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UNITED STATES DISTRICT COURT
 NORTHERN DISTRICT OF CALIFORNIA

GEORGE GALLARDO, et al, individually and
 on behalf of all others similarly situated,

Plaintiffs,

v.

AT&T MOBILITY, LLC, a limited liability
 corporation; and DOES 1 through 50, inclusive,

Defendant.

No. 4:11-cv-04749 CW

~~PROPOSED~~ ORDER GRANTING
 PRELIMINARY APPROVAL OF
 CLASS ACTION SETTLEMENT

Plaintiffs' amended motion for conditional certification of a settlement class, an order preliminarily approving a class action settlement, an order directing distribution of class notice, and a request to set a final approval hearing, Dkt. # 53, (the "Motion") came on regularly for hearing on March 20, 2014. Roberta Perkins, Weinberg, Roger & Rosenfeld, appeared on behalf of the Plaintiffs. Michael D. Mandel, McGuireWoods LLP, appeared on behalf of Defendant AT&T Mobility, LLC. The motion was argued and taken under submission. The parties thereafter submitted a Joint Supplemental Brief (Dkt. # 60) and a Stipulation to Amend the Joint

1 Stipulation for Class Action Settlement and Release of Claims (Dkt. # 60-1), with a revised form
2 of the proposed notice to the class attached as Exhibit A thereto. Upon consideration of the
3 moving papers, review of the Joint Stipulation for Class Action Settlement and Release of Claims
4 and all exhibits thereto, the Stipulation to Amend the Joint Stipulation for Class Action
5 Settlement and Release of Claims and all exhibits thereto (Dkt. # 60-1), the arguments and
6 representations by the parties, and good cause appearing, the Court now GRANTS the Motion.
7 The Court hereby makes the following findings and orders:

8 1. This Order incorporates by reference the definitions in the Joint Stipulation for
9 Class Action Settlement and Release of Claims, attached as Exhibit 1 to the Motion (the “Joint
10 Settlement Stipulation”), and all terms defined therein shall have the same meaning in this Order
11 as set forth in the Joint Settlement Stipulation, as amended by the Stipulation to Amend the Joint
12 Stipulation for Class Action Settlement and Release of Claims.

13 2. The Court finds that the terms of the settlement, as set forth in the Joint Settlement
14 Stipulation, as amended by the Stipulation to Amend the Joint Stipulation for Class Action
15 Settlement and Release of Claims, incorporated herein by this reference and made a part of this
16 Order, have no obvious deficiencies, are within the range of possible approval at the final
17 approval hearing, and are the result of arm’s-length negotiations between the parties. It appears
18 to the Court, on a preliminary basis, that the settlement is fair and reasonable to the members of
19 the Class when balanced against the risks of further litigation relating to liability and damages
20 issues and potential appeals of rulings. The settlement appears to be presumptively valid, subject
21 to any objections that may be raised at the final approval hearing before this Court. Thus, the
22 settlement, as set forth in the Joint Settlement Stipulation, as amended by the Stipulation to
23 Amend the Joint Stipulation for Class Action Settlement and Release of Claims, is granted
24 preliminary approval.

25 3. The Court hereby conditionally certifies the proposed class for settlement purposes
26 only. The Court finds there are a sufficient number of current and former employees working in
27 the position of Retail Sales Consultant or Sales Support Representative for this matter to proceed
28 as a class action. The seating policy in effect in AT&T retail locations raises common questions

1 of law and fact applicable to all class members. These common questions predominate over any
2 questions that may affect only individual class members. In light of the potential size of the
3 settlement class, class treatment is a superior method for handling this action. The Court finds
4 that the claims of the Class Representatives are typical of the class, that the Class Representatives
5 are adequate and that Class Counsel are qualified to represent the settlement class. Should the
6 settlement reflected in the Joint Settlement Stipulation, as amended by the Stipulation to Amend
7 the Joint Stipulation for Class Action Settlement and Release of Claims, not become final for any
8 reason, the fact that the Parties were willing to stipulate to class certification as part of the
9 settlement shall have no bearing on, nor be admissible in connection with, the issue of whether of
10 a class should be certified in a non-settlement context.

11 4. The Settlement Class shall consist of:

12 All individuals who worked for AT&T Mobility LLC in the
13 positions of Retail Sales Consultant or Sales Support
14 Representative in California at any time from July 7, 2010 through
January 13, 2014.

15 5. Plaintiffs George Gallardo, Carlos Barrigan, Kyle Binns, Carlos Cruz, Jennifer
16 DeWitt, Hector Rodriguez, and Denise Roman are approved as class representatives.

17 6. David Rosenfeld, Weinberg, Roger & Rosenfeld, and Miles Locker, Locker
18 Folberg, are hereby appointed as Class Counsel. Class Counsel is authorized to act on behalf of
19 the Settlement Class with respect to all acts or consents required by or which may be given
20 pursuant to the settlement contemplated by the Joint Settlement Stipulation, as amended by the
21 Stipulation to Amend the Joint Stipulation for Class Action Settlement and Release of Claims,
22 and such other acts reasonably necessary to consummate the settlement.

23 7. Gilardi & Co. LLC is hereby appointed as the Settlement Administrator.

24 8. The Notice of Class Settlement attached as Exhibit A to the Stipulation to Amend
25 the Joint Stipulation for Class Action Settlement and Release of Claims meets the requirements of
26 Fed. R. Civ. P. 23(c)(2)(B) and provides sufficient notice of the terms of the settlement to
27 members of the Class. The Notice of Class Settlement comports with all Constitutional
28 requirements, including those of due process, and the proposed Notice of Class Settlement is

1 reasonable and adequate.

2 9. The Request for Exclusion form attached as Exhibit B to the Joint Settlement
3 Stipulation clearly sets out the requirements that must be satisfied in order to be excluded from
4 the settlement. The procedure set forth in the Joint Settlement Stipulation, as amended by the
5 Stipulation to Amend the Joint Stipulation for Class Action Settlement and Release of Claims, is
6 the sole and exclusive means for objecting to the settlement and opting out of the settlement.

7 a. Any Class member who wishes to object to the settlement must submit a
8 written notice of their objections, and also, if they wish, a written notice of
9 their intent to appear and object at the final approval hearing, to the Court
10 either by mailing them to the Class Action Clerk for the United States
11 District Court for the Northern District of California, 1301 Clay Street,
12 Oakland, CA 94612, or by filing them in person at any location of the
13 United States District Court for the Northern District of California. Any
14 written objection and/or notice of intent to appear at the hearing must
15 reference the name of the case and case number, and must state: (1) the
16 Class member's full name; (2) address; and (3) in clear concise terms the
17 basis of each objection, including the factual and legal arguments
18 supporting the objection. Any written objections and/or notices of intent to
19 appear at the hearing must be filed or postmarked (if mailed), not later than
20 September 4, 2014 (i.e., 14 days before the date on which the final
21 approval hearing is scheduled).

22 b. The Court will provide electronic notice to the parties through the ECF
23 system of the filing of any objections and notices of intent to appear and
24 object at the final approval hearing.

25 c. Notwithstanding the deadline for submitting a Request for Exclusion from
26 the settlement set forth in the Joint Settlement Stipulation, as amended by
27 the Stipulation to Amend the Joint Stipulation for Class Action Settlement
28 and Release of Claims, any member of the Class who timely submits any

1 objections to the settlement and whose objections to the settlement are
2 overruled may still exclude themselves from the settlement if they submit a
3 Request for Exclusion to the Settlement Administrator, postmarked within
4 seven (7) calendar days of the Court overruling any such objections.
5 Members of the Class who exclude themselves after having their objections
6 to the settlement overruled will not be permitted to thereafter rescind their
7 Request for Exclusion.

8 10. Mailing to the last known address of members of the Class constitutes an effective
9 method of notifying members of the Class of their rights with respect to the litigation and Joint
10 Settlement Stipulation, as amended by the Stipulation to Amend the Joint Stipulation for Class
11 Action Settlement and Release of Claims. The Notice of Class Settlement and Request for
12 Exclusion form shall be sent by first class mail as specified in the Joint Settlement Stipulation, as
13 amended by the Stipulation to Amend the Joint Stipulation for Class Action Settlement and
14 Release of Claims, to each member of the Class in accordance with the schedule set forth below.
15 The dates selected for the mailing and distribution of the Notice of Class Settlement and Request
16 for Exclusion form as set forth below meet the requirements of due process and provide the best
17 notice practicable under the circumstances and shall constitute due and sufficient notice to all
18 persons entitled thereto.

19 11. The following schedule shall be followed, except as otherwise modified by the
20 Court:

Timing	Event
30 days after entry of this Order	AT&T to provide Settlement Administrator with the Class List
20 days after AT&T provides the Settlement Administrator with the Class List	Deadline for Settlement Administrator to mail Notice of Class Settlement and Request for Exclusion form to each Class member
45 days after the	Deadline for members of the Class to submit a Request

Timing	Event
Settlement Administrator mails to the Class members the Notice of Class Settlement and Request for Exclusion Form	for Exclusion form to the Settlement Administrator
55 days after the Claims Administrator mails to the Class members the Notice of Class Settlement and Request for Exclusion Form	Deadline for any member of the Class who submitted a Request for Exclusion form to rescind the Request for Exclusion form
35 days before the Final Approval Hearing	Deadline for filing Motion for Final Approval and Application for Award of Attorneys' Fees and Litigation Expenses
14 days before the Final Approval Hearing	Last date for any member of the Class to submit objections to the settlement and notice of intent to appear at final approval hearing, or for Defendant to file any opposition to the Motion for Final Approval and Application for Award of Attorneys' Fees and Litigation Expenses
7 days before the Final Approval Hearing	Deadline for Settlement Administrator to provide Defendant's Counsel and Class Counsel the Declaration of Compliance
7 days before the Final Approval Hearing	Last date to file Reply papers regarding Motion for Final Approval and Application for Attorneys' Fees and any response to any objections to the settlement
7 days after the Court rules on any objections to the settlement	Last date by which any Request for Exclusion form must be postmarked for any member of the Class who submitted objections to the settlement and whose objections were overruled.
15 days after the Court rules on any objections to the settlement	Deadline for Settlement Administrator to provide the Parties an update regarding the total number of Class members who submitted a Request for Exclusion.
30 days after the Court rules on any objections to the settlement	Earliest date by which the Court will enter an order granting final approval of the settlement, enter judgment, and dismiss the Lawsuit (in order to allow

Timing	Event
	Defendant an opportunity before the Court enters a final approval order and judgment to dismiss the action to exercise its right under the terms of the settlement to void the settlement if more than 10% of the Class opts out of the settlement).

12. Any member of the Class may appear at the final approval hearing in person or by counsel, and may be heard to the extent allowed by the Court, in support of, or in opposition to, the Court's determination of the good faith, fairness, reasonableness and adequacy of the proposed settlement, the requested attorneys' fees, and litigation expenses.

13. All briefs supporting or opposing the settlement shall be served and filed in accordance with the above schedule.

14. The final approval hearing shall be held in Courtroom 2 of the Federal District Court for the Northern District of California at 2:00 p.m. on September 18, 2014, to consider the fairness, adequacy and reasonableness of the proposed settlement reflected in the Joint Settlement Stipulation, as amended by the Stipulation to Amend the Joint Stipulation for Class Action Settlement and Release of Claims, as preliminarily approved by this Order, and to consider the application of Class Counsel for an award of reasonable attorneys' fees and litigation expenses incurred. The Court expressly reserves the right to adjourn or continue the final approval hearing from time to time without further direct notice to Class Members.

15. If for any reason the Court does not execute and file a Judgment, or if the "Effective Date" of the Settlement Agreement, as defined in Paragraph 8 of the Joint Settlement Stipulation, as amended by the Stipulation to Amend the Joint Stipulation for Class Action Settlement and Release of Claims, does not occur for any reason whatsoever, the proposed Joint Settlement Stipulation, as amended by the Stipulation to Amend the Joint Stipulation for Class Action Settlement and Release of Claims, and all evidence and proceedings had in connection therewith, shall be without prejudice to the *status quo ante* rights of the parties to the litigation.

16. Pending further order of the Court, all proceedings in this matter except those

1 contemplated herein and in the Joint Settlement Stipulation, as amended by the Stipulation to
2 Amend the Joint Stipulation for Class Action Settlement and Release of Claims, are stayed.

3 **IT IS SO ORDERED.**

4 Dated: April 29, 2014


HON. CLAUDIA WILKEN
UNITED STATES DISTRICT JUDGE

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