

LOS ANGELES SUPERIOR COURT

Case No. BC 326764

NOTICE OF CLASS ACTION SETTLEMENT AND APPROVAL HEARING

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.

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.**

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 IMMEDIATAMENTE 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.

## 6. What compensation or benefits will the settlement provide?

The settlement, if it is finally approved by the Court, provides the following options to those class members who submit a claim form, including the certification under penalty of perjury set out in paragraph 5:

- a. Current Verizon Wireless customers who want to keep their Motorola V710 phone(s) will receive a \$25 credit on their bill for Verizon Wireless cellular services.
- b. Current Verizon Wireless customers who do not want to keep their Motorola V710 phone(s) can cancel their service contract without paying an early termination fee and return their phone(s) and the accessories identified below for a refund up to the purchase price.
- c. Current Verizon Wireless customers who do not want to keep their Motorola V710 phone(s), but want to keep their Verizon Wireless service can return their phone(s) and the accessories identified below for a credit toward the purchase of a new phone and accessories on the same terms and conditions available to new Verizon Wireless customers. (Please note that to be eligible for certain promotional prices, customers may be required to enter into new one year or two year contracts.)
- d. Former Verizon Wireless customers who cancelled their service will receive a refund of any amounts they paid to cancel their service and can return their phone(s) and the accessories identified below for a refund up to the purchase price.

Any credits that customers have already received will be offset from any amounts to which they may be entitled under the terms of the settlement. Customers cannot make any changes once they have selected the relief they want to receive as a result of the settlement. Customers who choose a refund option and submit proof of the amount they paid for their Motorola V710 phone and accessories will be entitled to receive a full refund of the amount they paid for the phone and accessories. Customers who do not have or do not submit proof of the amount they paid for the phone and accessories will be entitled to receive a refund of \$200.

The following accessories that are compatible solely with the Motorola V710 phone can be returned to Verizon Wireless for a refund pursuant to the settlement:

Extra standard battery – Model 66510

HF Kit hang cup – Model SYN999B or 66512

Extended battery – Model 66509

Bluetooth installed car kit – Model S9642 or 66554

Leather case – Model MOT710CAS

Mobile phone tool – Model 98653H

Extra holster – Model 66516

Replacement antenna – Model RLN5712A

**NOTE: Once you submit a claim form selecting relief, you cannot later select a different relief option. No benefits will be made available until after approval of the settlement by the Court becomes final. Once the settlement becomes final, if you have chosen to return your phone and any accessories for a refund, you will at that point receive a separate mailing with instructions on how to return your Motorola V710 phone and any accessories for a refund. If you have chosen to receive a bill credit, you will receive a credit on your Verizon Wireless bill.**

### **DO NOT RETURN YOUR PHONE OR ANY ACCESSORIES WITH YOUR CLAIM FORM AT THIS TIME.**

If you are a member of the class receiving this notice, and you do not file a claim, you will not be entitled to receive any credits or cash payments for the claims that are the subject of this lawsuit.

## 7. How much money will the attorneys be paid and who will pay it?

The attorneys for the plaintiffs and the class will submit to the Court for approval a request for attorneys' fees and expenses, to be paid by defendants. Defendants have reserved the right to contest the request, in whole or in part. Plaintiffs' counsel will request up to the following amount:

Attorneys' Fees and Expenses To Be Requested: \$6,300,000, plus expenses not to exceed \$60,000.

The Court will determine the amount of any fees and expenses awarded to plaintiffs' counsel, which will not be deducted from the credits or refund payments made to the class. The amount of money that any individual class member may receive will not depend upon the amount of fees or expenses awarded to counsel or the number of claim forms submitted.

## 8. Will the individuals who pursued this lawsuit on behalf of the class receive anything in addition to the benefits provided to other members of the class?

Yes. Each of them will receive \$500, as an incentive award for their effort and time expended in this litigation.

## 9. What are your options?

If you are a member of the class and have received this notice, you will have the following options:

- File a claim if you meet the criteria set out in paragraph 5 above.
- Do nothing, thereby foregoing the possibility of receiving any class relief.
- Stay in the class and file an objection if you disagree with any part of the settlement or the request for attorneys' fees or expenses.
- Exclude yourself from the class, which means you will not participate in any of the financial benefits from the proposed settlement, will not be bound by the releases made or judgment entered in connection with the settlement, and will not be permitted to object to any part of the settlement.

The following sections explain the consequences of pursuing each option.

### a. What happens if you file a claim?

If you are a class member and you complete and mail the enclosed claim form, and if the mailed claim form is approved by the settlement administrator, you will receive the refund or credit described above once the settlement has become final.

Unless you submit a request for exclusion (see section 9d below), you will be prohibited from bringing a lawsuit against the defendants based on or related to any of the claims asserted by the plaintiffs.

The enclosed claim form provides direction as to how the claim form should be filled out, and the deadline for submission.

In the claim form, you will be required, among other things, to state under penalty of perjury, that you are the person to whom the Notice of class action settlement was addressed; and that you (1) activated Verizon Wireless cellular service for a Motorola V710 cellular telephone on or before January 31, 2005; (2) purchased a Motorola V710 cellular telephone because you believed it would support the 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.

If you file a claim form, attorneys for the class will act as your representatives while your claim is processed, at no cost to you.

**b. What happens if you do not file a claim?**

Under the terms of the settlement, if you do not file a claim form, you will not receive any refund or credit. Assuming the Court approves the settlement, and if you do not file a claim, but do not submit a request for exclusion, you nevertheless will be prohibited from bringing or joining any lawsuit against the defendants based on or related to any of the claims asserted by the plaintiffs.

**c. How do I file an objection?**

You must state your objection in writing and file it with the Court postmarked no later than December 16, 2005. The objection should be addressed to the Honorable Robert Hess, Superior Court Judge, Department 24, Los Angeles Superior Court, 111 N Hill Street, Los Angeles, California, 90012, and marked to indicate "objections to proposed settlement in *Opperman, et al., v. Verizon Wireless*, Case No. BC 32764."

**You must simultaneously mail your objection to plaintiffs' attorneys:**

Michael L. Kelly, Esq.  
**Kirtland & Packard LLP**  
2361 Rosecrans Avenue, 4<sup>th</sup> Floor  
El Segundo, CA 90245

Behram V. Parekh Esq.  
**Yourman, Alexander & Parekh LLP**  
3601 Aviation Blvd., Ste 3000  
Manhattan Beach, CA 90266

John R. Climaco, Esq.  
**Climaco, Lefkowitz, Peca, Wilcox & Garofoli Co, LPA**  
1220 Huron Road, Ste 1000  
Cleveland, OH 94115

David P. Meyer  
**David P. Meyer & Associates Co. LPA**  
The Arena District, 401 North Front St, Ste 350  
Columbus, OH 43215

Robert I. Harwood, Esq. & William Weinstein, Esq.  
**Wechsler Harwood LLP**  
488 Madison Avenue, 8<sup>th</sup> Floor  
New York, NY 10022

**And to defendants' attorneys:**

Richard E. Drooyan, Esq.  
**Munger, Tolles & Olson LLP**  
355 S. Grand Ave.  
Los Angeles, CA 90071.

Included in any such objection must be a statement of the basis for your objection and a declaration under penalty of perjury stating that you are a member of the class as described in section 3 above. If you do not properly file and serve an objection by the required date, any objections you may have to the settlement will be waived.

**d. How do I exclude myself from the class?**

You can exclude yourself from the class, which means you will not participate in any aspect of the settlement and you may pursue your own claims, if any, at your own expense against the defendants. To exclude yourself, you must state your request to be excluded in writing and deliver or postmark your request no later than December 9, 2005 to:

Verizon Wireless Motorola V710 Settlement Administrator  
P.O.Box 3775  
Portland, OR 97208-3775

**You must simultaneously mail your exclusion request to plaintiffs' attorneys:**

Michael L. Kelly, Esq.  
**Kirtland & Packard LLP**  
2361 Rosecrans Avenue, 4<sup>th</sup> Floor  
El Segundo, CA 90245

Behram V. Parekh Esq.  
**Yourman, Alexander & Parekh LLP**  
3601 Aviation Blvd., Ste 3000  
Manhattan Beach, CA 90266

John R. Climaco, Esq.  
**Climaco, Lefkowitz, Peca, Wilcox & Garofoli Co, LPA**  
1220 Huron Road, Ste 1000  
Cleveland, OH 94115

David P. Meyer  
**David P. Meyer & Associates Co. LPA**  
The Arena District, 401 North Front St, Ste 350  
Columbus, OH 43215

Robert I. Harwood, Esq. & William Weinstein, Esq.  
**Wechsler Harwood LLP**  
488 Madison Avenue, 8<sup>th</sup> Floor  
New York, NY 10022

**and to defendants' attorneys:**

Richard E. Drooyan, Esq.  
Munger, Tolles & Olson LLP  
355 S. Grand Ave.  
Los Angeles, CA 90071.

**10. When will the Court conduct the Approval Hearing?**

The Court will conduct a public hearing to determine whether to approve the proposed settlement, and determine the amount of fees and expenses to be awarded to the attorneys for the plaintiffs and the class and payment of the incentive fees, on January 17, 2006. Although the hearing will be open to the public, you will not be permitted to speak in opposition to the issues above at the hearing unless you have filed a timely objection to the settlement, the attorneys' fees and expenses, or the incentive fees in the manner described above. If you have filed an objection, you may appear with your own counsel and be heard at the hearing.

**11. Where can you get additional information?**

This notice provides only a summary of matters regarding the lawsuit. The documents, settlement agreement, and orders in the lawsuit provide greater detail and may clarify matters that are described only in general or summary terms in this notice. Copies of the settlement agreement, other documents, court orders, and other information related to the lawsuit may be examined at [www.verizonwireless.com/V710Settlement](http://www.verizonwireless.com/V710Settlement).

You may also examine the settlement agreement, the Court orders and the other papers filed in the lawsuit at the Office of the Clerk of the Los Angeles County Superior Court at 111 N Hill Street, Los Angeles, CA, 90012, during regular business hours. If you wish, you may seek the advice and guidance of your own attorney, at your own expense.

If you wish to communicate with or obtain information from attorneys for the class, you may do so by letter or telephone at the addresses and numbers listed below. You should direct any such inquiries concerning a claim or other matters described in this notice to plaintiffs' attorneys:

Michael L. Kelly, Esq.  
**Kirtland & Packard LLP**  
2361 Rosecrans Avenue, 4<sup>th</sup> Floor  
El Segundo, CA 90245  
*Telephone: (310) 536-1000*

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**Yourman, Alexander & Parekh LLP**  
3601 Aviation Blvd., Ste 3000  
Manhattan Beach, CA 90266  
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1220 Huron Road, Ste 1000  
Cleveland, OH 94115  
*Telephone: (216) 621-8484*

David P. Meyer  
**David P. Meyer & Associates Co. LPA**  
The Arena District, 401 North Front St, Ste 350  
Columbus, OH 43215  
*Telephone: (614) 224-6000*

Robert I. Harwood, Esq. & William Weinstein, Esq.  
**Wechsler Harwood LLP**  
488 Madison Avenue, 8<sup>th</sup> Floor  
New York, NY 10022  
*Telephone: (212) 935-7400*

**Please do not contact the Court, Counsel for Verizon Wireless, or any Verizon Wireless representative for information.**

Dated: September 2, 2005

By order of the Los Angeles County Superior Court  
**Honorable Robert Hess**