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FILED

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ROBERT C. WILSON, J.S.C.

JULIA ENERSON, JULIA ENERSON &
ASSOCIATES, LLC, and all others similarly
situated,

Plaintiffs,

v.

VERIZON NEW JERSEY, INC.,

Defendant.

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION, BERGEN COUNTY

CIVIL CLASS ACTION

DOCKET NO. L-344-13

**AMENDED ORDER GRANTING
MOTION FOR PRELIMINARY
APPROVAL OF CLASS ACTION
SETTLEMENT AND DIRECTING
DISSEMINATION OF CLASS
NOTICE**

WHEREAS Plaintiffs Julia Enerson (“Enerson”) and Julia Enerson & Associates, LLC (“LLC”) (collectively, “Plaintiffs”), moved for an Order, pursuant to New Jersey Court *Rule* 4:32-2(e), seeking preliminary approval of a class action settlement, and directing the dissemination of class notice (the “Motion”); and

WHEREAS Defendant Verizon New Jersey Inc. (“Verizon NJ”) did not oppose Plaintiffs’ Motion; and

WHEREAS the Court reviewed the submissions of the parties, held a hearing on November 20, 2015 (the “Preliminary Approval Hearing”), and found that the parties are entitled to the relief they seek; and

WHEREAS the Court granted Plaintiffs’ Motion and entered an Order of Preliminary Approval on November 20, 2015; and

WHEREAS the parties thereafter discovered a drafting error in the Order of Preliminary Approval entered by the Court and submitted this Amended Order of Preliminary Approval to correct that error;

IT IS ORDERED that the Order of Preliminary Approval entered on November 20, 2015 is VACATED and Plaintiffs’ Motion is GRANTED, subject to the following terms and conditions:

1. The proposed Class Settlement Agreement and Release dated June 5, 2015 and amended on October 22, 2015 (the “Settlement Agreement”), submitted with the Motion, is preliminarily approved as being within the range of acceptable settlements.

2. Based upon the submissions of the parties, and for purposes of this settlement only, the Court conditionally makes the following findings:

a. The members of the Settlement Class are so numerous as to make joinder impracticable.

b. There are questions of law and fact common to the Settlement Class, and such questions predominate over any questions affecting only individual Settlement Class Members for purposes of the Settlement.

c. Plaintiffs' claims and the defenses to such claims are typical of the claims of the Settlement Class Members and the defenses to such claims for purposes of the Settlement.

d. Plaintiffs and their counsel can fairly and adequately protect, and have fairly and adequately protected, the interests of the Settlement Class Members in this action with respect to the Settlement.

e. The proposed class action Settlement is superior to all other available methods for fairly and efficiently resolving this action.

f. Accordingly, for settlement purposes only, the Court preliminarily approves the LLC as a representative of the Settlement Class, and conditionally certifies a Settlement Class comprised of all persons who and entities which, at any time from January 1, 2007 through May 18, 2014, were charged for the installation of a Subject NIJ identified in the Settlement Agreement, regardless of whether the person or entity is a present or former customer of Verizon NJ.

3. This matter is preliminarily certified as a class action for settlement purposes only, pursuant to New Jersey Court *Rule* 4:32-1(a) and (b)(3). If the Court does not finally approve the settlement or if 20% or more of the Settlement Class excludes themselves from the Settlement (i.e., "opts out" of the Settlement), Verizon NJ retains the right to assert that this

action may not be certified as a class action for liability purposes, and no party shall rely on this preliminary approval as support for the certification of a class in this or any other action.

4. Bennet D. Zurofsky, Mehri & Skalet, PLLC (“M&S”), and Mayer Law Group LLC (“MLG”) are appointed as Class Counsel, with M&S and MLG to serve in the role of Plaintiffs’ Lead Counsel.

5. The Court appoints Gilardi & Co., LLC as the Settlement Administrator in this action (the “Settlement Administrator”). In accordance with the Settlement Agreement and the Orders of this Court, the Settlement Administrator shall effectuate the provision of notice to the Settlement Class and the other functions set forth in paragraphs 9, 12 and 13 of this Order.

6. A final hearing (the “Fairness Hearing”) shall be held before this Court on March 30, 2016 at 1:30 p.m., to determine whether (a) this action meets each of the prerequisites for class certification set forth in New Jersey Court *Rule* 4:32-1(a), and may properly be maintained as a class action on behalf of the Settlement Class under New Jersey Court *Rule* 4:32-1 (b)(3); (b) the Settlement Agreement should receive final approval as fair, reasonable, adequate, and in the best interests of the Settlement Class; (c) orders granting final approval of the Settlement Agreement, entering final judgment and dismissing the Amended Complaint with prejudice, as provided in the Settlement Agreement, should be entered; and (d) the applications of Class Counsel for the payment of attorneys’ fees and expenses and for an incentive award to Plaintiffs are reasonable and should be approved. The Fairness Hearing may be postponed, adjourned or continued by further order of this Court, without further notice to the parties or the members of the Settlement Class.

7. At the Fairness Hearing the Court will consider and determine whether the Settlement Agreement should be finally approved as fair, adequate and reasonable in light of any objections presented by Settlement Class Members and the parties' responses to any such objections.

8. Any Settlement Class Member who has not timely filed a written request for exclusion from the Settlement Class pursuant to paragraph 9 of this Order may object to the fairness, reasonableness or adequacy of the settlement. Any member of the Settlement Class who so objects may appear at the Fairness Hearing, in person or through counsel, to show cause why the settlement should not be approved as fair, adequate and reasonable. Each Settlement Class Member who wishes to object to any term of the Settlement Agreement must do so in writing by filing a written objection with the Clerk of the Court and mailing it to counsel for the parties at the addresses set forth in the Settlement Agreement. Any such objection must be filed with the Clerk of the Court and received by counsel for the parties no later than March 4, 2016. The objection must

- (a) identify the Subject NIJ for which the Settlement Class Member was charged;
- (b) attach copies of any materials that will be submitted to the Court or presented at the Fairness Hearing;
- (c) be signed by the Settlement Class Member;
- (d) clearly state
 - (i) the legal and factual ground(s) for the objection;
 - (ii) the Settlement Class Member's name and address;
 - (iii) where the Subject NIJ was installed; and
 - (iv) if different than the Settlement Class Member's current address, the address of the property where the subject NIJ was installed; and

(e) if the Settlement Class Member is represented by counsel, be accompanied by a notice of appearance submitted no later than March 10, 2016.

Any objection that fails to satisfy the requirements of this paragraph, or that is not properly and timely submitted, shall not be effective, will not be considered by this Court, and will be deemed waived, and those Settlement Class Members shall be bound by the final determination of this Court.

9. Any Person included within the Settlement Class who wishes to be excluded, or to “opt out,” from membership in the Settlement Class must do so in writing by mailing a request for exclusion from the Settlement to the Settlement Administrator at *Enerson v. Verizon Settlement*, P.O. Box 8060, San Rafael, California 94901, so that such request is postmarked no later than March 4, 2016. Such a request must

(a) be signed by the Settlement Class Member;

(b) identify the Subject NIJ for which the Settlement Class Member was charged;

(c) clearly express the Settlement Class Member’s desire to be excluded from the Settlement Class; and

(d) include the Settlement Class Member’s name, address and telephone number, and, if represented by counsel, counsel’s name, address and telephone number.

Any Person within the Settlement Class who wishes to be excluded from the Settlement Class can only opt out for himself, herself or itself and, except for minors, cannot opt out for any other Person. No Person within the Settlement Class may authorize another Person to opt out on his, her or its behalf. Any Person within the Settlement Class who elects to be excluded from the Settlement shall not be entitled to receive any of the benefits of the Settlement, shall not be

bound by the release of any claims pursuant to the Settlement Agreement, and shall not be entitled to object to the Settlement or appear at the Fairness Hearing.

In the event and to the extent that the Parties advise the Court that a Settlement Class Member has made a submission to the Court and the Parties which appears to assert both an objection to the fairness, reasonableness or adequacy of the proposed Settlement, and a statement of intent to opt out of the Settlement Class, such Settlement Class Member shall be deemed to have opted out of the Settlement.

Any request for exclusion that fails to satisfy the requirements of this paragraph, or is not properly or timely submitted, shall not be effective, and the Person making such a request shall be deemed to have waived all rights to opt out of the Settlement, and to be a Settlement Class Member for all purposes pursuant this Order.

10. Except for good cause shown, no person (other than the parties and their respective representatives and counsel) may appear or be heard at the Fairness Hearing, or file papers, briefs or other submissions regarding the Fairness Hearing, unless no later than March 10, 2016, such person or their counsel files with the Clerk of this Court and simultaneously serves on counsel for all parties at the addresses set forth in the Settlement Agreement a timely, written notice of request to appear at the Fairness Hearing. Such notice must state the name, address and telephone number of the Settlement Class Member, as well as the name, address and telephone number of any counsel who wishes to appear on behalf of the Settlement Class Member. The notice must also indicate that the Settlement Class Member has previously or contemporaneously objected to the Settlement in compliance with paragraph 8 of this Order.

Any request to appear that fails to satisfy the above requirements, or that is not properly and timely submitted, shall not be effective and will not be considered by this Court, and the

Person who made such a request shall not be permitted to appear or be heard at the Fairness Hearing, or otherwise comment further on the settlement.

11. Service of all papers on counsel for the parties shall be made as follows:

To Plaintiffs and the Settlement Class

Steven A. Skalet, Esq.
Mehri & Skalet, PLLC
1250 Connecticut Avenue, N.W., Suite 300
Washington, D.C. 20036

To Verizon NJ

Philip R. Sellinger, Esq.
Greenberg Traurig, LLP
200 Park Avenue
Florham Park, New Jersey 07932

12. The Court finds that the manner and content of (a) the Settlement Notice set forth in Exhibit B to the Settlement Agreement and (b) the Summary Notice set forth in Exhibit C to the Settlement Agreement, will provide the best notice practicable to the Settlement Class under the circumstances, constitutes due and sufficient notice to the Settlement Class of the pendency of the action, certification of the Settlement Class, the terms of the Settlement Agreement (including, without limitation, the right of the Settlement Class members to exclude themselves from the Settlement so as not to be bound by the Settlement Agreement), and the Fairness Hearing, and complies fully with the requirements of the United States Constitution, the New Jersey Court Rules, and any other applicable law. All costs incurred in connection with the preparation and dissemination of any notices to the Settlement Class, and all other administrative expenses for the Notices and distribution, shall be borne by Verizon NJ.

a. By January 19, 2016, the Settlement Administrator will provide notice via a single postcard to all Settlement Class Members on a physical address list that will be prepared by

Verizon NJ and provided to the Settlement Administrator by December 20, 2015. Such notice shall be substantially in the form attached to the Settlement Agreement as Exhibit B.

b. The Settlement Administrator shall provide the Parties and the Court with a certification evidencing compliance with the terms and conditions set forth in this paragraph.

c. Verizon NJ shall provide to the Settlement Administrator information for Settlement Class Members necessary to implement the terms of the Settlement Agreement notwithstanding any limitations on use, or prohibitions on disclosure, which might otherwise apply to such information under 47 U.S.C. § 222 or any other applicable law. Verizon NJ shall provide Class Counsel and the Settlement Administrator with information regarding the account history of any person that files an objection or a claim, as needed to evaluate or respond to the objection or claim. Nothing set forth in this Order constitutes a ruling by the Court that any information provided by Verizon NJ is restricted by 47 U.S.C § 222 or any other law. Instead, this subparagraph represents a determination that even if so restricted, disclosure as set forth in this Order is appropriate and consistent with the letter and spirit of such provisions.

13. The Settlement Administrator shall report to the parties, within a reasonable period of time upon request, data regarding the number of notices provided, exclusions from the Settlement Class (i.e., "opt-outs"), and objections to the Settlement, as well as to the status of any distributions made to (a) the Settlement Class, (b) Class Counsel, and (c) any recipient of a *cy pres* recovery.


14. If the Settlement Agreement is finally approved, the Court shall enter a separate order finally approving the Settlement Agreement, entering judgment and dismissing the Amended Complaint with prejudice. Such order and judgment shall be fully binding with respect to all members of the Settlement Class.

15. In the event that the proposed settlement provided for in the Settlement Agreement is not approved by this Court, or if 20% or more of the Settlement Class excludes themselves from the Settlement (i.e., “opts out” of the Settlement), then the Settlement Agreement, all drafts, negotiations, discussions, and related documentation, and all related orders entered by this Court shall become null and void. In such event, the Settlement Agreement and all related negotiations and proceedings shall be withdrawn without prejudice to the rights of the parties, who shall be restored to their respective positions as of April 16, 2015.

16. Subject to further order of this Court, the parties shall abide by the following scheduled dates:

- a. The Summary Notice shall be made available through publication of a settlement website by December 10, 2015.
- b. By December 10, 2015, or as soon thereafter as possible in light of any submission deadlines imposed by this publication, the Summary Notice shall be published once in a 1/4-page advertisement in The Star Ledger.
- c. By January 19, 2016, the Summary Notice shall be mailed directly to all members of the Settlement Class for whom Verizon has a mailing address.
- d. The parties shall file and serve papers in support of final approval of the settlement, including any responses to proper and timely objections, by March 25, 2016.
- e. Class Counsel shall file any applications for an award of attorneys’ fees, costs and litigation expenses and for an incentive award to Plaintiffs, by March 15, 2016.
- f. The Fairness Hearing shall be held at 1:30 p.m. on March 30, 2016 in Courtroom 215 of the Superior Court of the State of New Jersey for Bergen County, 10 Main Street, Hackensack, New Jersey.

17. This Court hereby enters a Preliminary Injunction barring and enjoining Plaintiffs and all Settlement Class Members, to the extent permissible by existing law, from bringing, filing, commencing, prosecuting (or further prosecuting), maintaining, intervening in, participating in, or receiving any benefits from any other lawsuit, arbitration, or administrative, regulatory, or other proceeding in law or equity that asserts, arises from, concerns, or is in any way related to the Released Claims identified in the Settlement Agreement, until such time as this Court has ruled on the fairness of the settlement terms following the Fairness Hearing.



HON. ROBERT C. WILSON

Dated: 11/30, 2015