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UNITED STATES DISTRICT COURT  
 NORTHERN DISTRICT OF CALIFORNIA  
 SAN JOSE DIVISION

In Re Apple and AT&T iPad Unlimited  
 Data Plan Litigation

ALL CONSOLIDATED ACTIONS

Case No. 5:10-cv-02553 RMW

**FINAL APPROVAL  
 ORDER REGARDING ATM  
 SETTLEMENT**

1 This matter came on for hearing on February 7, 2014. The Court has considered the  
2 Stipulation of Settlement (“Agreement”) entered into by and among defendant AT&T Mobility  
3 LLC (“ATTM”), plaintiff Joe Hanna, as an individual and as “Class Representative” (collectively  
4 the “Parties” in the above-referenced “Action”), together with all exhibits thereto, all oral and/or  
5 written objections and comments received regarding the Agreement, the arguments and  
6 authorities presented by the Parties and their counsel, and the record in the Action, and good  
7 cause appearing,

8 IT IS HEREBY ORDERED, ADJUDGED AND DECREED AS FOLLOWS:

9 1. All terms and definitions used herein have the same meanings as set forth in the  
10 Agreement.

11 2. The Court has jurisdiction over the subject matter of the Action, the Class  
12 Representative, the ATTM Non-Subscriber Settlement Class Members, and ATTM, and venue is  
13 proper in this District.

14 3. The Court finds that the notice to the ATTM Non-Subscriber Settlement Class of  
15 the pendency of this Action, this settlement, and Class Counsels’ application for attorneys’ fees  
16 and expenses, as provided for in the Agreement and by Order of this Court, has been  
17 implemented and constituted the best notice practicable under the circumstances to all persons  
18 and entities within the definition of the ATTM Non-Subscriber Settlement Class, and fully  
19 complied with all requirements, including Federal Rule of Civil Procedure 23 and due process.

20 4. The Court approves the settlement as set forth in the Agreement and finds that the  
21 settlement is in all respects fair, reasonable, adequate, and just to, and in the best interests of, the  
22 ATTM Non-Subscriber Settlement Class Members.

23 5. The Court has specifically considered the factors relevant to class settlement  
24 approval (*see, e.g., Churchill Vill., L.L.C. v. Gen. Elec.*, 361 F.3d 566 (9th Cir. 2004)) —  
25 including, *inter alia*, the strength of Plaintiff’s case; the risk, expense, complexity, and likely  
26 duration of further litigation; the risk of maintaining class action status throughout trial; the relief  
27 provided for in the settlement; the extent of discovery completed and stage of the proceedings; the  
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1 experience and views of Class Counsel; and the reaction of the ATTM Non-Subscriber Settlement  
2 Class Members to the proposed settlement (including the claims submitted and the small number  
3 of opt-out requests and objections)—and upon consideration of such factors finds that the  
4 settlement is fair, reasonable and adequate to all concerned.

5           6.       The Court has also scrutinized the settlement and negotiation history for any signs  
6 of potential collusion (*see, e.g., In re Bluetooth Headset Products Liability Litigation*, 654 F.3d  
7 935 (9th Cir. 2011)), and finds that the settlement is not the product of collusion. This finding is  
8 supported by, among other things: the fact that the settlement was negotiated by experienced,  
9 well-qualified counsel; the settlement provides substantial benefits to class members and such  
10 benefits are not disproportionate to the attorneys’ fees and expenses awarded to Class Counsel;  
11 the benefits provided to ATTM Non-Subscriber Settlement Class Members are appropriate under  
12 the circumstances of this case; the parties began negotiating regarding attorneys’ fees and  
13 expenses only after reaching an agreement regarding the key deal terms; and the settlement was  
14 reached after ATTM filed numerous motions challenging the viability of Plaintiff’s claims, both  
15 on an individual and class-wide basis.

16           7.       The Court has reviewed the two settlement objections that were submitted in this  
17 case. Neither of the two objections was sent to the Clerk of the Court, and thus both objections  
18 are invalid and overruled on the ground that they did not comport with the procedural  
19 requirements for submitting settlement objections as required by this Court’s Orders (Docket No.  
20 187, ¶ 22, Docket No. 188, ¶ 22). Moreover, based on the statements in her objection and  
21 information subsequently provided by ATTM, one of the two objectors, Carolyn Hughes, is not a  
22 member of the ATTM Non-Subscriber Settlement Class and thus lacks standing to object to the  
23 ATTM Settlement. Nevertheless, the Court has provisionally considered both objections and the  
24 arguments made therein, and finds that in any event both objections lack merit and fail to state a  
25 compelling basis for denying settlement approval. The objections are therefore overruled on that  
26 additional ground as well.

1           8. Pursuant to Rule 23(c), the ATTM Non-Subscriber Settlement Class as finally  
2 certified shall be defined as follows:

3                   All persons in the United States who purchased or ordered an Apple  
4 iPad 3G on or before June 7, 2010 but who did not sign up for or  
5 purchase an ATTM data plan for that iPad 3G at any time.  
6 Excluded from this Class are Apple; ATTM; any entity in which  
7 ATTM or Apple has a controlling interest; ATTM and Apple's  
8 directors and officers; Apple's employees; and ATTM and Apple's  
9 legal representatives, successors, and assigns

10           9. Excluded from the ATTM Non-Subscriber Settlement Class are persons and  
11 entities who submitted timely and valid requests for exclusion pursuant to section V.K of the  
12 Agreement and this Court's September 26, 2013 Preliminary Approval Order (Docket No. 187),  
13 as determined by the Settlement Administrator. A list of persons and entities who validly and  
14 timely requested exclusion is on file with this Court at Docket No. 198-3, Ex. A.

15           10. The Parties and the Settlement Administrator shall, in good faith, implement and  
16 administer the process of verifying, processing and honoring claims pursuant to the terms set  
17 forth in the Agreement.

18           11. In connection with this settlement, the Court adjudges that payment of attorneys'  
19 fees and expenses as set forth in this paragraph 11 is fair, reasonable and justified under the  
20 circumstances of this case—given, *inter alia*, the relief achieved for the ATTM Non-Subscriber  
21 Settlement Class Members, the time and effort devoted by Class Counsel, the complexity of the  
22 legal and factual issues involved, and the contingent nature of the fee. In addition, even under the  
23 standards set forth in 28 U.S.C. § 1712 and *In re HP Inkjet Printer Litig.*, 716 F.3d 1173 (9th Cir.  
24 2013), the attorneys' fees pass muster. In connection with this settlement, the Court hereby  
25 orders that the following attorneys' fees and expenses shall be paid to Class Counsel pursuant to  
26 the terms of the Agreement and as set forth in this paragraph:

27                   (a) Class Counsel is awarded \$17,219.55 as reimbursement for their litigation  
28 expenses reasonably attributable to the claims against ATTM in this case, with such expense  
29 portion paid pursuant to the terms of the Agreement; and

                 (b) Class Counsel is awarded attorneys' fees to be calculated pursuant to the

1 following formula: one-third (1/3) of the total aggregate dollar value of Data Plan Benefits  
2 redeemed by ATTM Non-Subscriber Settlement Class Members, up to a maximum attorneys' fee  
3 award of \$232,780.45 for the ATTM Settlement (i.e., for a maximum total award of \$250,000 for  
4 attorneys' fees and expenses for the ATTM Settlement). Such attorneys' fees portion shall be  
5 calculated, and paid by ATTM to Class Counsel, within thirty (30) days following the conclusion  
6 of the time period during which Data Plan Benefits may be redeemed.

7 12. As of the Effective Date, the Class Representative and all ATTM Non-Subscriber  
8 Settlement Class Members shall be forever barred from bringing or prosecuting, in any capacity,  
9 any action or proceeding that involves or asserts any of the Released Claims against any Released  
10 Person and shall conclusively be deemed to have released and forever discharged the Released  
11 Persons from all Released Claims.

12 13. The Class Representative and all ATTM Non-Subscriber Settlement Class  
13 Members shall, as of the Effective Date, conclusively be deemed to have acknowledged that the  
14 Released Claims may include claims, rights, demands, causes of action, liabilities, or suits that are  
15 not known or suspected to exist as of the Effective Date. The Class Representative and all ATTM  
16 Non-Subscriber Settlement Class Members nonetheless release all such Released Claims against  
17 the Released Persons. Further, as of the Effective Date, the Class Representative and all ATTM  
18 Non-Subscriber Settlement Class Members shall be deemed to have waived any and all  
19 protections, rights and benefits of California Civil Code section 1542 and any comparable  
20 statutory or common law provision of any other jurisdiction.

21 14. The benefits and payments described in the Agreement are the only consideration,  
22 fees, and expenses ATTM or the Released Persons shall be obligated to give to the Class  
23 Representative, ATTM Non-Subscriber Settlement Class Members, and Class Counsel in  
24 connection with the Agreement and the payment of attorneys' fees and expenses.

25 15. All claims asserted against ATTM in the Action are settled and dismissed on the  
26 merits and with prejudice as to the Class Representative and all ATTM Non-Subscriber  
27 Settlement Class Members. Notwithstanding the foregoing, this Order does not dismiss any  
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1 claims that have been or may be asserted in the future by any persons or entities who have validly  
2 and timely requested exclusion from the ATTM Non-Subscriber Settlement Class as provided for  
3 in section V.K of the Agreement.

4 16. Notwithstanding the dismissal of the claims asserted against ATTM in the Action,  
5 ATTM shall not claim and may not be awarded any costs, attorneys' fees, or expenses. ATTM  
6 shall not sue the Class Representative, Class Counsel, or the Class Members for malicious  
7 prosecution or abuse of process based on the filing of the Action.

8 17. Without affecting the finality of the Judgment in any way, the Court reserves  
9 exclusive and continuing jurisdiction over the Action, the Class Representative, the ATTM Non-  
10 Subscriber Settlement Class Members, and ATTM for the purposes of supervising the  
11 implementation, enforcement, construction, and interpretation of the Agreement, this Order, and  
12 the Judgment.

13 18. The Agreement and this Order are not admissions of liability or fault by ATTM or  
14 the Released Persons, or a finding of the validity of any claims in the Action or of any  
15 wrongdoing or violation of law by ATTM or the Released Persons. The Agreement and  
16 settlement are not a concession by the Parties, and to the extent permitted by law, neither this  
17 Judgment, nor any of its terms or provisions, nor any of the negotiations or proceedings  
18 connected with it, shall be offered as evidence or received in evidence in any pending or future  
19 civil, criminal, or administrative action or proceeding to establish any liability of, or admission by  
20 ATTM, the Released Persons, or any of them. Notwithstanding the foregoing, nothing in this  
21 Order shall be interpreted to prohibit the use of this Order or the Judgment in a proceeding to  
22 consummate or enforce the Agreement or Judgment, or to defend against the assertion of  
23 Released Claims in any other proceeding, or as otherwise required by law. All other relief not  
24 expressly granted to the ATTM Non-Subscriber Settlement Class Members is denied.  
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19. Counsel for the Parties are hereby authorized to utilize all reasonable procedures in connection with the administration of the Agreement which are not materially inconsistent with either this Order or the terms of the Agreement.

IT IS SO ORDERED

Dated: \_\_\_\_\_, 2014

  
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THE HONORABLE RONALD M. WHYTE  
United States District Judge