

SETTLEMENT AGREEMENT AND RELEASE

This Settlement Agreement and Release (“Agreement”) is entered into, by and among the representative plaintiff Heather Stern (“Representative Plaintiff”) in Stern v. AT&T Mobility Corp., et al., Civil Action No.CV-05-08842, United States District Court for the Central District of California, Western Division (“Action”), on behalf of herself and the Class Members, by and through Class Counsel, and Defendants, AT&T Wireless Services Inc., AT&T Mobility Corp. f/k/a Cingular Wireless Corp., and New Cingular Wireless Services Corp. (all collectively, the “Parties” or “Party”).

RECITALS

WHEREAS, on April 15, 2004, Representative Plaintiff brought claims against AWS in the Complaint filed in the Action;

WHEREAS, by Order dated August 22, 2008, the Court granted in part and denied in part Representative Plaintiff’s motion for class certification, including certifying a Class of Washington and California residents bringing certain of Representative Plaintiff’s claims;

WHEREAS, AWS denies the allegations in the Complaint and denies any wrongdoing or liability for the legal claims asserted in the Complaint;

WHEREAS, Class Counsel and Representative Plaintiff are familiar with the claims being settled and the defenses asserted. Class Counsel have had the opportunity to conduct, and have conducted, informal and/or formal discovery and investigation relating to the events alleged in the Complaint, including inspecting and reviewing documents produced by AWS and deposing certain witnesses;

WHEREAS, the Parties and their counsel acknowledge the uncertain outcome and the risk of further litigation, especially in a complex suit such as this, as well as the difficulties,

delays, and costs inherent in such litigation. Representative Plaintiff and Class Counsel have also taken into account the substantial benefits conferred on the Settlement Class by the settlement set forth in this Agreement. Representative Plaintiff and Class Counsel have therefore determined that the settlement set forth in this Agreement is fair, reasonable, and in the best interests of the Settlement Class;

WHEREAS, the Parties have agreed that it is to their mutual benefit to settle and resolve their outstanding differences regarding the claims and defenses asserted in, and relating to the subject of, the Action; and

WHEREAS, counsel for the Parties have engaged in extensive, bona-fide, arms-length negotiations with the assistance of the Honorable Howard Weiner, retired Justice of the California Court of Appeal;

NOW, THEREFORE, subject to the jurisdiction and final approval of the Court, the Parties stipulate and agree that the Action shall be fully and finally resolved under the following terms and conditions.

CERTAIN DEFINITIONS

1. “Approved Claim” means a claim made by a Class Member, which complies in all respects with the terms and conditions of this Agreement, which satisfies all requirements described in this Agreement, and which has been approved as being valid by the Claims Administrator.

2. “ATTM” means AT&T Mobility Corp.

3. “AWS” means AT&T Wireless Services, Inc. and any entity that, prior to October 26, 2004, was affiliated with AT&T Wireless Services, Inc.

4. “ATTM/AWS” means ATTM and AWS together.

5. "Claim Form" means the court-approved form used by a Class Member to submit a claim pursuant to this Agreement.

6. "Claims Administrator" means the entity selected by the Parties and approved by the Court to oversee the claims process. Subject to court approval, the Claims Administrator shall be Rust Consulting, Inc.

7. "Class Member" or "Releasing Party" means any member of the Settlement Class as defined in Paragraph 27 below. Excluded from the Settlement Class are any putative Class Members who submit timely Requests for Exclusion in the manner directed by the Court, all past and current employees of ATTM/AWS, and all other persons described in Paragraph 28, below.

8. "Class Counsel" means attorneys J. Paul Gignac of Arias Ozzello & Gignac LLP and Peter J. Bezek and Robert Curtis of Foley Bezek Behle & Curtis, LLP.

9. "Class Period" means December 20, 2001 to the Effective Date.

10. "Damages Estimate" means an estimate of the alleged damages caused by the conduct alleged in the Action.

11. "Defendants" means AWS, AT&T Mobility Corp. f/k/a Cingular Wireless Corp., and New Cingular Wireless Services Corp.

12. "EDID Billing" means the ENH Discount International Dial, aka ENH Discount INTL Dial, service billed by AWS.

13. "Effective Date" means the first date by which all the conditions and events specified in Paragraph 55 have been met and have occurred.

14. "Long Form Class Notice" means the court-approved complete notice of this Agreement.

15. "mMode Billing" means the mMode/Data Service billed by AWS.

16. "Person" is any individual who purchased wireless communication services from any of the Released Parties.

17. "Released Parties" means AWS, ATTM, AT&T Mobility Corp. f/k/a Cingular Wireless Corp., and New Cingular Wireless Services Corp., and each of their present and former parents, subsidiaries, divisions and affiliates and each of their respective current or former officers, directors, employees, agents, insurers and attorneys and the predecessors, heirs, executors, administrators, legal representatives, successors and assigns of each of the foregoing.

18. "Released Claims" means all causes of action, judgments, liens, indebtedness, costs, damages, obligations, attorneys' fees, losses, claims, liabilities and demands of whatever kind, source or character whether arising under any federal or state law, which includes, but is not limited to, the Federal Communications Act, 47 U.S.C. § 201, *et seq.*, the California Unfair Competition Law, Business and Professions Code §17200, *et seq.*, the California Consumers Legal Remedies Act, Civil Code §§1750, *et seq.*, the Racketeer Influenced and Corrupt Organizations Act, and antitrust, consumer and any other statutory and common law claims, whether intentional or non-intentional, arising on or before the Effective Date, which are, were or could have been asserted against any of the Released Parties by reason of, arising out of, or in any way related to any of the facts, acts, events, transactions, occurrences, courses of conduct, business practices, representations, omissions, circumstances or other matters raised by the Action or addressed in this Agreement, whether any such Released Claim was or could have been asserted by any Releasing Party on its own behalf or on behalf of other persons.

19. "Settlement Website" means the dedicated website providing information on this Settlement, including copies of this Agreement, the Short Form Class Notice, Long Form Class Notice, the Claim Form and contact information for Class Counsel.

20. "Short Form Class Notice" means the court-approved summary notice of this Agreement.

COURT APPROVAL

21. As soon as practicable following execution of this Agreement, the Parties shall jointly or separately submit a motion seeking entry of the Preliminary Approval Order granting preliminary approval of this Agreement and the Class Notice Program described hereinbelow.

22. Upon execution of this Agreement, the Parties agree to suspend all discovery activity or related proceedings in the Action, except for the confirmatory discovery contemplated by this Agreement.

23. Upon entry of the Preliminary Approval Order, the Parties agree to stay all proceedings, except for obtaining final approval of the Settlement. The Preliminary Approval Order shall provide for such stay and shall also bar and enjoin all Class Members from commencing or prosecuting any action or proceeding in any court or tribunal against the Released Parties asserting the Released Claims.

24. The Parties will request that the Final Approval Hearing Date be no sooner than ninety (90) days after the Class Notice Program is completed pursuant to this Agreement and the Preliminary Approval Order, and no later than one-hundred and thirty-five (135) days after entry of the Preliminary Approval Order. The date of the Final Approval Hearing shall be posted on the Settlement Website in advance and shall be published via the Class Notice Program.

25. No later than twenty-one (21) days before the Final Approval Hearing, Class Counsel shall file a motion with the Court for entry of the proposed Final Approval Order.

26. The Parties shall cooperate in good faith and undertake all reasonable actions and steps in order to obtain Preliminary Approval and Final Approval of the Settlement.

THE SETTLEMENT CLASS

27. For purposes of this Settlement and this Agreement only, and for no other purpose, "Settlement Class" shall mean the class represented by Representative Plaintiff and to be certified by the Court as part of this Settlement. Subject to the exceptions set forth in this Agreement, the Settlement Class consists of all persons who are residents of the United States who, whether as a new customer or as a preexisting customer, subscribed with AWS for wireless telephone service during the Class Period, and who at any time during the Class Period were billed and paid, but were not refunded, for mMode Data Service and/or ENH Discount International Dial.

28. Excluded from the Settlement Class are:

- a. Current and former employees, officers, directors, agents, and legal representatives of AWS and of ATTM and its affiliated entities;
- b. Government agencies;
- c. Persons who were subscribers to any pre-paid rate plan;
- d. Corporate B2B accounts;
- e. Persons who have an outstanding balance due on their AT&T Wireless account that was terminated during the Class Period of eight dollars (\$8.00) or more, said balance to be determined as of the date Notice is sent to the Settlement Class; and
- f. Persons who have timely opted out of the Settlement Class pursuant to Paragraph 33, below.

CLASS NOTICE PROGRAM

29. The Parties will request that notice of the Settlement be provided to the Settlement Class no later than seventy-five (75) days after entry of the Preliminary Approval Order in accordance with the Class Notice Program set forth herein. The "Notice Date" shall be the date on which notice is first mailed or published. Upon entry of the Preliminary Approval Order, ATTM/AWS or its designees shall cause the Class Notice Program to be conducted as follows:

- a. Beginning no later than seventy-five (75) days after entry of the Preliminary Approval Order, Class Members who are current ATTM subscribers with zip codes within the United States and who receive paper bills will be sent the Short Form Class Notice by bill insert in their monthly bill. The monthly bill will also contain a short bill message, to be agreed upon by the Parties, alerting the subscribers to the presence of the bill insert. Class Members who are current ATTM subscribers with zip codes within the United States and who receive paperless bills and have provided their electronic mail addresses to ATTM will be sent a link to the Long Form Class Notice (via the Settlement Website) by electronic mail.
- b. No later than seventy-five (75) days after entry of the Preliminary Approval Order, the Short Form Class Notice shall be published as follows:

- i. Parade Magazine and USA Today Weekend: the Short Form Class Notice shall be published as one (1) two-fifths-page notice in one (1) edition of the Parade Magazine and USA Today Weekend newspaper supplements, or agreed upon alternatives.
- c. As soon as possible after entry of the Preliminary Approval Order, the Settlement Website will be established and contain the Long Form Class Notice, the Claim Form and contact information for Class Counsel.
- d. Beginning no later than seventy-five (75) days after entry of the Preliminary Approval Order, Class Members who are former ATTM/AWS subscribers with zip codes within the United States who previously provided their electronic mail addresses to ATTM/AWS, and whose email addresses and identities can be ascertained through reasonable efforts in ATTM's existing electronic systems, will be sent a link to the Long Form Class Notice (via the Settlement Website) by electronic mail.

30. The Parties agree that the timing and manner of delivery and content of the Class Notice Program and the content of the Claim Form will satisfy and comport with applicable requirements of due process and federal class action law and procedure; that the Long Form Class Notice and the Short Form Class Notice are written in plain, easily understood language; that the Class Notice Program provides for the best notice that is practicable under the circumstances; and that the Class Notice Program is reasonably calculated to apprise Class

Members of the Action, the existence of this Agreement, their right to object to or exclude themselves from this Settlement, and their right to benefits established by this Agreement.

31. AWS shall pay all expenses associated with the provision of Class Notice Program as described in Paragraph 29 of this Agreement. If the Court requires additional notice procedures beyond those contemplated by the Notice Program, then ATTM/AWS shall have the unilateral right to terminate this Agreement.

OBJECTIONS AND EXCLUSIONS OR "OPT OUTS"

32. The Parties will request that the Objection Deadline be forty-five (45) days after the Notice Date. Any Class Member who intends to object to this Agreement must file a written Objection with the Court and serve a copy, by regular mail, hand or overnight delivery, to counsel for the Parties at the addresses below. The Objection Deadline shall be set forth in the Long Form Class Notice and the Short Form Class Notice. The Objection must include the objector's name and address, at least a summary of the arguments and evidence supporting the objection, and a statement as to whether the objector intends to appear at the Final Approval Hearing.

33. The Parties will request that the Opt Out Deadline be forty-five (45) days after the Notice Date. A Class Member who wishes to be excluded from this Agreement must submit a written Request for Exclusion to the Claims Administrator. The Request for Exclusion must be postmarked no later than forty-five (45) days after the Notice Date. The Opt Out Deadline shall be set forth in the Long Form Class Notice and the Short Form Class Notice. The Request for Exclusion must be personally signed by the Class Member and must be submitted on an individual basis. Class Members who do not exclude themselves in accordance with this Agreement shall be bound by this Agreement and any judgments or orders subsequently entered

in the Action. Class Members who do exclude themselves shall not (a) be bound by this Agreement or any orders or judgments in this Action; (b) be entitled to any relief under this Agreement; (c) gain any rights by virtue of this Agreement; and (d) be entitled to object to any term or condition of this Agreement. Within 14 days after the Opt Out Deadline, the Claims Administrator shall promptly deliver to counsel for the Parties a complete list of all valid Requests for Exclusion.

SETTLEMENT CLASS BENEFITS

34. In consideration for the releases provided herein, and subject to the Court's jurisdiction and approval, AWS, through its successor-in-interest, ATTM, shall:

- a. Provide Class Members, who submit an Approved Claim Form regarding mMode Billing, a benefit in the form of a check in the amount of \$8.00. The benefit shall be distributed as follows:
 - i. Class Members who submit an Approved Claim Form regarding mMode Billing may receive one benefit per line charged for mMode.
 - ii. Current employees of ATTM shall not be eligible for a benefit.
 - iii. Class Members may submit a Claim Form, and receive benefits, regarding both mMode Billing and EDID Billing if both claims are Approved Claims.
- b. Provide Class Members, who submit an Approved Claim Form regarding EDID Billing, a benefit in the form of a check in the amount of \$10.00. The benefit shall be distributed as follows:

- i. Class Members who submit an Approved Claim Form regarding EDID Billing may receive one benefit per line charged for EDID.
 - ii. Current employees of ATTM shall not be eligible for a benefit.
 - iii. Class Members may submit a Claim Form, and receive benefits, regarding both mMode Billing and EDID Billing if both claims are Approved Claims.
- c. Notify its company-owned retail stores in the United States and ATTM customer care representatives (in call centers handling consumer calls and inquiries) of the terms of this Agreement, and instruct them to respond to customer inquiries accordingly.
- d. Within fourteen (14) days of the execution of this Agreement, provide to Class Counsel a declaration setting forth the manner by which the figures reflected on the Damages Estimate were calculated, and providing Class Counsel the ability to verify their accuracy, and/or produce a witness to so testify at a deposition.

CLAIMS ADMINISTRATION

35. The Claims Administrator shall be responsible for administering this Settlement by processing, handling, reviewing and approving Claim Forms submitted by Class Members/Claimants. The Parties agree to jointly propose that Rust Consulting, Inc. act as the Claims Administrator.

36. ATTM/AWS shall pay the fees and expenses of the Claims Administrator.

37. The time period during which Class Members will be allowed to submit claims (the "Claims Period") will begin on the Notice Date and run until 90 days after the Final Approval hearing. The Claim Form Deadline shall be set forth in the Long Form Class Notice, the Short Form Class Notice and on the Claim Form.

38. Class Members may obtain a Claim Form by downloading one from the Settlement Website, by completing and submitting a Claim Form online through the Settlement Website, or by calling a toll-free number to be established by the Claims Administrator, who will be authorized to mail a Claim Form to the Class Member upon request.

39. For a submitted Claim Form to qualify as an Approved Claim regarding mMode Billing, the Claimant must affirm under penalty of perjury that the Claimant did not understand what mMode Data Service meant when it appeared on the Claimant's bill or did not authorize AWS to bill the Claimant for the mMode Data Service.

40. For a submitted Claim Form to qualify as an Approved Claim regarding EDID Billing, the Claimant must affirm under penalty of perjury that the Claimant did not understand what ENH Discount International Dial meant when it appeared on the Claimant's bill or did not authorize AWS to bill the Claimant for ENH Discount International Dial.

41. The Claims Administrator shall be responsible for determining whether a Claimant has submitted a Claim Form that is an Approved Claim.

42. If ATTM/AWS demonstrates to the satisfaction of the Claims Administrator that a Class Member who submitted a Claim Form regarding mMode Billing was never billed or paid for mMode Data Service, the Claims Administrator shall reject the submitted claim. This shall be the sole basis upon which AWS can challenge an otherwise Approved Claim regarding mMode Billing.

43. If AWS demonstrates to the satisfaction of the Claims Administrator that a Class Member who submitted a Claim Form regarding EDID Billing was never billed or paid for ENH Discount International Dial, the Claims Administrator shall reject the submitted claim. This shall be the sole basis upon which AWS can challenge an otherwise Approved Claim regarding EDID Billing.

44. Class Members who submit Approved Claims shall be issued the Settlement benefits by the Claims Administrator as soon as practical after the Effective Date.

45. The Parties agree that the claims administration process set forth in this section may be modified by mutual agreement of the Parties, without the need for court approval, provided that any such changes are reasonable and consistent with the general intent of this Agreement and do not result in additional burden on or expense to individual Claimants.

ATTORNEYS' FEES, EXPENSES AND INCENTIVE AWARD

46. Class Counsel will apply to the Court for an award of reasonable attorneys' fees in an amount not to exceed \$2,725,000 and expenses in an amount not to exceed \$45,000 (the "Maximum Fee Award"), which application ATTM/AWS agrees not to oppose. ATTM/AWS agrees to pay to Class Counsel all attorneys' fees and expenses that are awarded by the Court up to and including, but not exceeding, the Maximum Fee Award. Class Counsel agree to waive, release and forever discharge the amount of any attorneys' fees and expenses awarded by the Court in excess of the Maximum Fee Award. In no event shall ATTM/AWS be obligated to pay any attorneys' fees and expenses in excess of the Maximum Fee Award, regardless of any greater award by any court.

47. Class Counsel will apply to the Court for an incentive award for Representative Plaintiff in the amount not to exceed \$7,500 ("Maximum Incentive Award"), which application

ATTM/AWS agrees not to oppose. ATTM/AWS agrees to pay to Representative Plaintiff any incentive award approved by the Court up to and including, but not exceeding, the Maximum Incentive Award. Representative Plaintiff agrees to accept no more than \$7,500 from ATTM/AWS as an incentive award, notwithstanding any greater award by the Court. In no event shall ATTM/AWS be obligated to pay an incentive award in excess of \$7,500, regardless of any greater award by any Court. ATTM/AWS shall pay the Representative Plaintiff's incentive award by check made payable to Heather Stern, delivered to Class Counsel.

48. ATTM/AWS shall have no obligation to pay any of Class Counsel's attorneys' fees and expenses or any incentive award unless and until the Judgment becomes Final. However, within five (5) business days of the date of the Entry of an Order granting Final Approval to the Settlement, ATTM shall deposit any attorneys' fees and expenses awarded to Class Counsel and any incentive award to the Representative Plaintiff into an interest bearing account at a financial institution selected by Class Counsel and approved by ATTM. Thereafter, within three (3) business days after the Effective Date, ATTM shall execute such documents as are necessary to release the attorneys' fees and expenses and any incentive award so deposited, together with any and all interest accrued, net of any expenses charged by the financial institution, to Class Counsel. If for any reason the Final Approval Order and Judgment fail to become Final, then Class Counsel shall execute such documents as are necessary to release the attorneys' fees and expenses and any incentive award so deposited, together with any and all interest accrued, net of any expenses charged by the financial institution, to ATTM.

TERMINATION

49. Any Party may terminate this Agreement in its entirety at any time prior to the Effective Date and without further obligation if: (a) any court rejects or denies approval of any

material term or condition of this Agreement; (b) any court enters an order that alters, affects, amends or modifies any material term or condition of this Agreement; (c) the Preliminary Approval Order or Final Approval Order is rejected, modified or vacated by any court or on appeal; (d) any court denies preliminary or final approval of the settlement; or (e) any court refuses to certify the Settlement Class. In addition, ATTM/AWS may in its sole discretion terminate this Agreement if 25,000 or more putative Class Members submit timely Requests for Exclusion, by delivering a notice of termination to the other Parties within thirty (30) days of receipt of the list of Requests for Exclusion from the Claims Administrator.

50. In the event that a Party exercises its right to terminate this Agreement, it shall promptly notify the Court and Class Counsel in writing and cause the Claims Administrator to notify the Settlement Class by posting information on the Settlement Website and via the toll-free number maintained by the Claims Administrator.

51. Upon termination, this Agreement shall be considered null and void and have no force or effect, no person or entity shall be bound by any of its terms or conditions, and the rights of all persons or entities with respect to the claims and defenses asserted in the Action shall be restored to the positions existing immediately prior to execution of this Agreement.

RELEASE

52. Upon the Effective Date, the Released Parties, which shall include AWS, ATTM, AT&T Mobility Corp. f/k/a Cingular Wireless Corp., and New Cingular Wireless Services Corp., and each of their present and former parents, subsidiaries, divisions and affiliates and each of their respective current or former officers, directors, employees, agents, insurers and attorneys (and the predecessors, heirs, executors, administrators, legal representatives, successors and assigns of each of the foregoing), shall be released and forever discharged by all Class Members

who do not exclude themselves from the Settlement Class, and by their respective current and former officers, directors, employees, attorneys, heirs, executors, administrators, agents, legal representatives, professional corporations, partnerships, assigns and successors, but only to the extent such claims are derived by contract or operation of law from the claims of Class Members, (collectively, the Releasing Parties), from any and all Claims, which includes all causes of action, judgments, liens, indebtedness, costs, damages, obligations, attorneys' fees, losses, claims, liabilities and demands of whatever kind, source or character whether arising under any federal or state law, which includes, but is not limited to, the Federal Communications Act, 47 U.S.C. § 201, *et seq.*, the California Unfair Competition Law, Business and Professions Code §17200, *et seq.*, the California Consumers Legal Remedies Act, Civil Code §§1750, *et seq.*, the Racketeer Influenced and Corrupt Organizations Act, and antitrust, consumer and any other statutory and common law claims, whether intentional or non-intentional, arising on or before the Effective Date, which are, were or could have been asserted against any of the Released Parties by reason of, arising out of, or in any way related to any of the facts, acts, events, transactions, occurrences, courses of conduct, business practices, representations, omissions, circumstances or other matters raised by the Action, or addressed in this Agreement, whether any such Claim was or could have been asserted by any Releasing Party on its own behalf or on behalf of other persons. This includes, without limitation, all Claims regarding the billing and disclosure of the mMode/Data Service and the ENH Discount International Dial service. The Claims and rights released and discharged under this paragraph and Settlement shall be referred to collectively as Released Claims.

53. The Releasing Parties and each of them agree and covenant not to sue or cooperate in the filing or prosecution of any suit or proceeding, in any forum based upon or

related to any of the Released Claims against any Released Party. Notwithstanding any other provision of this Agreement, nothing in this Agreement shall limit or preclude the Releasing Parties' rights to enforce any provision of this Agreement.

54. The Releasing Parties shall dismiss the Action with prejudice as to the Released Parties. It is the Parties' intention that such dismissal shall constitute a final judgment on the merits to which the principles of *res judicata* shall apply.

EFFECTIVE DATE

55. The Effective Date of this Agreement shall be the date when all of the following events shall have occurred: (a) the entry of the Final Approval Order by the Court, following the completion of the Class Notice Program and the Fairness Hearing; and (b) the statutory deadline for filing an appeal has expired, or if an appeal is taken, the date when the appeal has been decided or resolved in such a way as to leave the Final Approval Order in effect and the time for any further appeal or review has expired. The Parties will not file or cooperate in the filing of any appeals relating to the Final Approval Order, other than any appeal relating to the Court's approval of any objection to this Agreement. The Parties will not file or cooperate in the filing of any appeals relating to the Order regarding Class Counsel's attorneys' fees or expenses so long as any such Order does not exceed the Maximum Fee Award.

NO ADMISSION OF WRONGDOING

56. This Agreement, whether or not consummated, and any communications exchanged or actions taken pursuant to or during the negotiation of this Agreement are for settlement purposes only. Neither the fact of nor the contents of this Agreement or its exhibits, nor any communications exchanged nor actions taken pursuant to or during the negotiation of this Agreement, shall constitute, be construed as, or be admissible in evidence as an admission of

the validity of any claim asserted or fact alleged in this Action or of any wrongdoing, fault, violation of law or liability of any kind on the part of ATTM/AWS or Defendants.

57. This Agreement and all negotiations, correspondence and communications leading up to its execution shall be deemed to be within the protection of Rule 408 of the Federal Rules of Evidence and any analogous rules or principles. Neither this Agreement, nor any terms, conditions, contents or provisions hereof or exhibits hereto, nor any negotiations, correspondence or communications leading up to the execution of this Agreement, including but not limited to the Damages Estimate and the declaration or deposition provided under Paragraph 34(d) with respect to the Damages Estimate, shall constitute a precedent or be admissible for any purpose in any proceeding; provided, however, that this Agreement, as well as the declaration or deposition, shall be admissible in any proceeding related to the approval of this Agreement, to enforce any of its terms and conditions, to support or defend this Agreement in an appeal from an order granting or denying the Final Approval Order, or to enforce or assert a claim or defense of res judicata, collateral estoppel, claim preclusion, issue preclusion, settlement, release, merger and bar, or any similar claim or defense against Representative Plaintiff, any Class Member, or any third party.

58. This Agreement is made without prejudice to the rights of the Parties to pursue or defend against any claims asserted in the Action if the Agreement is not approved or implemented for any reason.

WAIVER OF UNKNOWN CLAIMS

59. On the Effective Date, the Releasing Parties shall be deemed to have, and by operation of this Agreement shall have, with respect to the subject matter of the Released Claims, expressly waived the benefits of any statutory provisions or common law rules that

provide, in sum or substance, that a general release does not extend to claims which the party does not know or suspect to exist in its favor at the time of executing the release, which if known by it, would have materially affected its settlement with any other party. In particular, but without limitation, the Releasing Parties waive the provisions of California Civil Code § 1542 (or any like or similar statute or common law doctrine), and do so understanding the significance of that waiver. Section 1542 provides:

A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF KNOWN BY HIM OR HER MUST HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR.

Neither this paragraph nor any other provision of this Agreement shall be construed to effectuate a general release of claims. The releases provided for in this Agreement are limited to the Released Claims, as defined above.

60. Nothing in this Agreement shall be construed as a waiver of claims being pursued by Heather Stern in her action entitled *Stern v. New Cingular Wireless, et al.*, United States District Court for the Central District of California, Southern Division, Case No. SACV09-1112 AG (AGR_x).

AMENDMENT OF CLASS DEFINITIONS

61. In connection with the Court's entry of the Preliminary Approval Order, and for settlement purposes only, the Parties agree to amend the class definition(s) such that there shall be certified, for settlement purposes only, a single, nationwide class defined as follows:

"All residents of the United States who, whether as a new customer or as a preexisting customer, subscribed with AWS for wireless telephone service during the Class Period, and who at any time during the Class Period were billed and paid, but were not refunded, for mMode Data Service and/or ENH Discount

International Dial. This Class excludes government and corporate accounts and all past and current employees of AT&T Mobility.”

If this Settlement is not finalized for any reason, then the Parties shall stipulate to an order rescinding the amendment of the class definition(s) in this Action.-

MISCELLANEOUS PROVISIONS

62. Parties’ Authority: The Parties warrant and represent that: (a) the persons executing this Agreement are duly authorized to do so; (b) no claim or any portion of any claim referenced or released in this Agreement has been sold, assigned, conveyed, or otherwise transferred to any other entity or person; (c) they have carefully read this Agreement, have consulted their attorneys regarding this Agreement, and fully understand and voluntarily accept the terms and conditions of this Agreement; and (d) they have relied upon their own judgment and that of their legal counsel regarding the consideration for this Agreement and that no statement or representation by any of the other Parties or their agents, employees, officers, directors or legal representatives influenced or induced them to execute this Agreement.

63. No Assignment: Each Party represents, covenants, and warrants that he or it has not directly or indirectly assigned, transferred, encumbered, or purported to assign, transfer, or encumber any portion of any liability, claim, demand, cause of action, or rights that he or it herein releases.

64. Binding on Assigns: This Agreement shall be binding upon and inure to the benefit of the Parties and their respective heirs, trustees, executors, successors, and assigns.

65. Captions: Titles or captions contained herein are inserted as a matter of convenience and reference, and in no way define, limit, extend, or describe the scope of this

Agreement or any provision hereof. Each term of this Agreement is contractual and not merely a recital.

66. Construction: The Parties agree that the terms and conditions of this Agreement are the result of lengthy, intensive, arm's-length negotiations between the Parties and that this Agreement shall not be construed in favor of or against any Party by reason of the extent to which any Party, or his or its counsel, participated in the drafting of this Agreement, or any part thereof.

67. Governing Law: This Agreement shall be construed under and governed by the laws of the State of California without regard to laws applicable to choice of law.

68. Integration Clause: This Agreement, including the Class Notice Program and Claim Form(s) referred to herein, which form an integral part hereof, contains the entire understanding of the Parties with respect to the subject matter contained herein. There are no promises, representations, warranties, covenants, or undertakings governing the subject matter of this Agreement other than those expressly set forth in this Agreement. This Agreement supersedes all prior agreements and understandings among the Parties with respect to the settlement of the Action.

69. Jurisdiction: The Parties agree that the Court shall retain exclusive and continuing jurisdiction after entry of the Final Approval Order and Judgment, with respect to enforcement of the terms of this Settlement, and all Parties and Class Members submit to the exclusive jurisdiction of the Court with respect to the enforcement of this Settlement.

70. Presiding Judicial Officer: The Parties agree to jointly request that The Honorable Christina A. Snyder preside over the settlement approval process, including without limitation, any application for an award of attorneys' fees, costs, and expenses or for approval of

the allocation of Settlement benefits. In the event that Judge Snyder is unable or unwilling to preside, the Parties agree to jointly request that the settlement approval process be presided over by a single different judge of the United States District Court for the Central District of California.

71. No Collateral Attack: This Agreement shall not be subject to collateral attack by any Class Members or their representatives any time on or after the Effective Date. Such prohibited collateral attacks shall include, but shall not be limited to, claims that a Class Member's claim was improperly denied, that the payment to a Class Member (other than those who exclude themselves from the Settlement Class) was improperly calculated, and/or that a Class Member failed to receive timely notice of the Settlement.

72. Modifications: This Agreement may not be changed, modified, or amended except in writing signed by all Parties and approved by the Court and may not be discharged except by performance in accordance with its terms or by a writing signed by the Parties.

73. Receipt of Advice of Counsel: The Parties acknowledge, agree, and specifically warrant to each other that they have read this Agreement, have received legal advice with respect to the advisability of entering into this Settlement, and fully understand its legal effect.

74. Terms and Conditions Not Superseded: Nothing in this Agreement abrogates, supersedes, modifies, or qualifies in any way any of the contractual terms and conditions applicable in the ordinary course to the relationship between ATTM and its customers, or to the services provided by ATTM and purchased by its customers, except as expressly set forth herein.

75. Settlement Conditioned on Certain Matters: This entire Agreement is contingent upon the Parties reaching agreement on, and the Court granting approval to, the contents of the

Class Notice Program and Claim Form(s) ancillary hereto. However, the Parties agree that the terms and conditions of this Settlement Agreement are not conditional upon the settlement of any other case or the approval of the Settlement of any other actions.

76. Notice: Any notice under this Agreement shall be in writing and delivered personally or sent by registered or certified mail, postage prepaid, to Class Counsel at the following address:

J. Paul Gignac
ARIAS OZZELLO & GIGNAC LLP
4050 Calle Real, Suite 130
Santa Barbara, CA 93110

Peter J. Bezek
Robert A. Curtis
FOLEY BEZEK BEHLE & CURTIS, LLP
15 West Carrillo Street
Santa Barbara, CA 93101

And to ATTM/AWS's counsel at the following address:

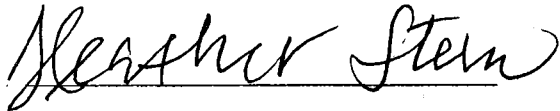
Shelley Hall
STOKES LAWRENCE, P.S.
800 Fifth Avenue, Suite 4000
Seattle, WA 98104-3179

Steven P. Rice
CROWELL & MORING LLP
3 Park Plaza, 20th Floor
Irvine, CA 92614

77. Counterparts: This Agreement may be executed by facsimile or scanned signatures in multiple counterparts, each of which shall be deemed an original and all of which, when taken together, shall constitute one and the same valid and binding agreement.

IN WITNESS WHEREOF, each of the Parties hereto has caused this Agreement to be executed on its behalf and/or by its duly authorized counsel of record, all as of the date set forth below.

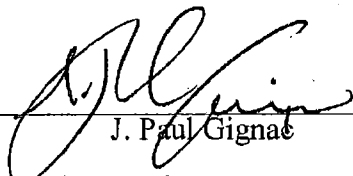
Representative Plaintiff Heather Stern:



Dated: February 15, 2010

Class Counsel:

ARIAS OZZELLO & GIGNAC LLP

By: 
J. Paul Gignac

Dated: February 12, 2010

Defendant AT&T Wireless Services, Inc.:

By: _____

Its _____

Dated: February __, 2010

IN WITNESS WHEREOF, each of the Parties hereto has caused this Agreement to be executed on its behalf and/or by its duly authorized counsel of record, all as of the date set forth below.

Representative Plaintiff Heather Stern:

Dated: February __, 2010

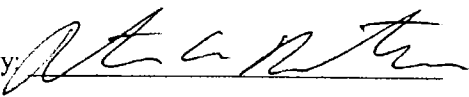
Class Counsel:

ARIAS OZZELLO & GIGNAC LLP

By: _____
J. Paul Gignac

Dated: February __, 2010

Defendant AT&T Wireless Services, Inc.:

By: 
Its CFD

Dated: February 17, 2010