

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

ERFAN "ERIC" AMIDI, on behalf of
himself and all others similarly-situated,

Plaintiffs,

v.

SBC LONG DISTANCE, LLC, a
Delaware Corporation, AT&T
OPERATIONS, INC., a Delaware
Corporation, and DOES 1 through 100,
Inclusive,

Defendants.

CASE NO. 08CV0858 WQH (WMC))

ORDER FOR PRELIMINARY APPROVAL
OF CLASS ACTION SETTLEMENT,
CONDITIONAL CLASS CERTIFICATION,
APPROVAL OF CLASS NOTICE, AND
SETTING OF A FINAL FAIRNESS
HEARING

Date: January 21, 2009
Time: 2:00 p.m.
Dept: Courtroom C

Complaint Filed: May 13, 2008
TRIAL DATE: NONE SET

1 The Court, having fully reviewed the Joint Motion for Preliminary Approval of
2 Class Action Settlement, the supporting Points and Authorities, Declaration of
3 Isam C. Khoury, the Settlement Agreement, Notice of Class Action Settlement and Claim
4 Form, and the Proposed Order Granting Preliminary Approval, and in recognition of the
5 Court's duty to make a preliminary determination as to the reasonableness of any
6 proposed Class Action settlement, and if preliminarily determined to be reasonable, to
7 ensure proper notice is provided to Class Members in accordance with due process
8 requirements; and to conduct a Final Approval hearing as to the good faith, fairness,
9 adequacy and reasonableness of any proposed settlement, THE COURT HEREBY
10 MAKES THE FOLLOWING DETERMINATIONS AND ORDERS:
11

12 1. The Court finds, on a preliminary basis, that the Settlement Agreement,
13 incorporated in full by this reference and made a part of this Order of Preliminary
14 Approval, appears to be within the range of reasonableness of a settlement which could
15 ultimately be given final approval by this Court; the Court notes that Defendants SBC
16 Services, Inc. and AT&T Operations, Inc. ("Defendants") have agreed to pay the
17 Maximum Settlement Amount of \$525,000, plus the employer's share of payroll taxes, to
18 the Plaintiff, Class Members, the Class Representative, Class Counsel, the Claims
19 Administrator, and the State of California Labor Workforce and Development Agency, in
20 full satisfaction of the claims as more specifically described in the Settlement Agreement;
21

22 It further appears to the Court, on a preliminary basis, that the settlement is fair and
23 reasonable to Class Members when balanced against the probable outcome of further
24 litigation relating to class certification, liability and damages issues, and potential appeals
25 of rulings. It further appears that significant informal discovery, investigation, research,
26 and litigation has been conducted such that counsel for the Parties at this time are able to
27 reasonably evaluate their respective positions. It further appears that settlement at this
28 time will avoid substantial costs, delay and risks that would be presented by the further

1 prosecution of the litigation. It also appears that the proposed Settlement has been
2 reached as the result of intensive, informed and non-collusive negotiations between the
3 Parties;

4
5 ACCORDINGLY, GOOD CAUSE APPEARING, THE MOTION FOR ORDER
6 OF PRELIMINARY APPROVAL OF CLASS ACTION SETTLEMENT IS HEREBY
7 GRANTED; AND AS A PART OF SAID PRELIMINARY APPROVAL, THE COURT
8 HEREBY ACCEPTS AND INCORPORATES THE PARTIES' SETTLEMENT
9 AGREEMENT AND HEREBY TEMPORARILY AND CONDITIONALLY CERTIFIES
10 THE CLASS FOR SETTLEMENT PURPOSES ONLY PURSUANT TO THE TERMS
11 AND CONDITIONS CONTAINED IN SAID SETTLEMENT AGREEMENT.

12
13 2. The Court finds that the Notice of Class Action Settlement and Claim Form
14 advise of the pendency of the Class Action and of the proposed settlement, of preliminary
15 Court approval of the proposed Settlement, claim submission timing and procedures, opt-
16 out timing and procedures, and of the Final Approval Hearing. These documents fairly
17 and adequately advise Class Members of the terms of the proposed Settlement and the
18 benefits available to Class Members thereunder, as well as their right to "Opt-Out" and
19 procedures for doing so, and of the Final Approval Hearing and the right of Class
20 Members to file documentation in support or in opposition and to appear in connection
21 with said hearing; the Court further finds that said Notice clearly comports with all
22 constitutional requirements including those of due process;

23
24 ACCORDINGLY, GOOD CAUSE APPEARING, THE COURT HEREBY
25 APPROVES THE PROPOSED NOTICE OF PROPOSED CLASS ACTION
26 SETTLEMENT AND THE PROPOSED CLAIM FORM;

1 3. The mailing to the present and last known addresses of the Class Members
2 constitutes an effective method of notifying Class Members of their rights with respect to
3 the Class Action and Settlement; ACCORDINGLY, IT IS HEREBY ORDERED as
4 follows:

5
6 (a) On or before January 29, 2009 (within five (5) business days of the
7 Court's entry of the Order Granting Preliminary Approval of the Settlement and Notice),
8 Defendants shall forward to the appointed Claims Administrator, Rust Consulting, Inc., a
9 database (in an electronic spreadsheet format) of all Class Members, including the names,
10 last known addresses and telephone numbers, dates of employment in exempt positions at
11 any of the AT&T family of companies during the Covered Period, social security
12 numbers, and respective total compensable workweeks worked during the Covered
13 Period, May 13, 2004 through date of preliminary approval. Within 10 business days of
14 the Court's entry of the Order Granting Preliminary Approval of the Settlement,
15 Defendant shall provide notice as required by the Class Action Fairness Act ("CAFA");

16
17 (b) On or before February 20, 2009, (within thirty (30) calendar days of
18 the Court's entry of the Order Granting Preliminary Approval of the Settlement and
19 Notice), the Claims Administrator, Rust Consulting, Inc., shall mail to each Class
20 Member¹, by first class, postage pre-paid, the Notice of Class Action Settlement, Claim
21 Form, Exclusion Form, and a postage-paid envelope addressed to the Claims
22 Administrator.

23
24 All mailings shall be made to the present and/or last known mailing
25 address of the Class Members based on Defendants' records, as well as addresses that

26 ¹ Class Member is defined in the Settlement Agreement as follows: Plaintiff and all
27 persons who work or worked for SBC Long Distance, LLC or AT&T Operations, Inc. in the State
28 of California in the positions of Database Administrator or Senior Database Administrator during
the Covered Period, which is defined as May 13, 2004 through the date of preliminary approval
of the Settlement.

1 may be located by the Claims Administrator, who will conduct standard address searches
2 in cases of returned mail. The Court finds that the mailing of notices to Class Members as
3 set forth in this paragraph is the best means practicable by which to reach Class Members
4 and is reasonable and adequate pursuant to all constitutional and statutory requirements
5 including all due process requirements.

6
7 (c) On or before April 6, 2009, (no later than fifteen (15) calendar days
8 before the Claims Period deadline / 45 days after mailing the Class Notice), the Claims
9 Administrator, Rust Consulting, Inc., shall mail a “reminder” post-card to those Class
10 Members who have not responded to the Notice of Proposed Class Action Settlement with
11 the return of a Claim Form, or an Exclusion Form, reminding them of the deadline in
12 which to act to make a claim.

13
14 4. IT IS FURTHER ORDERED that all:

15
16 (a) Requests for Exclusion (“opt-out requests”) must be mailed to the
17 Claims Administrator, Rust Consulting, Inc., postmarked on or before April 21, 2009,
18 (sixty (60) calendar days from the mailing of the Notice Packet to submit their Claim
19 Form or Exclusion Form.)

20
21 (b) Objections must be filed with the Court as described in the Class
22 Notice on or before March 23, 2009, (thirty (30) calendar days from the mailing of the
23 Notice Packet to submit their Claim Form or Exclusion Form.)and served on Counsel for
24 the Plaintiff and on Counsel for Defendants.

25
26 (c) Claim Forms must be mailed to the Claims Administrator,
27 postmarked on or before April 21, 2009, (sixty (60) calendar days from the mailing of the
28 Notice Packet to submit their Claim Form or Exclusion Form.)

1 5. IT IS FURTHER ORDERED that the Final Approval Hearing shall be held
2 before the undersigned at 2:00 p.m. on May 27, 2009 at the above-entitled court located at
3 the 940 Front Street, Dept. C, San Diego, California 92101 to consider the fairness,
4 adequacy and reasonableness of the proposed Settlement preliminarily approved by this
5 Order of Preliminary Approval, and to consider the application of Class Counsel Cohelan
6 Khoury & Singer for an award of reasonable attorneys' fees, litigation expenses, class
7 representative enhancement, and for costs of claims administration incurred;

8
9 6. IT IS FURTHER ORDERED all briefs in support of the proposed
10 Settlement shall be served and filed with the Court on or before May 15, 2009

11
12 7. IT IS FURTHER ORDERED that pending final determination of whether
13 this proposed Settlement should be granted final approval, no Class Member, either
14 directly or representatively, or in any other capacity, shall commence or prosecute any
15 action or proceeding asserting any of the Class Members' Released Claims, as defined in
16 the Settlement Agreement, against Defendants, or any other Class Member Released
17 Parties, in any court or tribunal;

18
19 8. IT IS FURTHER ORDERED that any party to this case, including Class
20 Members, may appear at the Final Approval Hearing in person or by counsel, and may be
21 heard to the extent allowed by the Court, in support of or in opposition to, the Court's
22 determination of the good faith, fairness, reasonableness and adequacy of the proposed
23 Settlement, the requested attorneys' fees and litigation expenses, and any Order of Final
24 Approval and Judgment regarding such Settlement, fees and expenses; provided, however,
25 that no person, except Class Counsel and counsel for Defendants, shall be heard in
26 opposition to such matters unless such person has complied with the conditions set forth
27 in the Notice of Proposed Class Action Settlement which conditions are incorporated
28 therein;

1 9. IT IS FURTHER ORDERED that in the event of the occurrence of the
2 Settlement Effective Date, as defined in the Settlement Agreement, all Class Members,
3 except those who have requested exclusion from the settlement, and their successors shall
4 conclusively be deemed to have given full releases of any and all Class Members’
5 Released Claims as defined in the Settlement Agreement against Defendants, their former
6 and present parents, subsidiaries, affiliated corporations and entities, including but not
7 limited to Pacific Bell Telephone Company, and each of their respective officers, officials,
8 directors, employees, partners, shareholders and agents, any other successors, assigns or
9 legal representatives (“Class Members’ Released Parties”) and all such Class Members
10 and their successors shall be permanently enjoined and forever barred from asserting any
11 Class Members’ Released Claims against any Class Members’ Released Parties as
12 described by the Settlement Agreement;

13
14 10. IT IS FURTHER ORDERED that if, for any reason, the Court does not
15 execute and file an Order of Final Approval, or if the Settlement Effective Date does not
16 occur for any reason whatsoever, the proposed Settlement Agreement and the proposed
17 Settlement subject of this Order and all evidence and proceedings had in connection
18 therewith, shall be without prejudice to the *status quo ante* rights of the parties to the
19 litigation as more specifically set forth in the Settlement Agreement.

20
21 11. IT IS FURTHER ORDERED that, pending further order of this Court, all
22 proceedings in this matter except those contemplated herein and in the Settlement
23 Agreement are stayed.

1 The Court expressly reserves the right to adjourn or continue the Final Approval Hearing
2 from time-to-time without further notice to the Class Members.

3
4 IT IS SO ORDERED.

5
6 Dated: January 22, 2009

7
8 

9 JUDGE OF THE UNITED STATES
10 DISTRICT COURT FOR THE
11 SOUTHERN DISTRICT OF CALIFORNIA

12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28