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SUPERIOR COURT OF CALIFORNIA
COUNTY OF ALAMEDA

In re: CELLPHONE TERMINATION) J.C.C.P. 4332
FEE CASES)
)
) ORDER ADDRESSING CMC ISSUES.
)
) Date: January 6, 2010
) Time: 9:30 am
) Dept.: 23
)
)
)
)

The Court held a CMC on January 6, 2010, in Department 23 of this Court, the Honorable Winifred Smith presiding. After consideration of the briefing and the argument, IT IS ORDERED:

AWS/CINGULAR.

ETF. There has been a nationwide settlement in *Hall v. AT&T Mobility* in federal court in New Jersey. The motion for final approval is set for 4/14/10. (Cingular CMC Stmt filed 11/9/09, Exh A.) This Court has stayed the AWS/Cingular ETF cases pending resolution of the motion in *Hall* for final approval. Order of 10/19/09 at 5:16-7:15.

1 The Court sua sponte DROPS the motion of AT&T for summary judgment that was filed
2 on 9/4/09. (Res # 984786.) AT&T may re-file the motion if the Court lifts the stay currently in
3 effect.

4 HANDSET LOCKING - CLASS DEFINITION.

5 The parties have entered into a stipulation filed 1/21/10 to redefine the classes and
6 subclass in the AWS and Cingular handset locking cases. The Court approves the new class and
7 subclass definitions. The Court ORDERS the following:
8

9 *Meoli v. AT&T Wireless PCS, LLC et al.* (the “*Meoli Action*”)

10 1. The AT&T Wireless Class in *Meoli v. AT&T Wireless PCS, LLC, et al.* is
11 defined as “all persons who have or had an AT&T Wireless account with a California
12 area code and a California billing address and who purchased a locked handset from
13 AT&T Wireless from March 12, 1999 through and including October 26, 2004.”

14 2. The AT&T Wireless Consumer Subclass in the *Meoli Action* is defined as “all
15 persons who have or had an AT&T Wireless personal account with a California area code
16 and a California billing address who purchased a locked handset from AT&T Wireless
17 from March 12, 1999 through and including October 26, 2004.”

18 3. The AT&T Wireless Arbitration Subclass in the *Meoli Action* is defined as
19 “all members of the Consumer Subclass who are or were parties to AT&T Wireless
20 Service Agreements dated January 1, 2001 through and including October 26, 2004.”

21 *Mendoza v. Cingular Wireless LLC, et al.* (the “*Mendoza Action*”)

22 4. The Cingular Class in the *Mendoza Action* is defined as “all persons who have
23 or had a Cingular account with a California area code and a California billing address and
24 who purchased a locked handset (other than an iPhone) from Cingular from March 12,
25 1999 through and including December 31, 2009, and all persons who have or had an
26 AT&T Wireless account with a California area code and a California billing address and
27

1 who purchased a locked handset from AT&T Wireless from October 27, 2004 through
2 and including December 31, 2009.”

3 5. The Cingular Consumer Subclass in the *Mendoza* Action is defined as “all
4 persons who have or had a Cingular personal account with a California area code and a
5 California billing address and who purchased a locked handset (other than an iPhone)
6 from Cingular from March 12, 1999 through and including December 31, 2009, and all
7 persons who have or had an AT&T Wireless personal account with a California area code
8 and a California billing address and who purchased a locked handset from AT&T
9 Wireless from October 27, 2004 through and including December 31, 2009.”

10 6. The Cingular Arbitration Subclass in the *Mendoza* Action is defined as “all
11 members of the Cingular Consumer Subclass who are or were parties to Cingular Service
12 Agreements dated January 1, 2001 through December 31, 2009, or to an AT&T Wireless
13 Service Agreement dated after October 26, 2004.”

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15 HANDSET LOCKING - CLASS NOTICE.

16 Content of notice. The Court has reviewed the notices attached to the stipulation filed
17 1/21/10 and approves (A) the long-form notice for e-mail and website dissemination and (B) the
18 form of notice used for newspaper publication.

19 Schedule of Notice. Notice on the website and in the newspapers must
20 commence on or about January 29, 2010. Cingular/AWS has confirmed that it will
21 provide the data for the e-mail notice on or before January 15, 2010, and Plaintiffs can
22 send out the notice on or before February 5, 2010.

23
24 HANDSET LOCKING - CASE MANAGEMENT.

25 AWS Discovery cut off. The Court has not previously set a discovery cut off in the
26 AWS handset locking date but has previously reminded the parties to pursue discovery with
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1 diligence. The Court will set the AWS discovery cut off at 1/8/10. The only written discovery
 2 that the parties may serve in the AWS case are supplemental demands for documents under
 3 C.C.P. § 2031.050 and interrogatories seeking updates of previously served interrogatory
 4 responses.

5 Pre-trial schedule. The Court sets the following pre-trial schedule:

6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27
	Pretrial Deadline	Approx. Interval	AWS	Cingular																	
	COURT - CMC and motions.			2/5/10 at 9:00 am.																	
	COURT - CMC and motions.			3/5/10 at 9:00 am.																	
	Fact Discovery Cutoff	T-100	2/8/10	3/15/2010																	
	COURT - CMC and motions.		2/5/10 at 9:00 am.																		
	Expert Disclosure and Service of Federal-Style Expert Reports	T-85	2/16/2010	3/29/2010																	
	Plaintiffs serve and file trial plan	T-85	2/16/2010	3/29/2010																	
	COURT - CMC and motions.			4/2/2010 at 9:00 am																	
	Supplemental Expert Disclosure and Service of Federal-style Expert Reports	T-75	2/24/2010	4/7/2010																	
	COURT - CMC and motions.		3/5/10 at 9:00 am.	4/23/2010 at 2:00 p.m.																	
	Completion of Expert Discovery	T-55	3/15/2010	4/27/2010																	
	Parties exchange exhibits, deposition excerpts, discovery responses, transcripts, witness lists, proposed statements of the case, juror questionnaires, jury instructions, and special verdict forms under Local Rule 3.35(b), (c), (f), (g) (h), (i) and (j).	T-45	3/29/2010	5/7/2010																	
	COURT – Last date to hear motions for summary judgment/adjudication		4/2/2010 at 9:00 am	5/7/2010 at 9:00 am																	
	Parties file (1) motions <i>in limine</i> regarding non-expert evidence, (2) motions in limine regarding expert evidence and (3) other motions concerning disputes about trial	T-45	4/5/2010	5/17/2010																	

1	related material.			
2	Parties file oppositions to (1) motions <i>in</i>	T-28	4/13/2010	5/24/2010
3	<i>limine</i> regarding non-expert evidence, (2)			
4	motions in limine regarding expert evidence			
5	and (3) other motions concerning disputes			
6	about trial related material.			
7	COURT - PRE-TRIAL CONFERENCE		4/23/2010 at	6/4/2010
8	AND HEARING on (1) motions <i>in limine</i>		2:00 p.m.	at 2:00
9	regarding non-expert evidence, (2) motions			p.m.
10	in limine regarding expert evidence and (3)			
11	other motions concerning disputes about trial			
12	related material.			
13	TRIAL		5/10/2010	6/21/2010
14	5 Year Deadline		12/8/2010	2/28/2011

11 **T-MOBILE.**

12
13 ETF. Case completed. The federal judge in the *Milliron* case has enjoined California
14 counsel from filing any motion for fees related to this case. On 12/22/09 T-Mobile filed a copy
15 of the order and letter opinion.

16 HANDSET LOCKING. Case completed.

17 **SPRINT/NEXTEL.**

18
19 ETF – Sprint Payer class. Trial court proceedings concluded and on appeal. No change
20 from CMC Order of 3/24/09.

21 ETF – Sprint subscriber class. Stayed per order of the federal Court in New Jersey in
22 *Larson v. Sprint*. The federal court in New Jersey held a final approval hearing on 10/21/09 but
23 has not yet issued an order.

24
25 ETF – Nextel payer class. Stayed per this Court’s Order of 2/18/09. The stay remains in
26 effect. Claims potentially settled in *Larson v. Sprint*. The federal court held a final approval
27 hearing on 10/21/09 but has not yet issued an order.

1 HANDSET LOCKING. Settled. On 12/31/09, the Court of Appeal issued its decision
2 in *Cellphone Termination Fee Cases*, A122768. That decision found that in the Sprint/Nextel
3 handset locking case the trial court erred in not enforcing the agreement to submit the issue of
4 fees and costs to arbitration but affirmed the trial court's order awarding fees and costs. The
5 Sprint/Nextel handset locking case has not yet been remanded to the trial court.

6 **VERIZON.**

7 ETF – Settled. Appeal from settlement is pending. A124048.

8 HANDSET LOCKING – Settled. Appeal filed and dismissed.

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11 Dated: January __, 2010

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13 Judge Winifred Smith
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