

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

IAN VIANU, ELIZABETH BLUM, and
DOMINIC GUTIERREZ, on behalf of
themselves and all others similarly situated,

Plaintiffs,

v.

AT&T MOBILITY LLC,
Defendant.

Case No. 3:19-cv-03602-LB

CLASS SETTLEMENT AGREEMENT

This Class Settlement Agreement (“Settlement Agreement”) is entered into by and between Plaintiffs Ian Vianu, Elizabeth Blum, and Dominic Gutierrez (together, “Plaintiffs”) on behalf of themselves and the Settlement Class (as defined below), and Defendant AT&T Mobility LLC (“AT&T”) (collectively, the “Parties”). This Settlement Agreement is conditioned upon and subject to approval of the Court as required by Rule 23 of the Federal Rules of Civil Procedure. Settlement Class Counsel (as defined below) and the Parties stipulate and agree that, in consideration of the promises and covenants set forth in this Settlement Agreement and upon the Effective Date (as defined below), this Action (as defined below) and all Released Claims (as defined below) shall be finally and fully settled, compromised, and released, on the following terms and conditions:

I. RECITALS

A. On June 19, 2019, Plaintiffs Ian Vianu and Irina Bukchin initiated this Action by filing a class action Complaint in the United States District Court for the Northern District of California, asserting claims on behalf of themselves and a proposed class of California AT&T customers who had AT&T post-paid wireless service plans and were charged an Administrative Fee by AT&T. Plaintiffs alleged, generally, that AT&T’s representations and advertisements regarding the price of its post-paid wireless service plans were misleading because the prices did not include the Administrative Fee, and that AT&T implemented and charged the Administrative Fee in a deceptive and unfair manner. (Dkt. 1) Among other relief, Plaintiffs sought restitution, damages, punitive damages, and to permanently enjoin AT&T from charging the Administrative Fee, on behalf of themselves and the proposed class. (*Id.*)

B. On June 23, 2019, and July 31, 2019, the Parties consented to have Magistrate Judge Laurel Beeler conduct all further proceedings in this case, pursuant to 28 U.S.C. § 636(c). (Dkts. 7, 19)

C. On August 16, 2019, AT&T filed a motion to compel arbitration of plaintiffs' claims and to stay this Action, which the Court denied on March 2, 2020, based on its application of *McGill v. Citibank, N.A.*, 2 Cal. 5th 945 (2017). (Dkts. 20, 56)

D. On March 13, 2020, AT&T filed a notice of appeal of the Court's order denying arbitration. (Dkt. 59) On March 2, 2020, AT&T filed a motion to stay this Action pending AT&T's appeal of the Court's order denying arbitration. (Dkt. 57) On April 9, 2020, the Court denied AT&T's motion to stay pending appeal. (Dkt. 73) On August 17, 2020, the Parties filed a stipulation in the Ninth Circuit voluntarily dismissing AT&T's appeal of the Court's order denying arbitration. (Dkt. 99)

E. On March 23, 2020, AT&T filed a motion to dismiss this Action pursuant to Fed. R. Civ. P. 12(b)(1) and 12(b)(6). (Dkt. 67) On June 11, 2020, the Court entered an Order denying in part and granting in part AT&T's motion. Specifically, the Court denied AT&T's motion except that the Court held that the discovery rule did not apply and that AT&T's conduct was not a continuing violation. (Dkt. 88)

F. On June 25, 2020, AT&T filed its Answer to Plaintiffs' initial Complaint. (Dkt. 89)

G. On August 18, 2020, the Court entered a Stipulated Protective Order to protect confidential, proprietary, or private information produced or disclosed in discovery in this Action from public disclosure and from use for any purpose other than prosecuting, defending, or attempting to settle this litigation, even after final disposition of this litigation, unless the producing or disclosing party agrees otherwise or a court order otherwise directs. (Dkt. 98)

H. On September 21, 2021, the Court granted the Parties' stipulation and proposed order permitting Plaintiffs to: (a) add plaintiffs Elizabeth Blum and Dominic Gutierrez to replace

one of the original plaintiffs, Irina Bukchin; and (b) file a First Amended Complaint. (Dkts. 116, 117)

I. On September 21, 2021, Plaintiffs filed their First Amended Complaint, which is the operative complaint in this Action. (Dkt. 118)

J. On October 21, 2021, AT&T filed its Answer to Plaintiffs' First Amended Complaint. (Dkt. 124)

K. On February 7, 2022, AT&T filed a renewed motion to compel arbitration and motion to stay this Action, pending the outcome in the U.S. Supreme Court of *Viking River Cruises, Inc. v. Moriana*, No. 20-1573 (cert. granted, Dec. 15, 2021). (Dkts. 137, 138)

L. On November 10, 2020, the Parties and their counsel participated in a full-day mediation with mediator Eric Green of Resolutions LLC. That session did not result in a settlement. On February 17, 2022, the Parties and their counsel engaged in a second, full-day mediation with Robert Meyer, Esq. of JAMS, at which, after extensive arms-length negotiations, the Parties reached an agreement in principle to settle on the terms and conditions embodied in this Settlement Agreement.

M. Settlement Class Counsel have conducted substantial discovery in this Action consistent with the terms of the Stipulated Protective Order—including, *inter alia*, reviewing tens of thousands of pages of documents produced by AT&T for multiple custodians and from its central files; sample account-level data for the Settlement Class; and multiple rounds of class-wide data, including monthly and/or annual totals of Administrative Fees collected and Administrative Fees adjusted, and the number of Accountholders subject to term service contracts or installment plans. Settlement Class Counsel have deposed five current and former AT&T employees/executives, including multiple Rule 30(b)(6) corporate designees, and have

conducted extensive written discovery regarding AT&T's disclosures about the Administrative Fee and the categories and calculation of the costs which AT&T contends support charging the Administrative Fee and the amount thereof over the years. Settlement Class Counsel have also conducted third-party discovery, including issuing document subpoenas concerning financial analyses, which AT&T contends demonstrate that the Administrative Fee defrays only a portion of certain costs AT&T incurs, including but not limited to, charges for interconnection and charges associated with cell site rents and maintenance. Settlement Class Counsel have thoroughly analyzed the legal issues in this Action, have engaged in substantial motion practice in connection with this Action, and believe that the proposed settlement of this Action, as set forth herein, is fair, reasonable, and adequate, and in the best interests of the proposed Settlement Class and that this Settlement Agreement should be approved by the Court under Federal Rule of Civil Procedure 23(e).

N. Based upon their review, investigation, and evaluation of the facts and law relating to the matters alleged in the pleadings, Plaintiffs and Settlement Class Counsel, on behalf of the proposed Settlement Class, have agreed to settle this Action pursuant to the provisions of this Settlement Agreement, after considering, among other things: (1) the substantial benefits to the Settlement Class Members under the terms of this Settlement Agreement; (2) the risks, costs, and uncertainty of protracted litigation, especially in complex actions such as this, as well as the difficulties and delays inherent in such litigation; and (3) the desirability of consummating this Settlement Agreement promptly in order to provide expeditious and effective relief to the Settlement Class Members.

O. AT&T has denied and expressly continues to deny any wrongdoing or liability whatsoever and does not admit or concede any actual or potential fault, wrongdoing, or liability in

connection with any facts or claims that have been alleged against them in this Action or any violation of any law or duty, including but not limited to, those alleged in the Action. AT&T contends that it has acted properly at all times and also denies that Plaintiffs and Settlement Class Members are entitled to any form of damages or relief based on the conduct alleged in the Action. AT&T has maintained and continues to maintain that it has meritorious defenses to all causes of action alleged in the Action; that it was and is prepared to vigorously defend against the claims related to the Action; that the claims against it are meritless; and that it has valid and enforceable rights to compel arbitration as to Plaintiffs and Settlement Class Members and/or to enforce any applicable contractual or statutory limitations period to limit any relief, all of which are expressly reserved. AT&T has maintained and continues to maintain that: the Administrative Fee is lawful, justified, fully supported by underlying expenses, and appropriate, including as a charge to help defray certain expenses AT&T incurs, including, but not limited to, charges for interconnection and charges associated with cell site rents and maintenance; and that AT&T's disclosures respecting the implementation, amount, and nature of the Administrative Fee, including for every increase of the Administrative Fee, have been lawful, accurate, and robust. AT&T contends that Plaintiffs are not entitled to any relief respecting the Administrative Fee, including any form of injunctive relief that precludes AT&T from charging or increasing the Administrative Fee or requires AT&T to modify any of its disclosures and practices respecting the Administrative Fee. AT&T further denies that this Action meets the requisites for certification as a class action under federal law, other than in relation to a settlement class as described in this Settlement Agreement. AT&T further states that it currently charges the Administrative Fee, expects to continue to charge the Administrative Fee, and might increase the Administrative Fee from time to time in the future.

P. AT&T considers it desirable to resolve this Action on the terms stated herein, in order to avoid further expense, inconvenience, and interference with its business operations, and to dispose of burdensome litigation. Therefore, AT&T has determined that the settlement of this Action on the terms set forth herein is in its best interests.

Q. This Settlement Agreement reflects a compromise between the Parties, and shall in no event be construed as or deemed an admission or concession by any Party of the truth of any of the pleadings in this Action, or of any fault on the part of AT&T, and all such allegations or the validity of any purported claim or defense asserted, are expressly denied by AT&T. Nothing in this Settlement Agreement shall constitute an admission of liability or be used as evidence of liability, by or against any Party hereto.

R. Nothing in the Recitals in this Section I shall affect the scope of the Release granted in this Settlement Agreement.

II. DEFINITIONS

A. As used in this Settlement Agreement, including the exhibits attached hereto, the following terms have the following meanings, unless this Settlement Agreement specifically provides otherwise:

1. “Accountholder(s)” means the person(s) on the AT&T post-paid wireless account financially responsible for the account.

2. “Action” means *Vianu et al. v. AT&T Mobility LLC*, N.D. Cal. Case No. 3:19-cv-03602-LB.

3. “Administrative Costs” means and includes: the reasonable costs and expenses of the Settlement Administrator associated with disseminating Notice to the Settlement Class, disseminating Settlement Payments to Settlement Class Members, implementing the Claim

Process, and carrying out its other responsibilities consistent with the terms of this Settlement Agreement.

4. “Administrative Costs Advance” means an advance on the Administrative Costs in the amount of \$600,000 to be paid to the Settlement Administrator by AT&T no later than thirty days following entry of the Preliminary Approval Order.

5. “AT&T” means Defendant AT&T Mobility LLC.

6. “AT&T’s Counsel” means Alycia Degen, Sean Commons, Angela Zambrano, and Rara Kang of Sidley Austin LLP; and Pete Marketos of Reese Marketos LLP.

7. “Claim(s)” means a claim for a Settlement Payment submitted in compliance with the procedures described in Section IV.C.2 of this Settlement Agreement.

8. “Claim Deadline” means ninety days following the Notice Date.

9. “Claim Form” means the document substantially in the form attached as Exhibit G to this Settlement Agreement.

10. “Claim Process” means the process for submitting and reviewing Claims as described in Section IV.C.2 of this Settlement Agreement.

11. “Customer Data” means the best data and information reasonably available to AT&T regarding the accounts within the Settlement Class definition, to be provided by AT&T to the Settlement Administrator for the Settlement Administrator’s use in disseminating Notice, processing Claims, and disseminating Settlement Payments. The Customer Data shall include the following information, to the extent it is reasonably accessible and available to AT&T, for each account within the Settlement Class: account number or other unique identifying number for the account; the name(s) of the Accountholder(s) for the account; the last-known mailing address for the account; the last known email address for the account; whether the account is a current or

former AT&T account as of the time the Customer Data is provided to the Settlement Administrator; and, for current AT&T accounts, whether any of the Accountholder(s) have opted out of receiving informational SMS messages.

12. “Court” means the United States District Court for the Northern District of California.

13. “Effective Date” means the date on which all of the following events have occurred: (a) the Court has entered a final judgment approving this Settlement Agreement and dismissing this Action; and (b) either: (i) the time to appeal from the Court’s final judgment approving this Settlement Agreement, including the Court’s ruling on attorneys’ fees, costs, and service awards, has expired and no appeal has been taken; or (ii) if a timely appeal of the Court’s final judgment approving this Settlement Agreement is taken and if the final judgment (other than as to attorneys’ fees, costs, or service awards) has not been reversed in any way, the date on which the final judgment and/or ruling on attorneys’ fees, costs, and service awards are no longer subject to further direct appellate review.

14. “Email Notice” means the notice of the terms of the proposed Settlement that shall be provided to Accountholders for certain accounts in the Settlement Class, in the manner contemplated by Section VI.2 herein. The Email Notice shall be substantially in the form attached as Exhibit A hereto.

15. “Fairness Hearing” means the hearing at or after which the Court shall make a final decision regarding whether to finally approve this Settlement Agreement as fair, reasonable, and adequate.

16. “Final Order and Judgment” means the Court’s order, substantially in the form attached to this Settlement Agreement as Exhibit I, finally approving this Settlement

Agreement and dismissing all claims and defenses in this Action with prejudice, as described in Section X.B of this Settlement Agreement.

17. “Net Distributable Funds” means the Settlement Fund minus the following: Administrative Costs (including the Administrative Costs Advance); any attorneys’ fees and costs for Settlement Class Counsel awarded by the Court; and any service awards for Plaintiffs awarded by the Court.

18. “Notice” means the notice of the proposed Settlement Agreement contemplated by Section VI of this Settlement Agreement, and shall include the Settlement Website, the Website Notice, Email Notice, Postcard Notice, SMS Notice, and Social Media Notice, as well as the Reminder Email Notice and Reminder SMS Notice.

19. “Notice Date” means forty-five days following the entry of the Preliminary Approval Order.

20. “Parties” means Plaintiffs and AT&T, collectively, as each of those terms is defined in this Settlement Agreement.

21. “Plaintiff(s)” means Ian Vianu, Elizabeth Blum, and Dominic Gutierrez.

22. “Postcard Notice” means the notice of the terms of the proposed Settlement that shall be provided to Accountholders for certain accounts in the Settlement Class, in the manner contemplated by Section VI.4 herein. The Postcard Notice shall be substantially in the form attached as Exhibit B hereto.

23. “Preliminary Approval Order” means the order to be entered by the Court preliminarily approving this Settlement Agreement, as outlined in Section X.A of this Settlement Agreement, and that is substantially in the form attached as Exhibit H to this Settlement Agreement.

24. “Release” means the release and waiver set forth in Section IX of this Settlement Agreement.

25. “Released Parties” means AT&T Mobility LLC and its present and former parents, subsidiaries, divisions, affiliates, predecessors, successors, assigns, attorneys, and insurers, including all of its insurers’ affiliates, predecessors, successors, assigns and reinsurers, and the respective agents, servants, attorneys, employees, officers, directors, shareholders and representatives of the foregoing.

26. “Releasing Parties” means Plaintiffs and the Settlement Class Members, including, only to the extent they may have a right to a claim on behalf of a Plaintiff or a Settlement Class Member, each of their respective spouses, executors, representatives, heirs, predecessors, successors, bankruptcy trustees, guardians, wards, joint tenants, tenants in common, tenants by the entirety, co-borrowers, agents, attorneys and assigns, and all others of those who claim through them or who assert claims on their behalf; and, with respect to any business entities, members, officers, directors, shareholders, employees, independent contractors, agents, successors, assigns, representatives, and all other persons acting or purporting to act on behalf of such business entity.

27. “Settlement” or “Settlement Agreement” means this Settlement Agreement, including the exhibits attached hereto.

28. “Settlement Administrator” means Angeion Group, LLC, subject to Court approval.

29. “Settlement Fund” means the total cash consideration of Fourteen Million Dollars (\$14,000,000.00) to be paid by AT&T under the Settlement Agreement.

30. “Settlement Class” means:

All consumers residing in California (based on the Accountholder’s last known billing address) with a post-paid wireless service plan from AT&T Mobility LLC

through a Consumer or Individual Responsibility User (IRU) account and who were charged an Administrative Fee on such account between June 20, 2015 and the date of preliminary settlement approval.

Excluded from the Settlement Class are any Judge presiding over this Action and any members of their families; AT&T and affiliated entities and individuals and their respective officers and directors; and any otherwise covered consumers, other than Plaintiffs, who assert claims and seek relief in connection with the Administrative Fee and who have provided AT&T with an unresolved written Notice of Dispute (pursuant to AT&T's contractual dispute resolution procedures) before the Execution Date.

31. “Settlement Class Account(s)” means accounts within the Settlement Class definition.¹

32. “Settlement Class Counsel” means: Roger N. Heller, Michael W. Sobol, and Daniel E. Seltz of Lieff, Cabraser, Heimann & Bernstein, LLP; and Daniel M. Hattis of Hattis & Lukacs.

33. “Settlement Class Member” means any person who is within the Settlement Class definition and who does not submit a timely and valid request for exclusion pursuant to Section VII of this Settlement Agreement.

34. “SMS Notice” means the notice that shall be provided to certain Settlement Class Accounts that are current AT&T accounts, in the manner contemplated by Section VI.3 herein. The SMS Notice shall be substantially in the form attached as Exhibit D hereto.

35. “Website Notice” means the notice of the terms of the proposed Settlement that shall be provided in the manner contemplated by Section VI.5 herein and that shall appear on the Settlement Website. The Website Notice shall be substantially in the form attached as Exhibit C hereto.

¹ According to AT&T's records there are approximately 5,425,000 Settlement Class Accounts.

36. “Reminder Email Notice” means the reminder notice to be emailed to Settlement Class Accounts that were sent the Email Notice, reminding them of the Claim Deadline, as contemplated by Section VI.9.a herein. The Reminder Email Notice shall be substantially in the form attached as Exhibit E hereto.

37. “Reminder SMS Notice” means the reminder notice to be sent to certain accounts, reminding them of the Claim Deadline, as contemplated by Section VI.9.b herein. The Reminder SMS Notice shall be substantially in the form attached as Exhibit F hereto.

38. “Social Media Notice” means the supplemental internet-based notice that shall be provided in the manner contemplated by Section VI.8 herein.

39. “Valid Claimant(s)” means and includes Settlement Class Accounts for which a timely and valid Claim is submitted, as determined by the Settlement Administrator.

B. Other capitalized terms used in this Settlement Agreement but not defined in this Section shall have the meanings ascribed to them elsewhere in this Settlement Agreement.

III. CERTIFICATION OF THE SETTLEMENT CLASS

A. Only for the purposes of settlement and the proceedings contemplated herein for effectuating the Settlement, Plaintiffs shall move the Court to provisionally certify the Settlement Class (as defined herein) pursuant to Fed. R. Civ. P. 23(a) and 23(b)(3).

B. For the purposes of settlement only, Plaintiffs shall move for the appointment of Plaintiffs as Settlement Class Representatives and for the appointment of the following attorneys as Settlement Class Counsel: Roger N. Heller, Michael W. Sobol, and Daniel E. Seltz of Lieff, Cabraser, Heimann & Bernstein, LLP; and Daniel M. Hattis of Hattis & Lukacs.

C. AT&T does not oppose certification of the Settlement Class, or the appointments of the Settlement Class Representatives and Settlement Class Counsel, for purposes of settlement only. If the Effective Date of the Settlement does not occur for any reason, certification of the

Settlement Class, and any Settlement Class Representative or Settlement Class Counsel appointments, shall be deemed void and vacated; any preliminary or final order certifying a class for settlement purposes shall be deemed void and vacated; nothing related to the Settlement or negotiations shall be admissible in connection with a contested class certification motion, or otherwise; and each Party shall retain all of their respective rights as they existed prior to execution of this Settlement Agreement. By entering into this Settlement Agreement, AT&T does not waive its right to challenge or contest the maintenance of any claim, request for relief, or lawsuit against it as being frivolous or lacking a substantial basis in fact or law or to oppose certification of any class other than the Settlement Class in connection with the settlement memorialized in this Settlement Agreement.

IV. SETTLEMENT RELIEF

A. Settlement Fund. In consideration for the complete and final settlement of this Action, the Release, and other promises and covenants set forth in this Settlement Agreement, and subject to the other terms and conditions herein, AT&T will pay the Settlement Fund of Fourteen Million Dollars (\$14,000,000.00). The Settlement Fund will be paid by AT&T on a non-reversionary basis, and will cover the following: all Settlement Payments to the Settlement Class as set forth in Section IV.C of this Settlement Agreement; Administrative Costs (including the Administrative Costs Advance); any attorneys' fees and costs for Settlement Class Counsel awarded by the Court; any service awards for Plaintiffs awarded by the Court; and any other costs and expenses that this Settlement Agreement provides will be paid from the Settlement Fund. In no event shall AT&T be required to pay more than Fourteen Million Dollars (\$14,000,000.00) under this Settlement Agreement, and neither Settlement Class Counsel nor any named plaintiff shall seek any other relief (including additional attorneys' fees or costs)

beyond that contemplated in this Settlement Agreement. Other than payment of this Settlement Fund, AT&T shall have no other monetary obligation under this Settlement Agreement.

B. Establishment and Funding of the Settlement Fund Account.

1. Within thirty days following entry of the Preliminary Approval Order, AT&T shall pay the Administrative Costs Advance to the Settlement Administrator.

2. Within ten business days after the Effective Date, AT&T shall transfer by wire into an account held by an FDIC-insured financial institution and administered by the Settlement Administrator (the "Settlement Fund Account"), funds equal to the Settlement Fund (i.e., \$14,000,000.00), less the Administrative Costs Advance. Any escrow agreement in connection with the Settlement Fund Account shall prohibit the distribution of any funds from the Settlement Fund Account absent a court order and the consent of Settlement Class Counsel and AT&T's Counsel that a distribution is authorized by that court order. The Settlement Fund Account shall be maintained by the Settlement Administrator as a Court-approved Qualified Settlement Fund pursuant to Section 1-468B-1 *et seq.* of the Treasury Regulations promulgated under Section 468B of the Internal Revenue Code of 1986, as amended. All taxes (including any estimated taxes, and any interest or penalties relating to them) arising with respect to the income earned by or in connection with the Settlement Fund Account, including any taxes or tax detriments that may be imposed upon Settlement Class Counsel, AT&T, or AT&T's Counsel with respect to income earned by the Settlement Fund Account for any period during which the Settlement Fund Account does not qualify as a Qualified Settlement Fund for purposes of federal or state income taxes or otherwise, shall be paid out of the Settlement Fund Account. Plaintiffs, Settlement Class Counsel, AT&T, and AT&T's Counsel, shall have no liability or responsibility for any taxes arising with respect to the Settlement Fund Account. Any bank fees associated

with the Settlement Fund Account shall be paid by the Settlement Administrator from the Settlement Fund Account.

C. Distribution of Net Distributable Funds to the Settlement Class. The Net Distributable Funds (i.e., the Settlement Fund minus the following: Administrative Costs; any attorneys' fees and costs for Settlement Class Counsel awarded by the Court; and any service awards for Plaintiffs awarded by the Court) shall be distributed to the Accountholders for Valid Claimants, pursuant to the terms set forth in this Settlement Agreement, including the terms regarding the disbursement of residual funds. Each Settlement Class Account that does not timely and validly request exclusion from the Settlement Class is eligible to submit a Claim for a Settlement Payment.

1. Initial Payment Amount. The "Initial Payment Amount" shall be \$20.00. As described further herein, the Initial Payment Amount will be adjusted *pro rata*, based on the number of Valid Claimants, to arrive at the final Settlement Payment amount.

2. Claim Process.

a. Accountholders for Settlement Class Accounts may submit Claims for a Settlement Payment, by submitting a Claim Form on or before the Claim Deadline. The Claim Form shall be substantially in the form attached as Exhibit G to this Settlement Agreement. Claim Forms may be submitted electronically via the Settlement Website or by mail. For Claim Forms submitted by mail, the Claim Deadline shall be a postmark deadline. The Email Notice, Postcard Notice, and Website Notice shall identify both the Claim Deadline and the webpage address, on the Settlement Website, where Claim Forms may be submitted electronically, and the Email Notice and Postcard Notice shall include unique personal identification numbers to facilitate the submission of Claims. The Email Notice shall also

include a hyperlink to the webpage address, on the Settlement Website, where Claim Forms may be submitted electronically.

b. By no later than fourteen days following the entry of the Preliminary Approval Order, AT&T shall provide the Customer Data to the Settlement Administrator, for the Settlement Administrator's use in disseminating Notice and processing Claims.

c. The Settlement Administrator shall review and process Claims.

d. Those Settlement Class Accounts for which a timely and valid Claim is submitted, as determined by the Settlement Administrator, shall be deemed "Valid Claimants" and shall be issued Settlement Payments as described further herein. Only one valid Claim may be submitted for each Settlement Class Account.

e. Settlement Class Accounts that timely and validly request exclusion from the Settlement Class, shall not be eligible for a Settlement Payment. All other Settlement Class Accounts shall be eligible to submit Claims for Settlement Payments.

f. The Settlement Administrator shall conduct reasonable audit(s) to ensure the integrity of the Claim Process, including that appropriate controls are in place to prevent fraud.

g. Beginning no later than two weeks following the Notice Date and continuing until the processing of Claims is completed, the Settlement Administrator shall provide weekly updates to Settlement Class Counsel and AT&T's Counsel regarding Claim submissions and regarding its review and processing of Claims. The Settlement Administrator's weekly updates to Settlement Class Counsel shall not include any personally identifiable

information about AT&T customers, such as account numbers, the name(s) of Accountholder(s) or subscribers, email addresses, or contact information.

3. Calculation of Final Settlement Payment Amount. The Settlement Payment amount shall be calculated as follows:

a. The “Total Unadjusted Payments” shall be equal to the Initial Payment Amount (i.e., \$20.00) *multiplied by* the total number of Valid Claimants as determined by the Settlement Administrator.

b. The “Adjustment Factor” shall be equal to the Net Distributable Funds *divided by* the Total Unadjusted Payments.

c. The “Settlement Payment” shall be equal to the Initial Payment Amount (i.e., \$20.00) *multiplied by* the Adjustment Factor. Each Valid Claimant account, as determined by the Settlement Administrator, will be issued a Settlement Payment.

4. Creation of Payment List and Distribution of Settlement Payments

a. By no later than seven days following the Effective Date, the Settlement Administrator—using the Customer Data, the timely and valid requests for exclusion from the Settlement Class, and the timely and valid Claims submitted—shall (i) provide to AT&T’s Counsel a “Settlement Payee List” that includes, for each Valid Claimant account, the following information: the account number or other unique identifying number for the account as indicated in the Customer Data; and the name(s) of the Accountholder(s) on the account as indicated in the Customer Data, and (ii) provide to Settlement Class Counsel the total number of Valid Claimants on the Settlement Payee List.

b. Within twenty-one days following the Effective Date, AT&T shall (i) create and provide to the Settlement Administrator an “Updated Settlement Payee List,”

as a supplement to the Settlement Payee List, that includes all of the information on the Settlement Payee List and adds the following for each account on the Settlement Payee List: whether, at the time AT&T prepares the Updated Settlement Payee List, the account is a current AT&T wireless account (“Current Customer(s)”) or a former AT&T wireless account (“Former Customer(s)”), and (ii) provide to Settlement Class Counsel the numbers of accounts on the Updated Settlement Payee List that are Current Customers and Former Customers, respectively.

c. By no later than twenty-eight days following the Effective Date, the Settlement Administrator shall determine the amount of Net Distributable Funds (and provide that information to Settlement Class Counsel and AT&T’s Counsel), by deducting from the Settlement Fund: (i) the amount of any Court-approved attorneys’ fees and costs award for Settlement Class Counsel; (ii) the amount of any Court-approved service awards for Plaintiffs; (iii) the Administrative Costs (including both costs already incurred and a prediction of future costs necessary to effectuate this Settlement Agreement), which shall include the Administrative Costs Advance previously paid by AT&T pursuant to Section IV.B.1 herein, but shall not include any administrative costs associated with distribution of the Residual Funds as contemplated by Section IV.C.5 herein; and (iv) the amount of any and all other costs, expenses, and other payments (other than the Settlement Payments) not specifically enumerated in subsections (i) through (iii) of this Section IV.C.4.c that are expressly contemplated as being paid from the Settlement Fund under this Settlement Agreement.

d. By no later than twenty-eight days following the Effective Date, the Settlement Administrator shall (i) create and provide to AT&T’s Counsel a “Payment List,” as a supplement to the Updated Settlement Payee List, that includes all of the information on the Updated Settlement Payee List and adds the following for each account on the Updated Settlement

Payee List: the Settlement Payment amount for the account, as calculated pursuant to Section IV.C.3 herein, and (ii) provide to Settlement Class Counsel the Settlement Payment amount(s) on the Payment List and the number of accounts to receive the Settlement Payment amount(s); the numbers of accounts on the Payment List that are Current Customers and Former Customers, respectively; and the total amount of payments on the Payment List for Current Customers and Former Customers, respectively.

e. Payments to Current Customers. Within forty-five days following the Effective Date, AT&T shall: (a) issue account credits to each Current Customer account on the Payment List, in the Settlement Payment amounts listed for them in the Payment List; and (b) send a written verification to the Settlement Administrator and Settlement Class Counsel: (i) verifying the total dollar amount of the account credits to Current Customers that AT&T successfully issued pursuant to this paragraph; and (ii) listing any Current Customers on the Payment List for which AT&T was not able to effectuate the corresponding account credit. Within five business days following receipt of such written verification from AT&T, the Settlement Administrator shall make a payment to AT&T, drawn from the Settlement Fund Account, in the total, aggregate amount of Current Customer account credits successfully made by AT&T as verified by AT&T pursuant to this paragraph. The billing statements in which the account credits for Current Customers appear shall reasonably identify the account credits as being settlement payments issued in connection with this Action. To the extent AT&T is unable to effectuate account credits, as contemplated by this paragraph, for any particular Current Customer accounts (e.g., because the Current Customer closes their AT&T account subsequent to the creation of the Payment List), such Current Customers shall thereafter be treated as Former

Customers and be sent their Settlement Payments by mailed check pursuant to the terms set forth in Section IV.C.4.f herein.

f. Payments to Former Customers. Within seventy-five days following the Effective Date (hereinafter, the “Payment Date”), the Settlement Administrator shall mail checks, via first class U.S. Mail postage pre-paid, to each Former Customer account on the Payment List (including any Current Customer accounts on the Payment List for whom AT&T was not able to effectuate the corresponding account credit), drawn from the Settlement Fund Account in the Settlement Payment amounts indicated for them in the Payment List. Settlement Payment checks shall be made out to the Accountholder(s) on the Former Customer accounts, as indicated in the Payment List. Settlement Payment checks shall be sent to the mailing addresses indicated in the corresponding Claim Forms. The initial mailed Settlement Payment checks to Former Customers shall be valid for a period of one-hundred-twenty days.

g. For any mailed Settlement Payment checks that are returned undeliverable with forwarding address information, the Settlement Administrator shall re-mail the check to the new address indicated. For any mailed Settlement Payment checks that are returned undeliverable without forwarding address information, the Settlement Administrator shall conduct an industry standard “skip trace” to try to identify updated address information and re-mail checks to the extent an updated address is identified.

5. Residual Funds: For any Settlement Payment funds which remain in the Settlement Fund Account one year after the Payment Date—consisting of checks that were successfully delivered but not timely negotiated, and checks deemed undeliverable by the Settlement Administrator (collectively, “Residual Funds”)—such Residual Funds shall be treated as unclaimed property of the corresponding Accountholder(s), subject to applicable state

unclaimed property procedures; provided that any administrative costs of the Settlement Administrator in connection with the distribution of the Residual Funds pursuant to this Section IV.C.5 shall be paid from the Residual Funds, shall not increase AT&T's contribution to the Settlement Fund or change any obligation by AT&T under this Settlement Agreement, and shall reduce *pro rata* the respective unclaimed property amounts for the Accountholder(s) with uncashed or undeliverable Settlement Payment checks. Nothing contained in this Section IV.C.5 shall impose any obligations on AT&T, and the Settlement Administrator shall be responsible for performing any and all obligations that may be required by any state's unclaimed property laws and procedures in connection with any Residual Funds.

V. THE SETTLEMENT ADMINISTRATOR

1. The duties of the Settlement Administrator, in addition to any other responsibilities that are described in this Settlement Agreement, shall include:
 - (a) Providing Notice to Settlement Class Members as set forth in this Settlement Agreement (with the exception of disseminating the SMS Notice and Reminder SMS Notice, which shall be disseminated by AT&T);
 - (b) Receiving and processing Claims pursuant to the Claims Process described in this Settlement Agreement, and providing updates to Settlement Class Counsel and AT&T's Counsel regarding the Claims and Claims Process, as provided in this Settlement Agreement;
 - (c) Establishing and maintaining the Settlement Website;
 - (d) Establishing and maintaining the Toll-Free Number;
 - (e) Responding to inquiries from Settlement Class Members;
 - (f) Keeping a clear and careful record of all communications with Settlement Class Members and all administration expenses;
 - (g) Establishing and maintaining a post office box for requests for exclusion, objections, and other correspondence from Settlement Class Members;
 - (h) Establishing and maintaining an email address for requests for exclusion by email and other correspondence from Settlement Class Members;

- (i) Processing and determining the validity of any requests for exclusion by Settlement Class Members;
- (j) Receiving any objections mailed by Settlement Class Members to the Settlement Administrator;
- (k) Providing copies to Settlement Class Counsel and AT&T's Counsel of all requests for exclusion, objections, and other correspondence received from Settlement Class Members;
- (l) Providing interim reports on request, and, within ten days after the Exclusion/Objection Deadline (as defined in Sections VII.A & VIII.A herein), a final report to Settlement Class Counsel and AT&T's Counsel summarizing the number of requests for exclusion received during that period, the total number of requests for exclusion received to date, the names and addresses of persons in the Settlement Class who submitted a request for exclusion, and any other pertinent information requested by Settlement Class Counsel or AT&T's Counsel;
- (m) In advance of the Fairness Hearing, preparing an affidavit, to submit to the Court, affirming its compliance with the Notice and settlement administration provisions of this Settlement Agreement, and identifying any persons in the Settlement Class who submitted timely and valid requests for exclusion;
- (n) Preparing the Settlement Payee List and Payment List as provided in this Settlement Agreement;
- (o) Processing and transmitting distributions from the Settlement Fund and Settlement Fund Account as provided in this Settlement Agreement;
- (p) Paying any invoices, expenses, taxes, fees, and other costs associated with administration of this Settlement as contemplated by this Settlement Agreement or required by law; and
- (q) Performing any other settlement administration-related functions reasonably necessary to effectuate this Settlement Agreement, with the consent of both Settlement Class Counsel and AT&T's Counsel, or as approved by the Court.

VI. NOTICE PROGRAM

1. Customer Data. By no later than fourteen days following entry of the Preliminary Approval Order, AT&T shall provide the Customer Data to the Settlement Administrator.

2. Email Notice. By no later than the Notice Date, the Settlement Administrator shall email the Email Notice to each Settlement Class Account for which an email address is included in the Customer Data. The Email Notice shall be substantially in the form attached as Exhibit A to this Settlement Agreement. The Email Notices shall be sent to the email addresses listed in the Customer Data for such accounts. The Email Notices shall be sent with the sender title “AT&T Class Action Settlement Administrator” and the subject line “Notice of AT&T / Vianu Class Action Settlement.”

3. SMS Notice. By no later than the Notice Date, AT&T shall send, via SMS (i.e., text message), SMS Notice to the corresponding AT&T cellular telephone number(s) for each Settlement Class Account for which the Customer Data identifies that both: (1) the account is a current AT&T account and (2) no Accountholders for the account have opted out of receiving such messages. The SMS Notice shall be substantially in the form attached as Exhibit D to this Settlement Agreement. Each SMS Notice shall include a hyperlink to a webpage, on the Settlement Website, that includes the substance of the Email Notice. The recipients of the SMS Notice shall not be charged for such messages. The Parties intend that these messages are informational messages pertaining to the AT&T customers’ service. The requirement for AT&T to send SMS Notices under this section VI.3 shall be contingent upon the Court finding in the Preliminary Approval Order that these are informational messages pertaining to AT&T customers’ service. By no later than three days following the Notice Date, AT&T shall provide to the Settlement Administrator a list of Settlement Class Accounts that were successfully sent the SMS Notice.

4. Mail Notice.

a. For any Settlement Class Account where both (1) there is no email address included in the Customer Data; and (2) the account is not among the Settlement Class Accounts for which SMS Notice is to be sent pursuant to section VI.3 herein (i.e., because, as identified in the Customer Data, the account is a former AT&T account or one or more Accountholder(s) for the account have opted-out of receiving informational SMS messages): By no later than the Notice Date, the Settlement Administrator shall: (a) update the mailing address listed in the Customer Data for such account through the National Change of Address Database; and (b) mail the Postcard Notice to them, via first class U.S. mail, postage pre-paid, at their address as updated. The Postcard Notice shall be substantially in the form attached as Exhibit B to this Settlement Agreement.

b. For any Settlement Class Account where either (1) AT&T attempted but was not successful in sending SMS Notice; or (2) the Settlement Administrator sent Email Notice but received notice that the Email Notice was not received (i.e., a “bounce-back”): By no later than ten days following the Notice Date, the Settlement Administrator shall: (a) update the mailing address listed in the Customer Data for such account through National Change of Address Database; and (b) mail the Postcard Notice to them, via first class U.S. mail, postage pre-paid, at their address as updated. The Postcard Notice shall be substantially in the form attached as Exhibit B to this Settlement Agreement.

c. For any mailed Postcard Notices that are returned with forwarding address information, the Settlement Administrator shall promptly re-mail the Postcard Notice to the new address indicated. For any mailed Postcard Notices that are returned as undeliverable without a forwarding address, the Settlement Administrator shall conduct an industry standard

“skip trace” to try to identify a more current address and re-mail the Postcard Notice to the extent an updated address is identified.

5. Settlement Website. The Settlement Administrator shall establish and maintain an Internet website, at the URL www.ATTVianuClassActionSettlement.com (“Settlement Website”) where Settlement Class Members can obtain further information about the terms of this Settlement Agreement, their rights, important dates and deadlines, and related information. Settlement Class Members shall also be able to submit Claim Forms electronically via the Settlement Website. The Settlement Website shall include, in PDF format, the First Amended Complaint in this Action, AT&T’s Answer to the First Amended Complaint, this Settlement Agreement, the long-form Website Notice substantially in the form attached as Exhibit C to this Settlement Agreement, the Preliminary Approval Order entered by the Court, Settlement Class Counsel’s fee and cost application (after it is filed), and other case documents as agreed upon by the Parties and/or required by the Court, and shall be operational and live before the first Postcard Notice, Email Notice, or SMS Notice is disseminated. The Settlement Website shall be optimized for display on mobile phones. The Settlement Website shall remain operational until at least one year after the Payment Date or such other later date as the Parties may agree.

6. Toll-Free Number. The Settlement Administrator shall establish and maintain a toll-free telephone number (“Toll-Free Number”) where Settlement Class Members can obtain further information about the Settlement Agreement and their rights, and request that a hard copy Claim Form or Website Notice be mailed to them. The Toll-Free Number shall be operational and live by no later than one day before the first Postcard Notice, Email Notice, or

SMS Notice is disseminated, and shall remain operational until at least one year after the Payment Date or such other later date as the Parties may agree.

7. CAFA Notice. Within ten days of Plaintiffs' filing of the motion for preliminary approval with the Court, AT&T (or the Settlement Administrator at AT&T's direction) shall serve a notice of the proposed Settlement, in accordance with 28 U.S.C. § 1715, upon (a) the appropriate State official of each State in which a Settlement Class Member may reside, and (b) the appropriate Federal official, which may include the United States Attorney General and/or the person who has the primary Federal regulatory or supervisory responsibility with respect to AT&T. AT&T shall provide a copy of such notice to Settlement Class Counsel.

8. Social Media Notice. Commencing no earlier than the Notice Date and ending by the Claim Deadline, the Settlement Administrator shall implement a social media campaign to provide additional notice to Settlement Class Members, which shall include: (a) a custom Facebook campaign whereby additional notice will provided directly via Facebook to Settlement Class Accounts with identifiable Facebook accounts; and (b) a supplemental interest-based Facebook and Instagram campaign designed to target Settlement Class Members.

9. Reminder Notice.

a. Reminder Email Notice. No later than fourteen days after the Notice Date, the Settlement Administrator shall email a Reminder Email Notice, substantially in the form attached as Exhibit E to this Settlement Agreement, to each Settlement Class Account that was sent the Email Notice. Depending on the volume of Claim Form submissions and in consultation with the Parties, prior to the Claim Deadline, the Settlement Administrator may cause a second reminder email notice to be sent to Settlement Class Accounts that were sent the Reminder Email Notice or to a portion of them that have not yet submitted a Claim Form.

b. Reminder SMS Notice. Between twenty-one days and fourteen days before the Claim Deadline, AT&T shall send, via SMS (i.e., text message), a Reminder SMS Notice to the corresponding AT&T cellular telephone number(s) for each Settlement Class Account where both of the following apply: (a) the corresponding AT&T cellular telephone number was successfully sent the SMS Notice; and (b) the Settlement Administrator reports that a Claim Form has not yet been submitted for the account. By no later than thirty days before the deadline for sending the Reminder SMS Notice, the Settlement Administrator shall report to AT&T regarding which Settlement Class Accounts have not yet submitted a Claim Form. The Reminder SMS Notice shall be substantially in the form attached as Exhibit F to this Settlement Agreement. The recipients of the Reminder SMS Notice shall not be charged for such messages. The Parties intend that these messages are informational messages pertaining to the AT&T customers' service. The requirement for AT&T to send Reminder SMS Notices under this section VI.9.b shall be contingent upon the Court finding in the Preliminary Approval Order that these are informational messages pertaining to the AT&T customers' service.

VII. REQUESTS FOR EXCLUSION

A. Settlement Class Members may exclude themselves from the Settlement Class by mailing or emailing to the Settlement Administrator, at the address/email address provided in the Website Notice, a request for exclusion that is postmarked no later than sixty days after the Notice Date (the "Exclusion/Objection Deadline"). To be effective, the request for exclusion must include (1) the Settlement Class Member's full name, telephone number, mailing address, and email address; (2) a clear statement that the Settlement Class Member wishes to be excluded from the Settlement Class; (3) the name of this Action: "Vianu v. AT&T Mobility LLC"; and (4) for requests for exclusion sent by mail, the Settlement Class Member's signature or a signature of an individual authorized to act on his or her behalf (no signature is required for

emailed requests for exclusion). If the person submitting the request for exclusion is doing so on behalf of a Settlement Class Member (such as an attorney or estate), the request must also include the full name of the person submitting the request and the basis of his, her or its authority to act on behalf of the Settlement Class Member. Requests for exclusion must be made on an individual basis; “mass,” “class,” or other purported group opt outs are not permitted. Any request for exclusion from a Settlement Class Member that is a co-Accountholder on a Settlement Class Account must be submitted by all co-Accountholders on that account, otherwise the request for exclusion is invalid for that account. Any Settlement Class Member who submits a timely and valid request for exclusion is foreclosed from objecting to the Settlement or to Settlement Class Counsel’s motion for attorneys’ fees, costs, and service awards. If a Settlement Class Member submits both a timely and valid request for exclusion and an objection, the Settlement Class Member shall be treated as if they had only submitted a request for exclusion.

B. The Settlement Administrator shall promptly after receipt provide copies of any requests for exclusion, including any related correspondence, to Settlement Class Counsel and AT&T’s Counsel.

C. By no later than fourteen days before the Fairness Hearing, the Settlement Administrator shall file with the Court (or provide to Settlement Class Counsel for filing with the Court) a declaration confirming that the Notice program set forth in Section VI has been implemented and providing a complete and final list of persons in the Settlement Class who submitted timely and valid requests for exclusion.

D. Any Settlement Class Member who does not submit a timely and valid request for exclusion as provided in Section VII shall be bound by all subsequent proceedings, orders, and judgments in this Action, including, but not limited to, the Release.

VIII. OBJECTIONS

A. Any Settlement Class Member who does not submit a timely and valid request for exclusion shall have the right to object to the proposed Settlement and/or to Settlement Class Counsel's motion for attorneys' fees, costs, or service awards, only by complying with the objection provisions set forth in this Section VIII. Settlement Class Members who object shall remain Settlement Class Members and shall be subject to the Release set forth in this Settlement Agreement if this Settlement is approved by the Court and becomes effective. To be considered valid, an objection must be in writing, must be filed the Court or mailed to the Court at the address listed in the Website Notice, postmarked/mailed no later than sixty days after the Notice Date (the "Exclusion/Objection Deadline"), and must include the following: (1) the name of this Action: "Vianu v. AT&T Mobility LLC"; (2) the full name, mailing address, telephone number, and email address of the objector; (3) the objector's signature or the signature of an individual authorized to act on his or her behalf; (4) a description of the specific reasons for the objection; (5) the name, address, bar number and telephone number of counsel for the objector, if the objector is represented by an attorney; and (6) state whether the objector intends to appear at the Fairness Hearing either in person or through counsel. Any Settlement Class Member who does not timely submit an objection in accordance with this section, shall waive the right to object or to be heard at the Fairness Hearing and shall be forever barred from making any objection to the proposed Settlement or to Settlement Class Counsel's motion for attorneys' fees, costs, and service awards. Any Settlement Class Member who objects to the Settlement shall nevertheless be eligible for all benefits of the Settlement if it is approved and becomes final.

B. The Settlement Administrator shall promptly after receipt provide copies of any objections, including any related correspondence, to Settlement Class Counsel and AT&T's Counsel.

C. By no later than fourteen days before the Fairness Hearing, the Settlement Administrator shall file with the Court (or provide to Settlement Class Counsel for filing with the Court) copies of any objections received by the Settlement Administrator.

IX. RELEASE AND WAIVER

A. The Parties agree to the following release and waiver, which shall take effect upon the Effective Date.

B. In consideration for the Settlement benefits described in this Settlement Agreement, Releasing Parties, will fully, finally, and forever release, relinquish, acquit, and discharge the Released Parties from, and shall not now or hereafter institute, maintain, or assert on their own behalf, on behalf of the Settlement Class, or on behalf of any other person or entity, any and all manner of claims, requests for relief, actions, causes of action, suits, rights, debts, sums of money, payments, obligations, reckonings, contracts, agreements, executions, promises, damages, liens, judgments, and demands of whatever kind, type or nature whatsoever, both at law and in equity, whether past, present, mature or not yet mature, known or unknown, suspected or unsuspected, contingent or non-contingent, whether based on federal, state, or local law, statute, ordinance, regulation, code, contract, common law, or any other source, or any claim that Releasing Parties ever had, now have, may have, or hereafter can, shall, or may ever have against the Released Parties,² that were or reasonably could have been alleged in this Action or in any other court,

² For the avoidance of doubt, the list preceding this footnote in this paragraph is subject to the limiting language in this paragraph that follows this footnote.

tribunal, arbitration panel, commission, agency, or before any governmental and/or administrative body, or any other adjudicatory body, arising from or relating to the allegations in the Complaint or First Amended Complaint in this Action, including, without limitation, any such claims or requests for relief: (1) alleged in the Action; (2) for rescission, restitution, or unjust enrichment for all damages of any kind; (3) for violations of any state's deceptive, unlawful, and/or unfair business and/or trade practices, false, misleading or fraudulent advertising, consumer fraud, and/or consumer protection statutes; (4) for violations of the Uniform Commercial Code, any breaches of express, implied, and/or any other warranties, any similar federal, state, or local statutes, codes; or (5) for damages, costs, expenses, extra-contractual damages, compensatory damages, exemplary damages, special damages, penalties, punitive damages, and/or damage multipliers, disgorgement, declaratory relief, injunctive relief, expenses, interest, and/or attorneys' fees and costs (together, the "Released Claims").

C. Plaintiffs, Settlement Class Counsel, AT&T, and AT&T's Counsel also agree to release each other from any and all claims relating in any way to any Party or counsel's conduct in this Action, including but not limited to any claims of abuse of process, malicious prosecution, or any other claims arising out of the institution, prosecution, assertion or resolution of this Action. The list of claims released by this Section IX.C includes, but is not limited to, claims for attorneys' fees, costs of suit, or sanctions of any kind except as otherwise expressly set forth in Section XI.

D. Plaintiffs, on behalf of themselves and each Settlement Class Member, fully understand that the facts upon which this Settlement Agreement is executed may be found hereafter to be other than or different from the facts now believed by Plaintiffs, the Settlement Class Members and Settlement Class Counsel to be true and expressly accept and assume the

risk of such possible differences in facts and agree that the Settlement Agreement shall remain effective notwithstanding any such difference in facts.

E. Upon the occurrence of the Effective Date, Plaintiffs and each and every other Settlement Class Member hereby expressly waive and relinquish the provisions, rights, and benefits of Section 1542 of the California Civil Code, which provides:

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

Plaintiffs and each and every other Settlement Class Member also expressly waive and relinquish any and all provisions, rights and benefits of any similar, comparable, or equivalent state, federal, or other law, rule, regulation, or common law or equity. Plaintiffs and each Settlement Class Member may hereafter discover facts other than, different from, or in addition to those that he or she knows or believes to be true with respect to the Released Claims, but Plaintiffs and each Settlement Class Member hereby expressly waive and fully, finally and forever settle, release and discharges any known or unknown, suspected or unsuspected, contingent or non-contingent Released Claims, whether or not concealed or hidden, and without regard to the subsequent discovery or existence of such other, different or additional facts. The Plaintiffs acknowledge, and the Settlement Class Members shall be deemed by operation of the Final Order and Judgment to have acknowledged, that the waivers in this Section IX were separately bargained for and are a material element of this Settlement Agreement.

F. The Parties shall be deemed to have agreed that the Release set forth herein may be raised as a complete defense to and will preclude any action or proceeding based on the claims released by and through this Settlement Agreement.

G. Nothing in this Release shall preclude any action to enforce the terms of this Settlement Agreement, including participation in any of the processes detailed therein.

X. PRELIMINARY AND FINAL SETTLEMENT APPROVAL

A. Preliminary Approval. Promptly upon full execution of this Settlement Agreement, Plaintiffs shall move the Court for entry of the Preliminary Approval Order substantially in the form of Exhibit H to this Settlement Agreement, for the purposes of, among other things: (1) preliminarily approving the settlement memorialized in this Settlement Agreement such that Notice should be provided in accordance with the terms of this Settlement Agreement; (2) finding that the requirements for provisional certification of the Settlement Class have been satisfied; (3) certifying the Settlement Class as defined herein; (4) setting a date for a Fairness Hearing; (5) approving the proposed Notice program described in Section VI herein (including the proposed forms and methods of notice), and directing dissemination of Notice to the Settlement Class in accordance with the terms of this Settlement Agreement; (6) determining that the Notice program, as set forth in this Settlement Agreement, complies with all legal requirements, including but not limited to the Due Process Clause of the United States Constitution; (7) approving the proposed Claim Form and Claims Process, and directing that the Claim Process be implemented pursuant to the terms of this Settlement Agreement; (8) providing that any objections by any Settlement Class Member to this Settlement Agreement, the entry of the Final Order and Judgment, or to Settlement Class Counsel's request for attorneys' fees, costs, or service awards, shall be heard and any papers submitted in support of said objections shall be considered by the Court at the Fairness Hearing only if, on or before the date(s) specified in the

Notice and Preliminary Approval Order, such objector submits to the Court a written objection, and otherwise complies with the requirements for objections set forth in Section VIII of this Settlement Agreement; (9) establishing dates by which Settlement Class Counsel shall file and serve all papers in support of final approval of the Settlement and in support of their application for attorneys' fees, costs, and service awards, and by which the Parties shall file and serve all papers in response to any objections; (10) providing that all Settlement Class Members who do not submit timely and valid requests for exclusion will be bound by the Final Order and Judgment; (11) providing a procedure for persons in the Settlement Class to request exclusion from the Settlement Class; (12) directing the Parties, pursuant to the terms and conditions of this Settlement Agreement, to take all necessary and appropriate steps to establish the means necessary to implement the Settlement; (13) setting deadlines consistent with this Settlement Agreement for dissemination of Notice, requesting exclusion from the Settlement Class or objecting to the Settlement, and filing papers in connection with the Fairness Hearing; (14) appointing the Settlement Class Representatives and Settlement Class Counsel; (15) approving the appointment of the Settlement Administrator; and (16) enjoining the litigation or prosecution of all claims that will be released by the Settlement.

B. Final Order and Judgment. By no later than fifteen days following the Notice Date, Plaintiffs and Settlement Class Counsel shall file a motion for final approval of the Settlement, requesting entry of the Final Order and Judgment substantially in the form of Exhibit I to this Settlement Agreement, which shall specifically include provisions: (1) stating that the Court has personal jurisdiction over all Settlement Class Members, has subject matter jurisdiction over the claims asserted in this Action, and that venue is proper; (2) finally approving the Settlement pursuant to Federal Rule of Civil Procedure 23, and directing the

Parties and Settlement Administrator to implement the Settlement pursuant to its terms, including distributing Settlement Payments to Settlement Class Members and making such other disbursements from the Settlement Fund and Settlement Fund Account as provided by the Settlement Agreement; (3) finding that the Notice as distributed was the best notice practicable and fully satisfied the requirements of due process and Federal Rule of Civil Procedure 23; (4) finding that the Notice provided to government entities under CAFA complied with 28 U.S.C. § 1715; (5) finally certifying the Settlement Class pursuant to Federal Rule of Civil Procedure 23(a) and (b)(3); (6) confirming that Plaintiffs and the Settlement Class Members have released all Released Claims and are permanently barred and enjoined from asserting, commencing, prosecuting, or continuing any of the Released Claims against the Released Parties; (7) retaining jurisdiction relating to the administration, consummation, validity, enforcement, and interpretation of this Settlement Agreement, the Final Order and Judgment, the Stipulated Protective Order, and any separate Order regarding Settlement Class Counsel's motion for attorneys' fees, costs, and/or service awards, and for any other necessary purpose; and (8) entering a judgment that dismisses all claims and defenses in this Action with prejudice, without costs to any Party, except as provided in this Settlement Agreement, and subject to the Court's continuing jurisdiction over the Parties and the Settlement Fund for the purpose of enforcement of the terms of this Settlement Agreement.

C. By no later than fourteen days before the Fairness Hearing, the Parties shall file any responses to any Settlement Class Member objections, and any reply papers in support of the motion for final approval of the Settlement and/or in support of Settlement Class Counsel's motion for attorneys' fees, costs, and service awards.

D. Effect of Agreement if Settlement is Not Approved. This Settlement Agreement is entered into only for the purpose of settlement. If the Settlement is not approved, or is terminated, cancelled, or fails to become effective for any reason, including without limitation in the event the Final Order and Judgment is reversed or vacated following any appeal taken therefrom, then this Settlement shall be *void ab initio*, shall have no force or effect, and shall impose no obligations on the Parties except as regards to the Administrative Costs Advance. The intent of the previous sentence is that, in the event that a necessary approval is denied, the Parties will revert to their positions immediately prior to February 17, 2022, and this Action will resume without prejudice to any Party. In the event of such a reversion, the Parties agree that the proposed or actual certification of the Settlement Class will be deemed void and will not be urged or considered as a factor in any further proceeding.

XI. ATTORNEYS' FEES, COSTS, AND SERVICE AWARDS

A. No later than fifteen days following the Notice Date, Settlement Class Counsel shall file a motion with the Court requesting an award of attorneys' fees, not to exceed \$3,500,000 (i.e., 25% of the Settlement Fund), plus reimbursement of their litigation expenses, with any such amounts awarded payable from the Settlement Fund. Such motion shall be posted on the Settlement Website promptly after the motion has been filed with the Court.

B. Settlement Class Counsel's entitlement to attorneys' fees and expenses will be determined by the Court. The Settlement shall not be conditioned on Court approval of an award of attorneys' fees and expenses. In the event the Court declines any request or awards less than the amounts sought, but otherwise approves the Settlement, the remaining provisions of this Settlement Agreement will continue to be effective and enforceable by the Parties.

C. Any attorneys' fees and expenses awarded by the Court to Settlement Class Counsel shall be paid from the Settlement Fund and shall not increase AT&T's contribution to the Settlement Fund or change any obligation by AT&T under this Settlement Agreement.

D. Settlement Class Counsel shall have the sole and absolute discretion to allocate any attorneys' fees and expenses awarded by the Court. AT&T shall have no liability or other responsibility for allocation of any such fees and expenses awarded.

E. Within the later of: (a) eleven business days after the Effective Date or (b) the date on which the Settlement Administrator receives from Settlement Class Counsel all information necessary to process any payment, including payment instructions, the Settlement Administrator shall pay to Settlement Class Counsel the attorneys' fees and expenses awarded by the Court, drawn from the Settlement Fund Account.

F. No later than fifteen days following the Notice Date, Settlement Class Counsel shall file a motion with the Court requesting payment from the Settlement Fund to Plaintiffs of service awards not to exceed \$3,500.00 for each Plaintiff. Any motion for service awards will be based on Plaintiffs' time, effort, and commitment in this Action, and will not be based or conditioned upon Plaintiffs' support for the Settlement. Any such motion shall be posted on the Settlement Website promptly after the motion has been filed with the Court.

G. Plaintiffs' entitlement to service awards, if any, will be determined by the Court. The Settlement shall not be conditioned on Court approval of service awards for the Plaintiffs. In the event the Court declines any request for service awards or awards less than the amount sought, but otherwise approves the Settlement contemplated by this Settlement Agreement, the remaining provisions of this Settlement Agreement will continue to be effective and enforceable by the Parties, including the Release set forth in this Settlement Agreement.

H. Any service awards for Plaintiffs awarded by the Court shall be paid from the Settlement Fund and shall not increase AT&T's contribution to the Settlement Fund or change any obligation by AT&T under this Settlement Agreement.

I. Within the later of: (a) eleven business days after the Effective Date or (b) the date on which the Settlement Administrator receives all information from Plaintiffs necessary to process any payment, including payment instructions, the Settlement Administrator shall pay to Plaintiffs any service awards awarded by the Court, drawn from the Settlement Fund Account.

XII. ADDITIONAL PROVISIONS

A. No Admission of Liability or Wrongdoing. AT&T expressly disclaims and denies any wrongdoing or liability whatsoever and expressly incorporates Section I.M of the Recitals. This Settlement, and any and all negotiations, statements, documents, and/or proceedings in connection with this Settlement, shall not be construed or deemed to be evidence of AT&T's admission or concession of, or relating to, (1) the truth of any fact alleged by Plaintiffs in the Action; (2) that any person suffered compensable harm or is entitled to any relief, including legal, injunctive, or any other equitable relief, with respect to the matters asserted in this Action; (3) any liability, negligence, fault, or wrongdoing by AT&T or the Released Parties, including any of its affiliates, agents, representatives, vendors, or any other person or entity acting on its behalf; (4) that the Action or any other action was or may be properly certified as a class action for litigation, non-settlement purposes; (5) the arbitrability of the Action as to Plaintiffs and Settlement Class Members; or (6) the enforceability of any applicable contractual or statutory limitations period to limit any relief. AT&T may file this Settlement Agreement in any action or proceeding that may be brought against it in order to support a defense or counterclaim based on principles of res judicata, collateral estoppel, release,

good faith settlement, judgment bar or reduction, or any other theory of claim preclusion or issue preclusion or similar defense or counterclaim.

B. Termination. This Settlement may be terminated by either Plaintiffs or AT&T by serving on counsel for the opposing party and filing with the Court a written notice of termination within ten days (or such longer time as may be agreed between Settlement Class Counsel and AT&T) after any of the following occurrences:

1. the Court rejects, materially modifies, or materially amends or changes the Settlement (with the exception of any provision of the Settlement relating to Settlement Class Counsel's attorneys' fees or expenses or Plaintiff service awards);

2. the Court declines to enter without material change the material terms in the proposed Preliminary Approval Order or the Final Order and Judgment;

3. an appellate court reverses the Final Order and Judgment, and the Settlement is not reinstated and finally approved without material change by the Court on remand; or

4. the Effective Date does not otherwise occur.

In the event of a termination pursuant to this Section XII.B, this Settlement Agreement shall become null and void ab initio without prejudice to the status quo ante rights, positions and privileges of the Parties, except as otherwise expressly provided herein. In the event of any such termination, the Parties will bear their own costs and fees with regard to their efforts to implement the Settlement Agreement. In the event of a termination pursuant to this Section XII.B, this Settlement Agreement shall have no force or effect and the Parties will return to the status quo ante in this Action as it existed prior to February 17, 2022. The Parties will also be prohibited from using this Settlement and any settlement or mediation communications in

connection with discovery or as evidence in this Action or in any other action, arbitration, or other proceeding of any kind. The Parties further agree to cooperate in asking the Court to set a reasonable schedule for the resumption of this Action.

C. Public Statements and Non-Disparagement. No press release or press communication concerning the Settlement shall be initiated by any Party or counsel. The Parties and their counsel may respond as appropriate to any Settlement Class Member inquiries and any media inquiries that they receive regarding the Settlement. In responding to any media inquiries, neither Party shall disparage the other Party in any such communications or public statements.

D. Confidentiality. It is agreed that until the filing of the motion for preliminary settlement approval, the Settlement Agreement and its terms shall be confidential and shall not be disclosed to any person unless required by applicable disclosure laws, required to be disclosed to auditors or attorneys, or agreed to by the Parties. All agreements made and orders entered during the course of this Action relating to the confidentiality of information, including but not limited to the August 18, 2020, Stipulated Protective Order (Dkt. 98), shall survive this Settlement Agreement.

E. Fair, Adequate and Reasonable Settlement. The Parties believe this Settlement is a fair, adequate, and reasonable settlement of this Action and have arrived at this Settlement through arms-length negotiations, taking into account all relevant factors, present and potential. This Settlement was reached after hard-fought, arms-length negotiations that included two full day mediations conducted by Eric Green of Resolutions LLC and Robert Meyer, Esq. of JAMS, respectively.

F. Voluntary Agreement. This Settlement Agreement is executed voluntarily and without duress or undue influence on the part of or on behalf of the Parties, or of any other person, firm or entity.

G. Binding On Successors. This Settlement Agreement shall bind and inure to the benefit of the respective successors, assigns, legatees, heirs, and personal representatives of each of the Parties.

H. Parties Represented by Counsel. The Parties hereby acknowledge that they have been represented in negotiations for and in the preparation of this Settlement Agreement by independent counsel of their own choosing, that they have read this Settlement Agreement and have had it fully explained to them by such counsel, and that they are fully aware of the contents of this Settlement Agreement and of its legal effect.

I. Authorization. Each Party warrants and represents that there are no liens or claims of lien or assignments in law or equity or otherwise of or against any of the claims or causes of action released herein and, further, that each Party is fully entitled and duly authorized to give this complete and final release and discharge.

J. Construction and Interpretation. Neither the Parties nor any of the Parties' respective attorneys shall be deemed the drafter of this Settlement Agreement for purposes of interpreting any provision hereof in any judicial or other proceeding that may arise between or among them.

K. Headings. The various headings used in this Settlement Agreement are solely for the convenience of the Parties and shall not be used to interpret this Settlement Agreement.

L. Exhibits. The exhibits to this Settlement Agreement are integral parts of the Settlement Agreement and Settlement and are hereby incorporated and made a part of this Settlement Agreement.

M. Effect of Weekends and Holidays. If any date or deadline in this Settlement Agreement falls on a Saturday, Sunday, or federal holiday, the next business day following the date or deadline shall be the operative date.

N. Merger and Integration. This Settlement Agreement contains an entire, complete, and integrated statement of each and every term and condition agreed to by and among the Parties, and is not subject to any term or condition not provided for herein. In entering into this Settlement Agreement, no Party has made or relied on any warranty or representation not specifically set forth herein.

O. No waiver. There shall be no waiver of any term or condition absent an express writing to that effect by the Party to be charged with that waiver. No waiver of any term or condition in this Settlement Agreement by any Party shall be construed as a waiver of a subsequent breach or failure of the same term or condition, or waiver of any other term or condition of this Settlement Agreement.

P. Modifications and Amendments. No amendment, change or modification of this Settlement Agreement or any part thereof shall be valid unless in writing signed by the Parties.

Q. Governing Law. This Settlement Agreement shall be governed by and interpreted in accordance with the laws of the State of California, without regard to its conflict of law principles.

R. Further Assurances. Each of the Parties hereto shall execute and deliver any and all additional papers, documents and other assurances and shall do any and all acts or things

reasonably necessary to obtain approval of this Settlement and in connection with the performance of its obligations hereunder to carry out the express intent of the Parties hereto. The Parties and their counsel undertake to implement the terms of this Settlement Agreement in good faith, and to use good faith in resolving any disputes that may arise in the implementation of the terms of this Settlement Agreement.

S. Execution Date. This Settlement Agreement shall be deemed executed upon the last date of execution by all of the undersigned.

T. Continuing Jurisdiction. The Parties to this Settlement Agreement stipulate that the Court shall retain personal and subject matter jurisdiction over the implementation and enforcement of this Settlement Agreement, the Preliminary Approval Order, the Final Order and Judgment, any separate order regarding Settlement Class Counsel attorneys' fees and expenses and/or Plaintiff service awards, and the Stipulated Protective Order.

U. Counterparts. This Settlement Agreement may be executed in counterparts, each of which shall constitute an original, but all of which together shall constitute one and the same instrument. The several signature pages may be collected and annexed to one or more documents to form a complete counterpart. Photocopies of executed copies of this Settlement Agreement may be treated as originals.

V. Notices. Notices to counsel for the Parties required under this Settlement Agreement shall be sent by email and first-class mail to:

For Plaintiffs:

Roger N. Heller
rheller@lchb.com
Michael W. Sobol
msobol@lchb.com
Daniel E. Seltz
dseltz@lchb.com

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For AT&T

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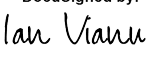
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Dallas, TX 75201

Pete D. Marketos
pete.marketos@rm-firm.com
REESE MARKETOS LLP
750 N. Saint Paul Street, Suite 600
Dallas, TX 75201

Agreed to on the date indicated below.

APPROVED AND AGREED TO BY THE PLAINTIFFS

Dated: _____ May 10, 2022

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Ian Vianu

Dated: _____ May 10, 2022

DocuSigned by:

_____ 49C495525F5E407...

Elizabeth Blum

Dated: _____ May 10, 2022

DocuSigned by:

_____ ECBE88812A26420...

Dominic Gutierrez

APPROVED AND AGREED TO BY DEFENDANT AT&T MOBILITY LLC

Dated: _____, 2021

AT&T MOBILITY LLC

By: _____

Title: _____

APPROVED AND AGREED TO BY SETTLEMENT CLASS COUNSEL

Agreed to on the date indicated below.

APPROVED AND AGREED TO BY THE PLAINTIFFS

Dated: _____, 2022 _____
Ian Vianu

Dated: _____, 2022 _____
Elizabeth Blum


Dated: _____, 2022 _____
Dominic Gutierrez

APPROVED AND AGREED TO BY DEFENDANT AT&T MOBILITY LLC

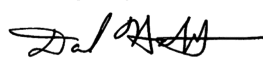
Dated: May 10, 2022 AT&T MOBILITY LLC
By: Thomas J. Green/RK
Title: Assistant Vice President - Senior Legal Counsel
AT&T Services, Inc. on behalf of AT&T Mobility LLC

APPROVED AND AGREED TO BY SETTLEMENT CLASS COUNSEL

Dated: _____ May 10, 2022

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Roger N. Heller
Lief Cabraser Heimann & Bernstein LLP

Dated: _____ May 10, 2022

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Daniel M. Hattis
Hattis & Lukacs

APPROVED AND AGREED TO BY AT&T'S COUNSEL

Dated: _____, 2022

Sean A. Commons
Sidley Austin LLP

Dated: _____, 2022


Roger N. Heller
Lief Cabraser Heimann & Bernstein LLP

Dated: _____, 2022

Daniel M. Hattis
Hattis & Lukacs

APPROVED AND AGREED TO BY AT&T'S COUNSEL

Dated: _____ May 10, 2022



Sean A. Commons
Sidley Austin LLP