systems, LLC ("Defendants") have joined in the Motion. ECF No. 64. In support of the Motion, Plaintiffs have filed the Settlement Agreement, Rosenberg Supp. Decl. Ex. 1 ("Settlement"), as well as the proposed claim form, Settlement Ex. A ("Claim Form"); long form settlement notice, Settlement Ex. B ("Long Form"); postcard notice, Settlement Ex. B2 ("Postcard"); and summary notice, Settlement Ex. B3 ("Summary

1 Notice").<sup>1</sup> Plaintiffs also submit firm resumes of Plaintiffs' two  
2 lead counsel, Bramson, Plutzik, Mahler & Birkhaeuser LLP ("Bramson  
3 Plutzik") and Audet & Partners LLP ("Audet"), as evidence that they  
4 are adequate class counsel. Rosenberg Decl. Exs. 3, 4.

5 Having reviewed the papers submitted, the Court finds that it  
6 cannot grant the relief requested without additional information.  
7 Information fundamental to class certification and settlement, such  
8 as the size of the class and amount of the award, has not been  
9 provided. The Court is surprised that experienced firms like  
10 Bramson Plutzik and Audet would make such a deficient showing on  
11 such a motion.

12 As such, Plaintiffs' Motion is DENIED. The parties may renew  
13 this motion, and should they choose to do so, they are advised to  
14 provide the Court with information sufficient to make a rational  
15 ruling, including:

- 16 • An estimate of the size of the class, supported by  
17 appropriate evidence.
- 18 • An estimate of the total gross amount to be recovered by  
19 the class, supported by appropriate evidence.
- 20 • An estimate of the cost of administration and notice,  
21 supported by appropriate evidence.
- 22 • Evidence in support of Plaintiffs' threadbare assertion  
23 that the requirements of Federal Rule of Civil Procedure  
24 23(a) and (b)(3) are satisfied.
- 25 • Additional information on class notice. The parties should  
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27 <sup>1</sup> Jennifer Rosenberg ("Rosenberg"), counsel for Plaintiffs filed a  
28 declaration in support of the Motion, ECF No. 61, which she later  
corrected in a supplemental declaration, ECF No. 66.

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provide detailed information on how they seek to provide the best notice to the class practicable under the circumstances. The parties should estimate the number of class members for whom a current mailing or e-mail address is known, and support this estimate with appropriate evidence. The parties should provide estimates as to how many class members will be notified via mail and e-mail, and the method of mail delivery to be used (e.g., first class, first class presorted, or standard mail). The parties should provide details as to how they plan to effect timely notice on class members for whom no current contact information exists. Furthermore, the parties should ensure the notice and summary of notice, in clear and plain language, communicates to class members their rights and responsibilities under the proposed settlement.

In addition, the Court notes that the release of liability sought from the class is extremely broad. While this does not render the proposed settlement per se unfair, parties should ensure that the notice documents adequately communicate to the class the scope of the proposed liability release.

The Motion is DENIED.

IT IS SO ORDERED.

Dated: February 3, 2010

  
UNITED STATES DISTRICT JUDGE