

1 RICHARD E. DROOYAN (State Bar No. 065672)  
MUNGER, TOLLES & OLSON LLP  
2 355 South Grand Avenue, 35th Floor  
Los Angeles, CA 90071-1560  
3 Telephone: (213) 683-9100  
Facsimile: (213) 687-3702

4 Attorneys for Defendants Cellco Partnership doing  
5 business as Verizon Wireless and Verizon Wireless  
Message Services

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

10  
11 GRANT R. OPPERMAN, et al, as  
individuals, and on behalf of all others  
12 similarly situated and the general public,

13 Plaintiffs,

14 vs.

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

18 Defendants.  
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CASE NO. BC 326764

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

**STIPULATION OF SETTLEMENT**

1 It is hereby stipulated by and among the undersigned Parties, subject to the  
2 approval of the Court pursuant to Rule 1859 of the *California Rules of Court*, that the settlement  
3 of this Action shall be effectuated pursuant to the terms and conditions set forth in this Settlement  
4 Agreement.

5 ARTICLE I.

6 PREAMBLE

7 (a) WHEREAS, Defendant Cellco Partnership, doing business as Verizon Wireless  
8 (“Verizon Wireless”), is a partnership organized under the laws of the State of Delaware with its  
9 principal place of business in New Jersey, Defendant Verizon Wireless Messaging Services is a  
10 corporation organized under the laws of Texas, and Defendant Verizon Wireless Services, LLC,  
11 is a limited liability company organized under the laws of Delaware.

12 (b) WHEREAS, beginning in or about August 2004, Verizon Wireless offered for sale  
13 the Motorola V710 wireless cellular telephone handset manufactured by Motorola Corporation  
14 (the “Motorola V710 telephone”) throughout the United States.

15 (c) WHEREAS, Verizon Wireless’ marketing materials represented that the Motorola  
16 V710 telephone offered Bluetooth@technology that could be used with Verizon Wireless’ cellular  
17 telephone services.

18 (d) WHEREAS, certain of the Plaintiffs are the named plaintiffs in the Amended  
19 Complaint filed on January 20, 2005, in the above-captioned action entitled *Grant R. Opperman,*  
20 *et al. v. Cellco Partnership, et al.*, Los Angeles Superior Court Case No. 237806 (the “Action”),  
21 in which they seek to represent an alleged class of all persons who activated Verizon Wireless  
22 cellular services for a Motorola V710 telephone in California.

23 (e) WHEREAS, certain of the Plaintiffs are the named plaintiffs in the action filed on  
24 January 7, 2005, entitled *Howard M. Zhao v. Verizon Wireless, Inc.*, No. 05 551545, pending in  
25 the Court of Common Pleas, Cuyahoga County, Ohio (the “Zhao Action”) and others are the  
26 named plaintiffs in the arbitration filed on January 20, 2005, in the matter entitled in *Joshua A.*  
27 *Kaner, et al., v. Cellco Partnership doing business as Verizon Wireless*, No. 11 494 00161 05,  
28 pending before the American Arbitration Association in New York, New York (the “Kaner

1 Arbitration”), in which they seek to represent an alleged class of all persons who activated  
2 Verizon Wireless cellular services for a Motorola V710 telephone in the United States.

3 (f) WHEREAS, Plaintiffs assert various claims concerning Verizon Wireless’s  
4 disclosures regarding what Bluetooth® technology features were available for customers who  
5 activated Verizon Wireless cellular services for the Motorola V710 phone.

6 (g) WHEREAS, Verizon Wireless denies all the allegations of the Amended  
7 Complaint, the Zhao Action, and the Kaner Arbitration, and all allegations of wrongdoing and  
8 liability.

9 (h) WHEREAS, Plaintiffs and their counsel have concluded, in light of the costs,  
10 risks, and delay of litigation, particularly in this complex putative class action, that this Settlement  
11 is fair, reasonable, adequate, and in the best interests of Plaintiffs and the Settlement Class.

12 (i) WHEREAS, Verizon Wireless has concluded, in light of the costs and delay of  
13 litigation, that settlement of this Action is appropriate on the terms and conditions set forth herein.

14 NOW THEREFORE, it is hereby stipulated and agreed that, in consideration of  
15 the agreements, promises, and covenants set forth in this Stipulation Of Settlement, and subject to  
16 approval of the Court, this Action shall be fully and finally settled and dismissed with prejudice  
17 and without costs under the following terms and conditions:

18 ARTICLE II.

19 DEFINITIONS

20 As used in this Agreement and the related documents attached hereto as exhibits,  
21 the following terms shall have the meanings set forth below:

22 (a) “Accessories” means cellular telephone accessories marketed and sold by Verizon  
23 Wireless that (i) are compatible only with the Motorola V710 telephone; (ii) listed on Exhibit X  
24 to this Agreement, and (iii) are returned to the Settlement Administrator along with a Motorola  
25 V710 telephone in accordance with Article V(e)(6) and (7).

26 (b) “Action” means the civil action entitled *Grant R. Opperman, et al. v. Cellco*  
27 *Partnership doing business as Verizon Wireless, et al.*, Los Angeles Superior Court Case No. BC  
28 326764.

1 (c) "Approved Claim" means a Claim Form determined by the Settlement  
2 Administrator to be valid in accordance with Article II(d) or as resolved in favor of a claimant  
3 pursuant to Article V.

4 (d) "Claim Form" means the claim form substantially in the form of Exhibit D to this  
5 Settlement Agreement. To be valid, a Claim Form must: (1) be fully completed; (2) be certified  
6 under penalty of perjury by the Settlement Class Member; and (3) be timely mailed to the  
7 Settlement Administrator. The Certification Under Penalty of Perjury shall be signed by the  
8 Settlement Class Member and certify that he or she is the person to whom the Notice was  
9 addressed; and that he or she (1) activated Verizon Wireless Service for a Motorola V710  
10 telephone on or before January 31, 2005; (2) purchased a Motorola V710 telephone because he or  
11 she believed it would support the object exchange or file transfer features; and (3) owns another  
12 Bluetooth® enabled device that supports either the object exchange or file transfer features or had  
13 intended to purchase such a device.

14 (e) "Class Counsel" means the law firms Kirtland & Packard LLP; Yourman,  
15 Alexander & Parekh LLP, Climaco, Lefkowitz, Peca, Wilcox & Garofoli Co., L.P.A.; David P.  
16 Meyer & Associates Co., LPA and Wechsler Harwood LLP..

17 (f) "Class Representatives" or "Plaintiffs" means Grant R. Opperman, Timothy A.  
18 Davis, Amy Blumenfield, Alan C. Ivar, Michael Nunberg, Howard M. Zhao, Joshua A. Kaner,  
19 John Christian Vinci, and Sunil Kamath.

20 (g) "Court" means the Superior Court of the State of California for the County of Los  
21 Angeles.

22 (h) "Credit" means a bill credit towards any cellular telephone service or product  
23 offered by Verizon Wireless.

24 (i) "Claiming Current Customer(s)" means a Settlement Class Member who (i) is a  
25 Customer (as defined in Article II(k) of this Agreement) and (ii) has not cancelled his or her  
26 Verizon Wireless Cellular Service prior to the date upon which he or she submits a Claim Form to  
27 the Settlement Administrator.

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1 (j) "Claiming Former Customer(s)" means a Settlement Class Member who (i) is a  
2 Customer (as defined in Article II(k) of this Agreement and (ii) cancels or has cancelled his or  
3 her Verizon Wireless Cellular Service prior to the date upon which he or she submits a Claim  
4 Form to the Settlement Administrator.

5 (k) "Customer" means a person who, as indicated by Verizon Wireless' records, or by  
6 customer records to the satisfaction of the Settlement Administrator, activated Verizon Wireless  
7 Cellular Service for a Motorola V710 telephone on or before January 31, 2005.

8 (l) "Defendants" means Cellco Partnership, doing business as Verizon Wireless,  
9 Verizon Wireless Messaging Services, and Verizon Wireless Services LLC.

10 (m) "Defendants' Counsel" means Munger, Tolles & Olson LLP.

11 (n) "Effective Date" means the first day by which all of the following events shall  
12 have occurred: (1) the Court has entered the Preliminary Approval Order as set forth in Article  
13 VIII(b) of this Agreement; (2) the Court has entered the Order and Judgment as set forth in  
14 Article VIII(d) of this Agreement; (3) the Order and Judgment has become Final as defined in  
15 Article II(p) of this Agreement; and (4) Dismissals of the Related Litigation have become Final as  
16 defined in Article II(p) of this Agreement.

17 (o) "Fee and Expense Application" means that written motion or application by which  
18 Class Counsel requests that the Court award them fees and/or expenses.

19 (p) "Final" with respect to the Order and Judgment (as defined in Article II(s) of this  
20 Agreement) means the Order and Judgment as entered on the docket by the Court in this Action,  
21 which has not been reversed, stayed, modified, or amended, and as to which (1) the time to appeal  
22 under the *California Rules of Court* has expired and no appeal or further appeal has been timely  
23 filed, or (2) any appeal has been resolved by the highest court to which it was appealed upholding  
24 or affirming the Order and Judgment.. An appeal pertaining solely to an application for or award  
25 of attorneys' fees, costs, and expenses shall not in any way delay or preclude the Order and  
26 Judgment from being Final. "Final" with respect to the Related Litigation means that the time to  
27 appeal dismissal of the Zhao Action has expired or the dismissal has been upheld or affirmed by  
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1 the highest appellate court in Ohio to which the dismissal was appealed and the American  
2 Arbitration Association has confirmed that it has closed the Kaner Action.

3 (q) "Final Approval Hearing" means the hearing at which the Court shall:

4 (1) determine whether to grant final approval to this Settlement Agreement; (2) consider any  
5 timely objections to this Settlement and all responses to objections by the Parties; and (3) rule on  
6 the Fee and Expense Application.

7 (r) "Notice" means the notice of class action settlement attached hereto as Exhibit C.

8 (s) "Order and Judgment" means the order, substantially in the form attached hereto  
9 as Exhibit B, in which the Court grants final approval of this Settlement Agreement and  
10 authorizes the entry of a Final judgment and dismissal of the Action.

11 (t) "Parties" means Verizon Wireless and Plaintiffs in their capacities as Class  
12 Representatives.

13 (u) "Person" or "Persons" means any natural person, firm, corporation, unincorporated  
14 association, partnership or other form of legal entity or government body, including its agents and  
15 representatives.

16 (v) "Preliminary Approval Order" means the order, substantially in the form of  
17 Exhibit A hereto, in which the Court grants its preliminary approval to this Settlement  
18 Agreement, approves Plaintiffs as Class Representatives, preliminarily approves certification of  
19 the Settlement Class for settlement purposes only, authorizes dissemination of Notice to the  
20 Settlement Class, and enjoins and members of the Settlement Class from filing any other actions  
21 based upon any of the Released Claims as defined in Article II(z).

22 (w) "Refund" means (i) the actual amount paid by a Customer for a Motorola V710  
23 telephone and/or Accessories on presentation of proof of the amount paid for the telephone and/or  
24 Accessories or (ii) \$200 if the Customer does not have proof of the amounts paid for the  
25 telephone and/or Accessories.

26 (x) "Refund Credit" means a Credit that may be used towards the purchase of a  
27 Verizon Wireless telephone and accessories on the same terms and conditions available to new  
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1 Verizon Wireless customers in the amount of (i) the actual amount paid by a Customer for a  
2 Motorola V710 telephone and Accessories on presentation of proof of the amount paid for the  
3 telephone and/or Accessories or (ii) \$200 if the Customer does not have proof of the amounts  
4 paid for the telephone and/or Accessories.

5 (y) "Related Litigation" means the action entitled *Howard M. Zhao v. Verizon*  
6 *Wireless, Inc.*, pending in Cuyahoga County, Ohio (the "Zhao Action") and the arbitration  
7 entitled in *Joshua A. Kaner, et al., v. Cellco Partnership doing business as Verizon Wireless*  
8 pending before the American Arbitration Association in New York, New York (the "Kaner  
9 Arbitration").

10 (z) "Released Claims" means any and all actions, causes of action, claims, demands,  
11 liabilities, obligations, fees, costs, sanctions, proceedings and/or rights of any nature and  
12 description whatsoever, including violations of any state or federal statutes, rules or regulations,  
13 or principles of common law, whether liquidated or unliquidated, known or unknown, in law or in  
14 equity, whether or not concealed or hidden, that have been asserted in this Action or the Related  
15 Litigation or that might have been asserted in this Action or the Related Litigation by Plaintiffs on  
16 behalf of themselves or the Settlement Class concerning, regarding, arising out of, or in any way  
17 relating to the Bluetooth® features or Bluetooth® functionality of the Motorola V710 telephone.

18 (aa) "Released Parties" means (1) Verizon Wireless, Verizon Wireless Messaging  
19 Services, and Verizon Wireless Services LLC; (2) their present and former subsidiaries, parents,  
20 partners, affiliates, successors, and predecessors, (3) all Persons on whose behalf any of the  
21 foregoing entities acted or purported to act, (4) any agent, retailer, or business authorized by  
22 Verizon Wireless to provide or activate Verizon Wireless Cellular Service, and (5) for each of the  
23 foregoing Persons and entities, each of their present, former, or future officers, directors,  
24 shareholders, employees, representatives, agents, principals, consultants, contractors, insurers,  
25 accountants, attorneys, partners, members, administrators, legatees, executors, heirs, estates,  
26 successors in interest or assigns or any other Person with whom any of them is affiliated or  
27 otherwise for whom any of them is responsible at law or in equity.

28 (bb) "Releasing Parties" means Plaintiffs and each Settlement Class Member.

1 (cc) "Request for Exclusion" means a request for exclusion from the Settlement Class  
2 submitted by a Customer, pursuant to the instructions set forth in the Notice, to the Settlement  
3 Administrator no later than sixty (60) days after the date of the Notice. To be valid, a Request for  
4 Exclusion must: (1) be signed by the Customer or his or her authorized representative; (2) be  
5 timely mailed to the Settlement Administrator; (3) clearly request exclusion from the Settlement  
6 Class; and (4) contain the Customer's name, address, and telephone number.

7 (dd) "Settlement Administrator" means Poorman-Douglas Corporation. The Parties  
8 shall request that the Court approve the selection of Poorman-Douglas Corporation in the  
9 Preliminary Approval Order to perform the functions assigned to the Settlement Administrator by  
10 this Settlement Agreement.

11 (ee) "Settlement Agreement," "Settlement," or "Agreement" means this Stipulation Of  
12 Settlement, including the attached Exhibits.

13 (ff) "Settlement Class" means the class certified for settlement purposes only,  
14 consisting of Customers who activated Verizon Wireless Cellular Service for a Motorola V710  
15 telephone on or before January 31, 2005.

16 (gg) "Settlement Class Member" means any Customer who does not submit a timely  
17 and valid Request for Exclusion.

18 (hh) "Verizon Wireless" means Celco Partnership doing business as Verizon Wireless,  
19 and its authorized agents.

20 (ii) "Verizon Wireless Cellular Service" means cellular telephone service offered by  
21 Verizon Wireless for the Motorola V710 cellular telephone.

22 ARTICLE III.

23 SETTLEMENT CLASS RELIEF

24 In consideration of a full, complete, and final settlement of this Action, and in  
25 consideration of dismissal of the Action with prejudice, the Dismissals and Release in Article  
26 VIII below, and subject to the Court's approval, the Parties agree to the following:

27 (a) Subject to Article III(c) below, Claiming Current Customers who submit an  
28 Approved Claim will be entitled at their election to

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- (1) Continue their Verizon Wireless Cellular Service and receive a Credit in the amount of twenty-five dollars (\$25); or
  - (2) continue their Verizon Wireless Cellular Service, purchase a new Verizon Wireless telephone, and return their Motorola V710 telephone and any Accessories to the Settlement Administrator for a Refund Credit; or
  - (3) cancel their Verizon Wireless Cellular Service without a cancellation fee and return their Motorola V710 telephone and any Accessories to the Settlement Administrator by prepaid mailer for a Refund.
- (b) Subject to Article III(c) below, Claiming Former Customers who submit an Approved Claim will be entitled to
- (1) An amount equal to any cancellation fees they paid to cancel their Verizon Wireless Cellular Service and
  - (2) Return their Motorola V710 telephone and any Accessories to the Settlement Administrator by prepaid mailer for a Refund.
- (c) Any Credit or Refund Credit for, or Refund payable to, a Claiming Current Customer, and any Refund payable to a Claiming Former Customer pursuant to this Settlement Agreement shall be subject to offsets for any Credit or monies received from Verizon Wireless in connection with Verizon Wireless Cellular Service, which, in the event of a dispute, shall be determined by the Settlement Administrator from Verizon Wireless' records and any additional materials submitted by the Customer.
- (d) To the extent that it has not already done so, no later than the date of the Final Approval Hearing, Verizon Wireless will revise its advertising and marketing disclosures to reflect the Bluetooth® technology available on the Motorola V710 telephone marketed or sold by Verizon Wireless.
- (e) Plaintiffs recognize Verizon Wireless' absolute right to determine which functions and content will be included, or not included, in the Motorola V710 telephone offered for sale or marketed by Verizon Wireless at any time now or in the future.

