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**LOS ANGELES
SUPERIOR COURT**

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8 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
9 **FOR THE COUNTY OF LOS ANGELES**

11 GRANT R. OPPERMAN, et al., as
12 individuals, and on behalf of all others
similarly situated and the general public,

13 Plaintiffs,

14 vs.

15 CELLCO PARTNERSHIP d/b/a
16 VERIZON WIRELESS, a Delaware
Partnership, VERIZON WIRELESS
17 MESSAGING SERVICES, a Delaware
Corporation, and DOES 1 through 20,
18 inclusive,

19 Defendants.

CASE NO. BC 326764

CLASS ACTION – Assigned to Honorable
Robert Hess, Dept. 24 for All Proceedings

**[REVISED PROPOSED] ORDER RE:
PRELIMINARY APPROVAL OF
PROPOSED CLASS ACTION
SETTLEMENT**

20 WHEREAS, the Plaintiffs and Class Representatives Grant R. Opperman, Timothy
21 A. Davis, Amy Blumenfield, Alan C. Ivar, Michael Nunberg, Howard Zhao, Joshua A. Kaner,
22 John Christian Vinci, and Sunil Kamath, and Defendants Cellco Partners doing business as
23 Verizon Wireless, and Verizon Wireless Messaging Services (collectively “Verizon Wireless”)
24 have reached a proposed settlement and compromise of the disputes between them in the above-
25 captioned action, which is embodied in a Settlement Agreement filed with the Court;

26 WHEREAS, the Parties have applied to the Court for preliminary approval of the
27 proposed Settlement of the Action, the terms and conditions of which are set forth in the
28

1 Settlement Agreement;

2 AND NOW, the Court having read and considered the Settlement Agreement and
3 accompanying documents, and the parties to the Settlement Agreement having consented to the
4 entry of this Order, IT IS HEREBY ORDERED AS FOLLOWS:

5 1. The capitalized terms used in this Preliminary Approval Order shall have
6 the same meaning as defined in the Settlement Agreement except as may otherwise be ordered.

7 2. Subject to further consideration by the Court at the time of the Final
8 Approval Hearing, the Court preliminarily approves the Settlement as fair, reasonable and
9 adequate to the Settlement Class Members, as falling within the range of possible final approval,
10 and as meriting submission to the Settlement Class Members for their consideration.

11 3. For purposes of the Settlement only, the Settlement Class shall include any
12 present and/or former customer of Verizon Wireless who activated Verizon Wireless Cellular
13 Service for a Motorola V710 cellular telephone on or before January 31, 2005.

14 4. The Court appoints Poorman-Douglas Corporation as the Settlement
15 Administrator. The Settlement Administrator shall be responsible for administering the
16 Settlement according to the terms set forth in the Settlement Agreement.

17 5. A Final Approval Hearing shall be held before this Court at 8:30 a.m. on
18 January 17, 2006, in Dept. 24 of the Los Angeles County Superior Court, to address: (a) whether
19 the proposed Settlement should be finally approved as fair, reasonable and adequate; (b) whether
20 a final Order and Judgment should be entered; (c) whether Class Counsel's attorneys fees and
21 expense application should be approved; (d) whether the payment of incentive awards, as set forth
22 in the Settlement Agreement, should be approved; and (e) any other matters that the Court deems
23 appropriate.

24 With the exception of such proceedings as are necessary to implement, effectuate
25 and grant final approval to the terms of the Settlement Agreement, all proceedings are stayed in
26 this Action and all Settlement Class Members are enjoined from commencing or continuing any
27 action or proceeding in any court or tribunal asserting any claims encompassed by the Settlement
28 Agreement unless the Settlement Class Member files a valid and timely Request for Exclusion.

1 6. The Court approves, as to form and content, the Notice and the Claim Form
2 (and instructions), in the forms attached as Exhibits 1 and 2 to this Preliminary Approval Order.
3 On or before October 10, 2004, Verizon Wireless is directed to send the Notice and the Claim
4 Form to all Settlement Class Members by first class United States mail, postage prepaid to their
5 last known addresses.

6 7. In order to determine the "last known addresses" to which Verizon
7 Wireless will send the Notice and Claim Form pursuant to paragraph 6 of this Order, Verizon
8 Wireless shall identify each Settlement Class Member to the extent practicable from its records.
9 The Settlement Administrator will use the United States Postal Service address update to update
10 the address of the Settlement Class Members.

11 8. Verizon Wireless shall file a declaration of compliance with the
12 requirements of paragraph 6 of this Order on or before December 16, 2005.

13 9. The Court finds that the Parties' plan for providing notice to the settlement
14 Class Members (the "Notice Plan") described in Article IV of the Settlement Agreement
15 constitutes the best notice practicable under the circumstances and shall constitute due and
16 sufficient notice to the Settlement Class Members of the pendency of the Action, preliminary
17 certification of the Settlement Class, the terms of the Settlement Agreement, and the Final
18 Approval Hearing, and complies fully with the requirements of the California Rules of Court, the
19 California Code of Civil Procedure, the Constitution of the State of California, the United States
20 Constitution, and any other applicable law.

21 10. The Court further finds that the Notice Plan described in Article IV of the
22 Settlement Agreement will adequately inform the Settlement Class Members of their right to
23 exclude themselves from the Settlement Class so as not to be bound by the terms of the
24 Settlement Agreement. Any Settlement Class Member who desires to be excluded from the
25 Settlement Class, and therefore not bound by the terms of the Settlement Agreement, must mail to
26 the Settlement Administrator, pursuant to the instructions set forth in the Notice, a timely and
27 valid written Request for Exclusion bearing a United States postmark of no later than sixty (60)
28 days after the Notice has been sent to the Settlement Class Members. On or before January 9,

1 2006, the Settlement Administrator shall prepare and send to the Court with copies to Class
2 Counsel and Verizon's Counsel a Report on Requests for Exclusions and a Report on Settlement
3 Class Members Ineligible to Receive Settlement Class Relief as set forth in Article V(b) and V(c)
4 of the Settlement Agreement.

5 11. In order to be valid, a Request for Exclusion must: (1) be signed personally
6 by the Settlement Class Member or his or her authorized representative; (2) be timely mailed to
7 the Settlement Administrator; (3) clearly request exclusion from the Settlement Class; and (4)
8 contain the Settlement Class Member's name, address, and telephone number. Any Settlement
9 Class Member who elects to be excluded shall not be entitled to receive any of the benefits of the
10 Settlement, shall not be bound by the release of any claims pursuant to the Settlement Agreement,
11 and shall not be entitled to object to the Settlement or appear at the Final Approval Hearing. The
12 names and addresses of all Persons timely submitting valid Requests for Exclusion shall be
13 provided to the Court under seal.

14 12. Upon the Effective Date, all Settlement Class Members who have not
15 submitted a valid and timely Request for Exclusion in the manner set forth in paragraph 11 of this
16 Order shall be Settlement Class Members and shall be bound by the terms of the Settlement
17 Agreement and the Order and Judgment, regardless of whether or not they file a valid and timely
18 Claim Form, and any such Settlement Class Members shall be conclusively deemed to have fully
19 and finally released the Released Parties from any and all of the Released Claims.

20 13. Any Settlement Class Member who does not timely submit a valid Request
21 for Exclusion may object to the Settlement Agreement, to Class Counsel's application for
22 attorneys' fees and expenses, to the payment of incentive awards, or to the proposed Order and
23 Judgment. Any such Settlement Class Member shall have the right to appear and be heard at the
24 Final Approval Hearing, either personally or through an attorney retained at the Settlement Class
25 Member's own expense. Any such Settlement Class Member must file with the Court and serve
26 on Class Counsel and Verizon's Counsel, postmarked no later than December 16, 2005, a written
27 notice of intention to appear together with supporting papers including a detailed statement of the
28 specific objections made.

1 14. Service of all papers on counsel for the Parties shall be made as follows:
2 for Class Counsel, to Michael Kelly, Kirtland & Packard, LLP, 2361 Rosecrans Avenue, Fourth
3 Floor, El Segundo California 90045, Behram V. Parekh, Yourman, Alexander & Parekh LLP,
4 3601 Aviation Blvd., Suite 3000, Manhattan Beach, California, 90266, John R. Climaco,
5 Climaco, Lefkowitz, Peca, Wilcox & Garofoli Co. L.P.A., 1220 Huron Road, Suite 1000,
6 Cleveland, Ohio 44115, David P. Meyer, David P. Meyer & Associates Co. LPA, The Arena
7 District, 401 North Front Street, Suite 350, Columbus, Ohio 43215, and Robert I. Harwood and
8 William Weinstein, Wechsler Harwood LLP, 488 Madison Avenue, 8th Floor, New York, New
9 York 10022; for Defendants' Counsel, to Richard Drooyan, Munger, Tolles & Olson LLP, 355 S.
10 Grand Ave., Los Angeles, California 90071-1560. Only Settlement Class Members who have
11 filed and served valid and timely notices of intention to appear, together with supporting papers,
12 shall be entitled to be heard at the Final Approval Hearing, along with their own counsel.

13 15. Any Settlement Class Member who does not make an objection in the time
14 and manner provided in the Notice shall be deemed to have waived such objection and forever
15 shall be foreclosed from making any objection to the fairness or adequacy of the proposed
16 settlement as incorporated in the Settlement Agreement, the payment of attorneys' fees and
17 expenses, the payment of incentive awards, or the Order and Judgment.

18 16. Any Settlement Class Member who is entitled to and wishes to receive a
19 refund or credit as provided for in the Settlement Agreement must sign and timely return a valid
20 Claim Form in accordance with the Settlement Agreement. Any Settlement Class Member who
21 does not request exclusion in the manner set forth in paragraph 11 of this Preliminary Approval
22 Order, and who, despite being entitled to submit a Claim Form, does not timely submit a valid
23 Claim Form, shall not be entitled to receive any relief under the Settlement Agreement, but, in
24 any case, shall be: (a) barred and enjoined from asserting any of the Released Claims against the
25 Released Parties; (b) conclusively deemed to have released any and all of the Released Claims as
26 against the Released Parties; and (c) subject to and bound by the terms of the Settlement
27 Agreement and the provisions of this Order and Judgment.

28 17. In the event that the proposed Settlement does not become Final, or in the

1 event that the Settlement Agreement becomes null and void pursuant to its terms, this Preliminary
2 Approval Order and all orders entered in connection therewith shall become null and void, shall
3 be of no further force and effect, and shall not be used or referred to for any purposes whatsoever
4 in this civil action or in any other case or controversy; in such event, the Settlement Agreement
5 and all negotiations and proceedings directly related thereto shall be deemed to be without
6 prejudice to the rights of any and all of the Parties, who shall be restored to their respective
7 positions as of the date of the Settlement Agreement.

8 18. The Court may, for good cause, extend any of the deadlines set forth in this
9 Preliminary Approval Order without further notice to the Settlement Class Members. The Final
10 Approval Hearing may, from time to time and without further notice to the Settlement Class, be
11 continued by order of the Court.

12 **IT IS SO ORDERED**

13 Dated: September 7, 2005



14 _____
15 Honorable Robert Hess
16 Judge of the Los Angeles County Superior Court

EXHIBIT 1

NOTICE OF CLASS ACTION SETTLEMENT AND APPROVAL HEARING

Grant R Opperman, Timothy A. Davis, Amy Blumenfield, Alan C. Ivar, Michael Nunberg, Howard Zhao, Joshua Kaner, John Christian Vinci, and Sunil Kamath, as individuals, and on behalf of all others similarly situated and the general public,

Plaintiffs,

v.

Cellco Partnership, doing business as Verizon Wireless and Verizon Wireless Messaging Services,

Defendants.

To: All present and former customers of Verizon Wireless who activated Verizon Wireless cellular service for a Motorola V710 cellular telephone on or before January 31, 2005.

This notice explains the settlement of a class action lawsuit that concerns the Bluetooth® feature of the Motorola V710 cellular telephone that was sold for use with Verizon Wireless cellular service. The settlement agreement has been preliminarily approved by the Court and provides for a refund or credit to present or former Verizon Wireless customers who purchased the Motorola V710 telephone for one of the Bluetooth® features that was not available on the Motorola V710 telephone sold for use with Verizon Wireless cellular service, and who owned or intended to purchase another Bluetooth® device that supports one of these features.

PLEASE TAKE NOTICE THAT on January 17, 2006, in Department 24 of the Los Angeles Superior Court, 111 N Hill Street, Los Angeles, California, at 8:30 AM, a hearing shall be conducted to determine whether to grant final approval to the settlement agreement, consider any timely objections to the settlement, and rule on the fee and expense application submitted by attorneys for the plaintiffs in this class action lawsuit.

No benefit payments or credits will be made available until after the settlement has become final and non-appealable.

Read this notice carefully. You may be entitled to share in the settlement proceeds of this class action lawsuit. Your rights to a monetary award may be affected.

This is not a lawsuit against you. You are not being sued. This is a notice of proposed class action settlement. In the following notice, you are being told about the features of the proposed settlement, and asked to decide whether you would like to participate in this settlement, oppose it, or exclude yourself from it.

SI USTED DESEA OBTENER UNA COPIA DE ESTE DOCUMENTO LEGAL EN ESPANOL FAVOR DE ACTUAR INMEDIATAMENTE Y ESCRIBIR A:

Verizon Wireless Motorola V710 Settlement Administrator
PO Box 3775
Portland, OR 97208-3775

1. Why did you receive this notice?

This notice has been sent to you because you may be a member of a group of individuals (a class) for whom a settlement with Cellco Partnership, doing business as Verizon Wireless ("Verizon Wireless"), has been reached. Verizon Wireless's records indicate that you activated Verizon Wireless cellular service for a Motorola V710 cellular telephone on or before January 31, 2005, and may be eligible for a refund or credit from the settlement.

2. Who are the parties in this class action?

Grant Opperman, Timothy A. Davis, Amy Blumenfield, Alan C. Ivar, Michael Nunberg, Howard Zhao, Joshua Kaner, John Christian Vinci, and Sunil Kamath, are the named plaintiffs. They contend that Verizon Wireless did not accurately disclose that certain Bluetooth® features were not available on the Motorola V710 cellular telephone that was sold for use with Verizon Wireless cellular service. Plaintiffs filed this lawsuit as a class action to assert their own individual claims and to represent a class of persons who have similar claims. The defendants are Cellco Partnership, doing business as Verizon Wireless, and Verizon Wireless Messaging Services. The lawsuit is pending in the Los Angeles County Superior Court before Judge Robert Hess.

3. Are you a member of the class?

The class to whom this notice is being sent consists of all present and former customers of Verizon Wireless who activated Verizon Wireless cellular service for a Motorola V710 cellular telephone on or before January 31, 2005.

4. What is this lawsuit about?

Plaintiffs claim that Verizon Wireless did not accurately disclose that certain Bluetooth® features were not supported by the Motorola V710 available with Verizon Wireless cellular service. Plaintiffs allege that defendants violated sections of the Business and Professions Code that address unfair competition and false or misleading statements, and sections of the Civil Code that address fraud and negligent misrepresentation.

Verizon Wireless contends that its marketing materials were not deceptive and they accurately informed customers of the Bluetooth® features for the Motorola V710 cellular telephone available with Verizon Wireless cellular service.

Based on the information available to both sides, and the risks involved in a trial, attorneys for the class have concluded that the proposed settlement is fair, reasonable, and adequate, and that it serves the best interests of class members.

5. What do you have to do to receive compensation or benefits from the settlement?

You must timely submit a complete claim form affirming under penalty of perjury each of the following: (1) you activated Verizon Wireless Cellular Service for a Motorola V710 cellular telephone on or before January 31, 2005; (2) purchased the Motorola V710 cellular telephone because you believed it would support Bluetooth® object exchange or file transfer features; and (3) own another Bluetooth® enabled device that supports either the object exchange or file transfer features or intended to purchase such a device. The claim form must also indicate the type of relief you are seeking. You will also be required to return your Motorola V710 telephone and certain accessories to Verizon Wireless at no cost to you at a later date if you choose to obtain a refund.

