

1 ALAN HIMMELFARB (BAR NO. 90480)
Email: consumerlaw1@earthlink.net
2 JAY EDELSON (PRO HAC VICE PENDING)
MYLES MCGUIRE (PRO HAC VICE PENDING)
3 KAMBEREDELSON, LLC
2757 Leonis Blvd.
4 Vernon, California 90058
Telephone: 323.585.8696
5 Facsimile: 323.585.8198
Attorneys for Plaintiff
6 LAUREN GRESHAM

7
8
9
10 SUPERIOR COURT OF THE STATE OF CALIFORNIA
11 COUNTY OF LOS ANGELES

12 LAUREN GRESHAM, individually and on
13 behalf of a class of similarly situated individuals,

14 Plaintiff,

15 v.

16 CELLCO PARTNERSHIP d/b/a VERIZON
WIRELESS, a Delaware general partnership,

17 Defendant.
18
19
20
21
22
23
24
25
26
27
28

Case No. BC 387729

CLASS ACTION

**NOTICE OF CONTINUANCE OF
HEARING ON FINAL APPROVAL
OF CLASS SETTLEMENT**

Hon. Anthony Mohr

Dept. 309
Date: September 15, 2008
Time: 11:00 a.m.

NOTICE OF CONTINUANCE OF HEARING ON FINAL APPROVAL OF CLASS SETTLEMENT

Case No. BC 387729
sf-2523251

1 **TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:**

2 PLEASE TAKE NOTICE that the hearing for final approval of the settlement of this
3 action, previously set for August 15, 2008, is continued to September 15, 2008, at 11:00 a.m., at
4 the Los Angeles Superior Court, 600 South Commonwealth Avenue, Department 309, Los
5 Angeles, California 90005, the Honorable Anthony Mohr, Superior Court Judge, presiding.

6 PLEASE TAKE FURTHER NOTICE that, pursuant to the Court's directive at the
7 preliminary approval hearing, held on May 23, 2008, Plaintiff hereby submits a revised version of
8 the Stipulated Settlement, Notice of Pendency and Proposed Settlement of Class Action,
9 [Proposed] Order Preliminarily Approving Settlement and Providing for Notice and Hearing, and
10 [Proposed] Final Judgment and Order of Dismissal with Prejudice, attached hereto as Exhibit 1.
11 A copy of the [Proposed] Order Preliminarily Approving Settlement and Providing for Notice and
12 Hearing has been lodged concurrently herewith.

13
14 Dated: ^{JUNE 5} ~~May~~ ___, 2008

15 ALAN HIMMELFARB
16 JAY EDELSON
17 MYLES MCGUIRE
18 KAMBEREDELSON, LLC

19 By:  _____

20 Attorneys for Plaintiff
21 LAUREN GRESHAM

PROOF OF SERVICE

STATE OF CALIFORNIA
COUNTY OF LOS ANGELES

I am employed in the County of Los Angeles, State of California. I am over the age of 18 and am not a party to the within action. My business address is 2757 Leonis Blvd., Vernon, California 90058.

On June 5, 2008, I served the foregoing documents described as:

1. NOTICE OF CONTINUANCE OF HEARING ON FINAL APPROVAL OF CLASS SETTLEMENT

On:

Dan Marmalefsky
Penelope A. Preovolos
Geoffrey A. Graber
MORRISON & FOERSTER LLP
555 West Fifth Street
Los Angeles, California 90013-1024
Telephone: 213.892.5200
Facsimile: 213.892.5454

Email: dmarmalefsky@mofo.com
Email: PPreovolos@mofo.com
Email: GGraber@mofo.com

Attorneys for Defendant
CELLCO PARTNERSHIP d/b/a
VERIZON WIRELESS

X By placing __ the original, X a true copy thereof as follows;

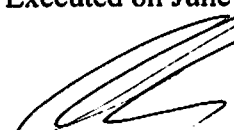
X By mail as indicated: I caused such envelope to be deposited in the mail at Los Angeles, California. The envelope was mailed with postage thereon fully prepaid.

— By personal service as indicated: I caused to be delivered by messenger to the addressee on service list attached.

— By Express Mail Next Day Service: I caused such document(s) to be sent by United States Express Mail next day delivery as stated on the attached service list.

X (State Court) I declare under the penalty of perjury under the laws of the State of California that the above is true and correct.

Executed on June 5, 2008, at Vernon, California.



Alan Himmelfarb

1 ALAN HIMMELFARB (BAR NO. 90480)
Email: consumerlaw1@earthlink.net
2 JAY EDELSON (PRO HAC VICE PENDING)
MYLES MCGUIRE (PRO HAC VICE PENDING)
3 KAMBEREDELSON, LLC
2757 Leonis Blvd.
4 Vernon, California 90058
Telephone: 323.585.8696
5 Facsimile: 323.585.8198
Attorneys for Plaintiff
6 LAUREN GRESHAM

7 DAN MARMALEFSKY (BAR NO. 95477)
Email: dmarmalefsky@mofo.com
8 PENELOPE A. PREOVOLOS (BAR NO. 87607)
Email: PPreovolos@mofo.com
9 GEOFFREY A. GRABER (BAR NO. 211547)
Email: GGraber@mofo.com
10 MORRISON & FOERSTER LLP
555 West Fifth Street
11 Los Angeles, California 90013-1024
Telephone: 213.892.5200
12 Facsimile: 213.892.5454

13 Attorneys for Defendant
CELLCO PARTNERSHIP d/b/a
14 VERIZON WIRELESS

15
16 SUPERIOR COURT OF THE STATE OF CALIFORNIA
17 COUNTY OF LOS ANGELES

18 LAUREN GRESHAM, individually and on
19 behalf of a class of similarly situated individuals,

20 Plaintiff,

21 v.

22 CELLCO PARTNERSHIP d/b/a VERIZON
WIRELESS, a Delaware general partnership,

23 Defendant.

Case No. BC 387729

CLASS ACTION

STIPULATION OF SETTLEMENT

Hon. Anthony Mohr

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25
- 26
- 27
- 28

This AGREEMENT is entered into by and among (i) Lauren Gresham, (ii) the Settlement Class (as defined herein) (the Settlement Class and Lauren Gresham are collectively herein referred to as the “Plaintiffs” unless otherwise noted), and (iii) Defendant Cellco Partnership d/b/a Verizon Wireless (“Verizon Wireless”), by and through their respective counsel of record in this Action. All the parties to this Stipulation shall collectively be referred to as the “Parties” or the “Settling Parties.” This Stipulation is intended by the Parties to fully, finally and forever resolve, discharge and settle the Released Claims (as the term is defined below), upon and subject to the terms and conditions hereof, and subject to the approval of the Court.

10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

A. On December 21, 2007, Lauren Gresham, together with Simona Dedek and Palma Reed, brought a putative class action against Kepler & Associates, LLC d/b/a JokeMobi.com; m-Qube, Inc.; Verizon Wireless; VeriSign, Inc., AT&T Mobility, LLC d/b/a The New AT&T f/k/a Cingular Wireless; and Sprint Nextel Corporation in the Superior Court of the State of California for the County of Los Angeles, in case No. BC 382718 (the “Initial Action”). Gresham was the only one of the named plaintiffs who alleged that she was a Verizon Wireless subscriber. Gresham alleged in the Initial Action specifically that her cell phone account with Verizon Wireless was charged by defendants m-Qube and/or Verisign for unwanted mobile content in the form of premium text messages on behalf of defendant Kepler & Associates, LLC d/b/a JokeMobi. She also alleged more generally that defendants systematically, repeatedly and without authorization bill customers for purchases and services not agreed to by those customers. The Complaint in the Initial Action asserted claims on behalf of a putative class of wireless telephone subscribers who suffered losses or damages as a result of being billed for products and services that they had not authorized, and alleged causes of action for breach of contract; restitution and unjust enrichment; tortious interference with contract; violation of the California Consumer Legal Remedies Act, Cal. Civ. Code § 1770; and violation of California’s Unfair Competition Law, Bus. & Prof. Code §§ 17200, *et seq.*

1 B. On January 29, 2008, Verizon Wireless removed the Initial Action to the United
2 States District Court for the Central District of California, where it was assigned case no. CV 08-
3 00592 CAS.

4 C. On February 21, 2008, Plaintiffs in the Initial Action filed a motion to remand the
5 Initial Action to the Los Angeles Superior Court.

6 D. On February 25, 2008, counsel for the parties met in person in the offices of JAMS
7 in San Francisco, California and agreed to settle all claims in the Initial Action that specifically
8 concern charges to Verizon Wireless subscribers for unwanted content provided by
9 Kepler & Associates, LLC d/b/a JokeMobi. Pursuant to a written term sheet later executed by the
10 parties, Plaintiffs in the Initial Action requested and obtained the consent of the United States
11 District Court for the Central District of California to dismiss the Initial Action, without
12 prejudice, as to Verizon Wireless. The Parties agreed that Plaintiff Lauren Gresham would file a
13 new action in the Los Angeles Superior Court, and to enter into this Stipulation of Settlement to
14 resolve the claims in that new action.

15 E. On March 25, 2008, Lauren Gresham filed a new action against Verizon Wireless
16 in the Superior Court of the State of California for the County of Los Angeles, which was
17 assigned case No. BC 387729 (the "Action"). In the Action, Gresham alleged that her cell phone
18 account with Verizon Wireless was charged by Defendant Verizon Wireless for unwanted mobile
19 content in the form of premium text messages on behalf of Defendant Kepler & Associates, LLC
20 d/b/a JokeMobi. Gresham asserted claims on behalf of a putative class of Verizon Wireless
21 subscribers who suffered losses or damages as a result of being billed for premium text messages
22 from Kepler & Associates, LLC d/b/a JokeMobi that they had not authorized, and alleged causes
23 of action for breach of contract; violation of the California Consumer Legal Remedies Act, Cal.
24 Civ. Code § 1770; violation of California's Unfair Competition Law, Bus. & Prof. Code
25 §§ 17200, *et seq.*; unauthorized telephone charges in violation of California Public Utilities Code
26 § 2890; and violation of California's Computer Crime Law, Cal. Pen. Code § 502.

27 F. At all times, Verizon Wireless has denied and continues to deny any wrongdoing
28 whatsoever and has denied and continues to deny that it committed or has threatened or attempted

1 to commit, any of the wrongful acts or violations of law or duty that are alleged in the Action and
2 contends that it has acted properly. Verizon Wireless also denies: (1) each and all of the claims
3 and contentions alleged by Lauren Gresham and the Settlement Class in the Action; (2) all
4 charges of wrongdoing or liability against it arising out of any conduct, statements, acts or
5 omissions alleged in the Action; and (3) that Lauren Gresham or the Settlement Class is entitled
6 to any form of damages based on the conduct alleged in the Action. In addition, Verizon
7 Wireless maintains that it has meritorious defenses to all claims alleged in the Action.
8 Nonetheless, taking into account the uncertainty and risks inherent in any litigation, especially in
9 complex cases, Verizon Wireless has concluded that further defense of the Action would be
10 protracted, burdensome, and expensive, and that it is desirable and beneficial to it that the Action
11 be fully and finally settled and terminated in the manner and upon the terms and conditions set
12 forth in this Stipulation. This Stipulation, and all related documents, shall not be construed as or
13 deemed to be evidence of or an admission or concession on the part of Verizon Wireless, or any
14 of the Released Parties (defined below), with respect to any claim of any fault or liability or
15 wrongdoing or damage whatsoever.

16 G. Lauren Gresham believes that the claims asserted in the Action have merit.
17 Nonetheless, Plaintiff and her counsel recognize and acknowledge the expense and length of
18 continued prosecution of the Action against Verizon Wireless through trial and any subsequent
19 appeals. Plaintiff and her counsel also have taken into account the uncertain outcome and risks of
20 any litigation, especially in complex actions, as well as the difficulties and delays inherent in such
21 litigation. Therefore, Lauren Gresham believes that it is desirable that the Released Claims be
22 fully and finally compromised, settled and resolved with prejudice, and barred pursuant to the
23 terms set forth herein. Based on their evaluation, Class Counsel have concluded that the terms
24 and conditions of this Stipulation are fair, reasonable and adequate to the Settlement Class, and
25 that it is in the best interests of the Settlement Class to settle the claims raised in the Action
26 pursuant to the terms and provisions of this Stipulation.

27 H. The Settling Parties agree that the Action was resolved in good faith, following
28 arms' length bargaining, that the settlement reflected herein confers substantial benefits upon the

1 Settling Parties, and each of them, and, based upon their evaluation, achieves the best relief
2 possible consistent with their interests.

3 NOW, THEREFORE, IT IS HEREBY STIPULATED AND AGREED by and among
4 Lauren Gresham, the Settlement Class, and each of them, and Verizon Wireless, by and through
5 their respective undersigned counsel that, subject to approval of the Court pursuant to California
6 Rule of Court 3.769, in consideration of the benefits flowing to the Settling Parties from the
7 Settlement set forth herein, that the Action and the Released Claims shall be finally and fully
8 compromised, settled and released, and the Action shall be dismissed with prejudice, upon and
9 subject to the terms and conditions of this Stipulation.

10 AGREEMENT

11 1. Definitions.

12 As used in this Stipulation, the following terms have the meanings specified below:

13 1.1 "Class Counsel" or "Plaintiff's Counsel" means Jay Edelson and Myles McGuire
14 of KamberEdelson, LLC.

15 1.2 "Court" means the Superior Court for the State of California, County of Los
16 Angeles.

17 1.3 "Effective Date of Settlement" or "Effective Date" means the first date by which
18 all of the events and conditions specified in Section 8.1 have been met and have occurred.

19 1.4 "Final" means one business day following the later of the following events: (i) the
20 date upon which the time expires for filing or noticing any appeal of the Court's Final Judgment
21 and Order of Dismissal With Prejudice, approving the Settlement substantially in the form of
22 Exhibit C hereto; (ii) if there is an appeal or appeals, other than an appeal or appeals solely with
23 respect to attorneys' fees and reimbursement of expenses, the date of completion, in a manner
24 that finally affirms and leaves in place the Final Judgment and Order of Dismissal With Prejudice
25 without any material modification, of all proceedings arising out of the appeal or appeals
26 (including, but not limited to, the expiration of all deadlines for motions for reconsideration or
27 petitions for review and/or certiorari, all proceedings ordered on remand, and all proceedings
28

1 arising out of any subsequent appeal or appeals following decisions on remand); or (iii) the date
2 of final dismissal of any appeal or the final dismissal of any proceeding on certiorari.

3 1.5 "Final Judgment and Order of Dismissal With Prejudice" means the proposed
4 Final Judgment and Order to be entered by the Court approving the Settlement substantially in the
5 form attached hereto as Exhibit C.

6 1.6 "Notice" means the Notice of Pendency and Proposed Settlement of Class Action
7 and Settlement Hearing thereon, which is to be sent to Settlement Class Members substantially in
8 the form attached hereto as Exhibit A.

9 1.7 "Order for Notice and Hearing" means the proposed order preliminarily approving
10 the Settlement and directing notice thereof to the Settlement Class substantially in the form
11 attached hereto as Exhibit B.

12 1.8 "Parties" or "Settling Parties" means Lauren Gresham, the Settlement Class and
13 Verizon Wireless.

14 1.9 "Person" means an individual, corporation, partnership, limited partnership,
15 association, joint stock company, estate, legal representative, trust, unincorporated association,
16 government or any political subdivision or agency thereof, and any business or legal entity and
17 their spouses, heirs, predecessors, successors, representatives, or assigns.

18 1.10 "Plaintiffs" or "Class Action Plaintiffs" means Lauren Gresham and the Settlement
19 Class Members.

20 1.11 "Released Claims" means all claims (including "Unknown Claims" as defined
21 below), demands, rights, liabilities or causes of action, in law or in equity, accrued or unaccrued,
22 fixed or contingent, direct, individual or representative, of every nature and description
23 whatsoever, whether based on federal, state, local, statutory or common law or any other law, rule
24 or regulation, including the law of any jurisdiction outside the United States, against the Released
25 Parties, or any of them, arising out of the facts, transactions, events, matters, occurrences, acts,
26 disclosures, statements, misrepresentations, omissions or failures to act that were or could have
27 been alleged or asserted in the Action, belonging to Plaintiffs and their present or past heirs,
28 executors, estates, administrators, predecessors, successors, assigns, parents, subsidiaries,

1 associates, affiliates, employers, employees, agents, consultants, insurers, directors, managing
2 directors, officers, partners, principals, members, attorneys, accountants, financial and other
3 advisors, investment bankers, underwriters, lenders, and any other representatives of any of these
4 Persons and entities (including, without limitation, any claims, whether direct, derivative,
5 representative or in any other capacity, arising under federal, state, local, statutory or common
6 law or any other law, rule or regulation, including the law of any jurisdiction outside of the
7 United States) that relate in any way to any violation of law, any misstatement or omission, any
8 breach of duty, any negligence or fraud or any other alleged wrongdoing or misconduct in
9 connection with billing or charges for content originated by Kepler & Associates or in connection
10 with JokeMobi.com.

11 1.12 "Released Parties" means Verizon Wireless, VeriSign, Inc. and m-Qube, Inc., and
12 any and all of their present or past heirs, executors, estates, administrators, predecessors,
13 successors, assigns, parents, subsidiaries, associates, affiliates, employers, employees, agents,
14 consultants, insurers, directors, managing directors, officers, partners, principals, members,
15 attorneys, accountants, financial and other advisors, investment bankers, underwriters,
16 shareholders, lenders, auditors, investment advisors, legal representatives, successors in interest,
17 assigns and Persons, firms, trusts, corporations, officers, directors, other individuals or entities in
18 which Verizon Wireless, VeriSign, Inc. or m-Qube, Inc. has a controlling interest or which is
19 related to or affiliated with any of them, or any other representatives of any of these Persons and
20 entities.

21 1.13 "Settled Claims" means all of the Released Claims.

22 1.14 "Settlement" or "Settlement Agreement" means the settlement contemplated by
23 this Stipulation.

24 1.15 "Settlement Class" means any subscriber of Verizon Wireless who, as reflected in
25 Verizon Wireless' records, was billed or charged at any time for premium SMS charges
26 associated with content originated by Kepler & Associates, LLC d/b/a JokeMobi.com
27 ("JokeMobi Charges") or in connection with JokeMobi.com. Verizon Wireless represents that
28 these charges equal approximately \$955,000.

1 1.16 "Settlement Class Member" means a Person who falls within the definition of the
2 Settlement Class as set forth above and who has not submitted a valid request for exclusion.

3 1.17 "Unknown Claims" means claims that could have been raised in this litigation and
4 that Plaintiffs or any or all other Persons and entities whose claims are being released, or any of
5 them, do not know or suspect to exist, which, if known by him, her or it, might affect his, her or
6 its agreement to release the Released Parties or the Released Claims or might affect his, her or its
7 decision to agree, object or not to object to the Settlement. Upon the Effective Date, Plaintiffs
8 and all other Persons and entities whose claims are being released shall be deemed to have, and
9 shall have, expressly waived and relinquished, to the fullest extent permitted by law, the
10 provisions, rights and benefits of § 1542 of the California Civil Code, which provides as follows:

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

15 Upon the Effective Date, Plaintiffs and all other Persons and entities whose claims are being
16 released, also shall be deemed to have, and shall have, waived any and all provisions, rights and
17 benefits conferred by any law of any state or territory of the United States, or principle of
18 common law, or the law of any jurisdiction outside of the United States, which is similar,
19 comparable or equivalent to § 1542 of the California Civil Code. Plaintiffs acknowledge that
20 they may discover facts in addition to or different from those that they now know or believe to be
21 true with respect to the subject matter of this release, but that it is their intention to finally and
22 forever to settle and release the Released Claims, notwithstanding any Unknown Claims they may
23 have, as that term is defined in this Paragraph.

24 1.18 "Verizon Wireless" means Cellco Partnership d/b/a Verizon Wireless, a Delaware
25 general partnership.

26 1.19 "Verizon Wireless' Counsel" means the law firm of Morrison & Foerster LLP.

27 2. Settlement Consideration
28

1 2.1 Within thirty (30) days of the Effective Date, Verizon Wireless shall refund to all
2 Settlement Class Members the full amount of JokeMobi Charges paid by the Settlement Class
3 Member for which the Settlement Class Member did not previously receive a credit or refund. To
4 the extent that a Settlement Class Member previously received a partial credit or refund, Verizon
5 Wireless shall refund the amount of JokeMobi Charges for which the Settlement Class Member
6 did not previously receive a credit or refund. The refund shall be provided as follows: (a) in the
7 form of a credit on their Verizon Wireless bill or, in the sole discretion of Verizon Wireless, in
8 the form of a cash payment, for Settlement Class Members who are current Verizon Wireless
9 subscribers; (b) in the form of a cash payment for those Settlement Class Members who are
10 former Verizon Wireless subscribers and who are not more than \$10 delinquent on their closed
11 accounts; and (c) if a former Verizon Wireless subscriber is ineligible to receive a cash payment
12 due to the amount of delinquency on his or her closed account, then that former subscriber shall
13 receive a credit on the delinquent account in an amount equal to the cash payment that otherwise
14 would have been payable under the settlement. Settlement Class Members do not need to submit
15 a claim form.

16 2.2 All cash payments issued to Settlement Class Members will state on the face of the
17 check that the check will expire and become null and void unless cashed within 90 days of the
18 date of issuance. To the extent that a check issued to a Settlement Class Member is not cashed
19 within 90 days of the date of issuance, such funds shall be directed to an appropriate *cy pres*
20 recipient, as agreed upon by the Parties.

21 3. Releases

22 3.1 The obligations incurred pursuant to this Stipulation shall be a full and final
23 disposition of the Action and any and all Released Claims, as against all Released Parties.

24 3.2 Upon the Effective Date, Plaintiffs, and each of them, shall be deemed to have,
25 and by operation of the Final Judgment and Order shall have, fully, finally, and forever released,
26 relinquished and discharged all Released Claims against the Released Parties, and each of them.
27
28

1 4. Notice

2 4.1 Within thirty (30) days of filing of the Order for Notice and Hearing, Verizon
3 Wireless shall cause a copy of the Notice to be sent by first class mail to the most recent names
4 and addresses of Settlement Class Members, as contained in Verizon Wireless' books and records
5 as of the date of filing of the Order for Notice and Hearing.

6 4.2 Promptly after filing of the Order for Notice and Hearing, Verizon Wireless will
7 also make a copy of the Notice available on the Legal Notices section of its website.

8 4.3 Verizon Wireless shall make available to Plaintiff's Counsel as requested
9 reasonable information as to the notice provided pursuant to this section.

10 5. Termination of Settlement

11 5.1 Lauren Gresham, on behalf of the Settlement Class, or Verizon Wireless, and any
12 of them, shall have the right to terminate the Settlement and this Stipulation by providing written
13 notice of their election to do so ("Termination Notice") to all other Parties hereto within thirty
14 (30) days of: (i) the Court's declining to enter the Order for Notice and Hearing in any material
15 respect; (ii) the Court's refusal to approve this Stipulation or any material part of it; (iii) the
16 Court's declining to enter the Final Judgment and Order in any material respect; (iv) the date
17 upon which the Final Judgment and Order is modified or reversed in any material respect by the
18 Court of Appeals or the Supreme Court; or (v) the date upon which an Alternative Judgment
19 (defined in Section 8.1(c) below) is modified or reversed in any material respect by the Court of
20 Appeals or the Supreme Court.

21 5.2 If prior to the Settlement Hearing, any Persons who otherwise would be Settlement
22 Class Members have timely requested exclusion ("Requests for Exclusion") from the Settlement
23 Class in accordance with the provisions of the Order for Notice and Hearing and the notice given
24 pursuant thereto, and the number of such Persons exceeds 2% of Settlement Class Members,
25 Verizon Wireless shall have, in its sole and absolute discretion, the option to terminate this
26 Stipulation. Verizon Wireless may terminate the Stipulation by serving written notice of
27 termination on the Court and Class Counsel by hand delivery or first class mail, postmarked on or
28 before five (5) business days after the receipt of all of the copies of the Requests for Exclusion,

on or before five (5) business days after the Court grants additional exclusion for any reason, or on or before three (3) business days before the Settlement Hearing, whichever occurs last.

6. Order for Notice of Settlement Hearing

6.1 Promptly after the execution of this Stipulation, Lauren Gresham's Counsel and Verizon Wireless' Counsel shall jointly submit this Stipulation together with its Exhibits to the Court and shall apply for preliminary approval of the Settlement set forth in this Stipulation, conditional certification of a class for settlement purposes, entry of an Order for Notice and Hearing, and approval for the mailing of the Notice, substantially in the form of Exhibit A hereto, which shall include the general terms of the Settlement set forth in this Stipulation and the date of the Settlement Hearing as defined below. The Notice will be sent to the last known address of all Settlement Class Members via first class mail and shall not contain any other documents, such as billing statements, advertisements, etc.

6.2 At the time of the joint submission described in Section 6.1, Class Counsel and Verizon Wireless' Counsel shall also jointly request that, after Notice is given, the Court hold a hearing (the "Settlement Hearing") and approve the Settlement of the Action as set forth herein.

6.3 After Notice is given, the Parties shall request and obtain from the Court a Final Judgment and Order essentially identical to the form attached to this Agreement as Exhibit C. The Final Judgment and Order will (among other things):

(a) find that the Court has personal jurisdiction over all Settlement Class Members and that the Court has subject matter jurisdiction to approve the Settlement Agreement, including all exhibits thereto;

(b) approve the Settlement Agreement and the proposed settlement as fair, reasonable and adequate as to, and in the best interests of, each of the Parties and the Settlement Class Members; direct the Parties and their counsel to implement and consummate the Settlement Agreement according to its terms and provisions; and declare the Settlement Agreement to be binding on, and have res judicata and preclusive effect in all pending and future lawsuits or other proceedings maintained by or on behalf of, Lauren Gresham and all other Settlement Class Members, as well as their heirs, executors and administrators, successors and assigns;

- 1 (c) finally certify the Settlement Class for settlement purposes;
- 2 (d) find that the Notice and the notice methodology implemented pursuant to
- 3 the Settlement Agreement (a) constitute the best practicable notice, (b) constitute notice that is
- 4 reasonably calculated, under the circumstances, to apprise Settlement Class Members of the
- 5 pendency of the Action, their right to object to or exclude themselves from the proposed
- 6 settlement and to appear at the fairness hearing, (c) are reasonable and constitute due, adequate
- 7 and sufficient notice to all persons entitled to receive notice, and (d) meet all applicable
- 8 requirements of California law, the Due Process Clause of the United States Constitution and the
- 9 Rules of the Court;
- 10 (e) find that Class Counsel and Lauren Gresham adequately represented the
- 11 Settlement Class for purposes of entering into and implementing the settlement;
- 12 (f) dismiss the Action (including all individual claims and Settlement Class
- 13 claims presented thereby) on the merits and with prejudice, without fees or costs to any party
- 14 except as provided in the Settlement Agreement;
- 15 (g) incorporate the Release set forth above in Section 3, make the Release
- 16 effective as of the date of the Final Judgment and Order, and forever discharge the Released
- 17 Parties from any claims or liabilities arising from or related to the facts, circumstances, or subject
- 18 matter of this Action;
- 19 (h) bar and enjoin all Settlement Class Members who have not been excluded
- 20 from the Settlement Class from (a) filing, commencing, prosecuting, intervening in, or
- 21 participating (as class members or otherwise) in any lawsuit in any jurisdiction based on or
- 22 arising out of the claims and causes of action, or the facts and circumstances relating thereto, in
- 23 this Action, and (b) organizing Settlement Class Members who have not been excluded from the
- 24 Settlement Class into a separate class for purposes of pursuing as a purported class action in any
- 25 lawsuit (including by seeking to amend a pending complaint to include class allegations, or
- 26 seeking class certification in a pending action) based on or relating to the claims and causes of
- 27 action, or the facts and circumstances relating thereto, in this Action;
- 28

1 (i) authorize the Parties, without further approval from the Court, to agree to
2 and adopt such amendments, modifications and expansions of the Settlement Agreement and its
3 implementing documents (including all exhibits to this Agreement) as (a) shall be consistent in all
4 material respects with the Final Judgment and Order, or (b) do not limit the rights of Settlement
5 Class Members;

6 (j) without affecting the finality of the Final Judgment and Order for purposes
7 of appeal, retain jurisdiction as to all matters relating to administration, consummation,
8 enforcement and interpretation of the Settlement Agreement and the Final Judgment and Order,
9 and for any other necessary purpose; and

10 (k) incorporate any other provisions, as the Court deems necessary and just.

11 7. Plaintiff's Counsel's Attorneys' Fees and Reimbursement of Expenses; Incentive Award

12 7.1 Verizon Wireless has agreed to pay Plaintiff's Counsel, subject to Court approval,
13 \$238,750 in attorneys fees and costs. Verizon Wireless agrees that said amount is fair and
14 reasonable and will not object to or otherwise challenge Plaintiff's Counsel's application for
15 reasonable attorneys' fees and for reimbursement of costs and other expenses. Plaintiff's Counsel
16 has, in turn, agreed not to seek or accept more than said amount from the Court.

17 7.2 Verizon Wireless shall pay by wire transfer the amount of attorneys' fees and
18 expenses awarded by the Court to Class Counsel within thirty (30) days of the Effective Date,
19 unless there is an appeal concerning the award of attorneys' fees and expenses, in which case the
20 payment shall be made after all appeals concerning that award have concluded and are final.

21 7.3 The Released Parties shall have no responsibility for, and no liability whatsoever
22 with respect to, the allocation among Class Counsel and/or any other Person who may assert
23 some claim thereto, of any award resulting from the Fee and Expense Motion.

24 7.4 Subject to court approval and within thirty (30) days of the Effective Date,
25 Verizon Wireless shall cause \$1,000.00 to be paid to Lauren Gresham, in care of her counsel of
26 record, as an incentive award, unless there is an appeal concerning the incentive award, in which
27 case the payment shall be made after all appeals concerning that award have concluded and are
28 final.

1 8. Conditions of Settlement; Effect of Disapproval; Cancellation or Termination

2 8.1 The Effective Date of this Stipulation shall not occur unless and until each of the
3 following events occurs and shall be the date upon which the last (in time) of the following events
4 occurs:

5 (a) The Court has entered the Order for Notice and Hearing, substantially in
6 the form attached hereto as Exhibit B;

7 (b) The Court has approved the Settlement, following notice to the Class and a
8 hearing, as provided in California Rule of Court 3.769, and has entered the Final Judgment and
9 Order, or a judgment substantially in the form of Exhibit C; and

10 (c) The Final Judgment and Order has become Final, as defined in Section 1.4,
11 above, or, in the event that the Court enters an order and final judgment in a form other than that
12 provided above ("Alternative Judgment") and that has the consent of the Parties, such Alternative
13 Judgment becomes Final.

14 8.2 If some or all of the conditions specified in Section 8.1 are not met, or in the event
15 that this Stipulation is not approved by the Court, or the Settlement set forth in the Stipulation is
16 terminated or fails to become effective in accordance with its terms, this Stipulation shall be
17 canceled and terminated subject to Section 8.3 unless Class Counsel and Verizon Wireless'
18 Counsel mutually agree in writing to proceed with this Stipulation. If any Party is in material
19 breach of the terms hereof, any other Party, provided that it is in substantial compliance with the
20 terms of this Stipulation, may terminate this Stipulation on notice to all of the Settling Parties.

21 8.3 If this Stipulation is terminated or fails to become effective for the reasons set
22 forth in Sections 8.1 and 8.2 above, the Settling Parties shall be restored to their respective
23 positions in the Action as of May 9, 2008. In such event, any Final Judgment and Order or other
24 order entered by the Court in accordance with the terms of this Stipulation shall be treated as
25 vacated, nunc pro tunc.

26 9. Miscellaneous Provisions

27 9.1 Within 14 days of the execution of this agreement, Verizon Wireless will provide
28 Plaintiff with sufficient evidence demonstrating the basis for its representation made in 1.15.

1 9.2 The Settling Parties (a) acknowledge that it is their intent to consummate this
2 agreement; and (b) agree, subject to their fiduciary and other legal obligations, to cooperate to the
3 extent reasonably necessary to effectuate and implement all terms and conditions of this
4 Stipulation and to exercise their reasonable best efforts to accomplish the foregoing terms and
5 conditions of this Stipulation. Class Counsel and Verizon Wireless' Counsel agree to cooperate
6 with one another in seeking Court approval of the Order for Notice of Hearing, the Stipulation,
7 and the Settlement, and promptly to agree upon and execute all such other documentation as may
8 be reasonably required to obtain final approval of the Settlement.

9 9.3 The Settling Parties intend this Stipulation to be a final and complete resolution of
10 all disputes between them with respect to the Released Claims by Lauren Gresham and the
11 Settlement Class, and each or any of them, on the one hand, against the Released Parties, and
12 each or any of them, on the other hand. Accordingly, the Settling Parties agree not to assert in
13 any forum that the Action was brought by Lauren Gresham or defended by Verizon Wireless, or
14 each or any of them, in bad faith or without a reasonable basis.

15 9.4 The Settling Parties and their counsel agree that all press releases or affirmative
16 contact with any members of the media concerning this settlement will be made jointly. For
17 purposes of responding to inquiries by the media or others, the parties agree to state only that they
18 have reached an amicable settlement of this matter and refer inquiring individuals to the
19 Stipulation of Settlement as filed with the Court; Plaintiff's Counsel may further state that they
20 believe that the settlement was in the best interests of the class. The parties and their counsel will
21 not individually provide any other publicity or public statements about this matter at any time.
22 Nothing herein will prohibit Plaintiff's Counsel from including a reference to this settlement in
23 explaining their experience as class counsel, whether it be to the courts, arbitrators, potential
24 clients, or otherwise. Moreover, nothing herein shall preclude Verizon Wireless from filing
25 litigation, taking action against, or commenting on the culpability of third parties in connection
26 with this action.

1 9.5 Whether or not the Effective Date occurs or this Stipulation is terminated, neither
2 this Stipulation nor the Settlement contained herein, nor any act performed or document executed
3 pursuant to or in furtherance of this Stipulation or the Settlement:

4 (a) Is, may be deemed, or shall be used, offered or received against the
5 Released Parties, or each or any of them, as an admission, concession or evidence of, the validity
6 of any Released Claims, the truth of any fact alleged by the Plaintiff, the deficiency of any
7 defense that has been or could have been asserted in the litigation, or of any alleged wrongdoing,
8 liability, negligence, or fault of the Released Parties, or any of them;

9 (b) Is, may be deemed, or shall be used, offered or received against Verizon
10 Wireless, as an admission, concession or evidence of, any fault, misrepresentation or omission
11 with respect to any statement or written document approved or made by the Released Parties, or
12 any of them;

13 (c) Is, may be deemed, or shall be used, offered or received against Lauren
14 Gresham or the Settlement Class, or each or any of them, as an admission, concession or evidence
15 of, the infirmity or strength of any claims raised in the Action, the truth or falsity of any fact
16 alleged by Verizon Wireless, or the availability or lack of availability of meritorious defenses to
17 the claims raised in the Action;

18 (d) Is, may be deemed, or shall be used, offered or received against the
19 Released Parties, or each or any of them, as an admission or concession with respect to any
20 liability, negligence, fault or wrongdoing as against any Parties to the Stipulation, in any civil,
21 criminal or administrative proceeding in any court, administrative agency or other tribunal.
22 However, the Settlement, this Stipulation, and any acts performed and/or documents executed in
23 furtherance of or pursuant to this Stipulation and/or Settlement may be used in any proceedings as
24 may be necessary to effectuate the provisions of this Stipulation. However, if this Stipulation is
25 approved by the Court, any party or any of the Released Parties may file this Stipulation and/or
26 the Final Judgment and Order in any action that may be brought against such party or parties in
27 order to support a defense or counterclaim based on principles of res judicata, collateral estoppel,
28

1 release, good faith settlement, judgment bar or reduction or any other theory of claim preclusion
2 or issue preclusion or similar defense or counterclaim;

3 (e) Is, may be deemed, or shall be construed against Lauren Gresham and the
4 Settlement Class, or each or any of them, or against the Released Parties, or each or any of them,
5 as an admission or concession that the consideration to be given hereunder represents an amount
6 equal to, less than or greater than that amount that could have or would have been recovered after
7 trial; and

8 (f) Is, may be deemed, or shall be construed as or received in evidence as an
9 admission or concession against Lauren Gresham and the Settlement Class, or each and any of
10 them, or against the Released Parties, or each or any of them, that any of Plaintiffs' claims are
11 with or without merit or that damages recoverable under the Complaint would have exceeded or
12 would have been less than any particular amount.

13 9.6 The headings used herein are used for the purpose of convenience only and are not
14 meant to have legal effect.

15 9.7 The waiver by one party of any breach of this Stipulation by any other party shall
16 not be deemed as a waiver of any other prior or subsequent breaches of this Stipulation.

17 9.8 All of the Exhibits to this Stipulation are material and integral parts thereof and are
18 fully incorporated herein by this reference.

19 9.9 This Stipulation and its exhibits set forth the entire agreement and understanding
20 of the Parties with respect to the matters set forth herein, and supersedes all prior negotiations,
21 agreements, arrangements and undertakings with respect to the matters set forth herein. No
22 representations, warranties or inducements have been made to any party concerning this
23 Stipulation or its Exhibits other than the representations, warranties and covenants contained and
24 memorialized in such documents. This Stipulation may be amended or modified only by a
25 written instrument signed by or on behalf of all Settling Parties or their respective successors-in-
26 interest.

27 9.10 Except as otherwise provided herein, each Party shall bear its own costs.
28

1 9.11 Gresham represents and warrants that she has not assigned any claim or right or
2 interest therein as against the Released Parties to any other person or party and that she is fully
3 entitled to release the same.

4 9.12 Each counsel or other Person executing this Stipulation, any of its Exhibits, or any
5 related settlement documents on behalf of any party hereto hereby warrants and represents that
6 such Person has the full authority to do so and that they have the authority to take appropriate
7 action required or permitted to be taken pursuant to the Stipulation to effectuate its terms.

8 9.13 This Stipulation may be executed in one or more counterparts. All executed
9 counterparts and each of them shall be deemed to be one and the same instrument provided that
10 counsel for the Parties to this Stipulation all exchange original signed counterparts. A complete
11 set of original executed counterparts shall be filed with the Court.

12 9.14 This Stipulation shall be binding upon, and inure to the benefit of, the successors
13 and assigns of the parties hereto and the Released Parties.

14 9.15 The Court shall retain jurisdiction with respect to implementation and enforcement
15 of the terms of this Stipulation, and all parties hereto submit to the jurisdiction of the Court for
16 purposes of implementing and enforcing the Settlement embodied in this Stipulation.

17 9.16 This Stipulation and the Exhibits thereto shall be considered to have been
18 negotiated, executed and delivered, and to be wholly performed, in the State of California and the
19 rights and obligations of the parties to this Stipulation shall be construed and enforced in
20 accordance with, and governed by, the internal, substantive laws of the State of California
21 without giving effect to that State's choice of law principles.

22 9.17 This Stipulation is deemed to have been prepared by counsel for all parties, as a
23 result of arms' length negotiations among the parties. Whereas all parties have contributed
24 substantially and materially to the preparation of this Stipulation, it shall not be construed more
25 strictly against one party than another.

1 IN WITNESS WHEREOF, the parties hereto have caused this Stipulation to be executed,
2 by their duly authorized attorneys.

3
4 Dated: May 9, 2008

DAN MARMALEFSKY
PENELOPE A. PREOVOLOS
GEOFFREY A. GRABER
MORRISON & FOERSTER LLP

5
6
7 By: Penelope A. Preovolos
8 Penelope A. Preovolos

9 Attorneys for Defendant
10 CELLCO PARTNERSHIP D/B/A
VERIZON WIRELESS

11 Dated: May 9, 2008

JAY EDELSON
MYLES MCGUIRE
KAMBEREDELSON, LLC

12
13
14
15 By: Myles McGuire

16 Attorneys for Plaintiff
17 LAUREN GRESHAM
18
19
20
21
22
23
24
25
26
27
28

1 ALAN HIMMELFARB (BAR NO. 90480)
Email: consumerlaw1@earthlink.net
2 JAY EDELSON (PRO HAC VICE PENDING)
MYLES MCGUIRE (PRO HAC VICE PENDING)
3 KAMBEREDELSON, LLC
2757 Leonis Blvd.
4 Vernon, California 90058
Telephone: 323.585.8696
5 Facsimile: 323.585.8198
Attorneys for Plaintiff
6 LAUREN GRESHAM

7 DAN MARMALEFSKY (BAR NO. 95477)
Email: dmarmalefsky@mofo.com
8 PENELOPE A. PREOVOLOS (BAR NO. 87607)
Email: PPreovolos@mofo.com
9 GEOFFREY A. GRABER (BAR NO. 211547)
Email: GGraber@mofo.com
10 MORRISON & FOERSTER LLP
555 West Fifth Street
11 Los Angeles, California 90013-1024
Telephone: 213.892.5200
12 Facsimile: 213.892.5454

13 Attorneys for Defendant
CELLCO PARTNERSHIP d/b/a
14 VERIZON WIRELESS

15
16 SUPERIOR COURT OF THE STATE OF CALIFORNIA
17 COUNTY OF LOS ANGELES

18 LAUREN GRESHAM, individually and on behalf
19 of a class of similarly situated individuals,

20 Plaintiff,

21 v.

22 CELLCO PARTNERSHIP d/b/a VERIZON
WIRELESS, a Delaware general partnership,
23 Defendant.

Case No. BC 387729

CLASS ACTION

**NOTICE OF PENDENCY AND
PROPOSED SETTLEMENT OF
CLASS ACTION**

Hon. Anthony Mohr

24 **EXHIBIT A**

25 **NOTICE OF PENDENCY AND PROPOSED SETTLEMENT OF CLASS ACTION**
26
27
28

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF LOS ANGELES

If you were billed or charged by Verizon Wireless any time for premium text messaging charges associated with content originated by Kepler & Associates, LLC d/b/a JokeMobi.com (“JokeMobi Charges”) or in connection with JokeMobi.com, you could be entitled to benefits under a class action settlement.

The Los Angeles County Superior Court authorized this notice. This is not a solicitation from a lawyer.

If you are a member of the class and the Court approves the settlement:

You may be eligible to receive up to a refund in the form of a credit on your Verizon Wireless bill or a cash payment.

Your legal rights are affected whether you act or don't act. Please read this notice carefully.

YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT	
EXCLUDE YOURSELF	Get no refund. This is the only option that allows you to ever be part of any other lawsuit against Verizon Wireless about the legal claims in this case.
OBJECT	Write to the Court about why you don't like the settlement.
GO TO A HEARING	Ask to speak in Court about the fairness of the settlement.
DO NOTHING	Receive a refund. Give up rights to be part of other lawsuit about claims in this case.

These rights and options—and the deadlines to exercise them—are explained in this notice.

The Court in charge of this case still has to decide whether to approve the settlement. Refunds will be made if the Court approves the settlement and after appeals are resolved. Please be patient.

WHAT THIS NOTICE CONTAINS

BASIC INFORMATION	PAGE 1
1. Why did I get this notice package?	
2. What is this lawsuit about?	
3. Why is this a class action?	
4. Why is there a settlement?	
WHO IS IN THE SETTLEMENT	PAGE 2
5. How do I know if I am part of the settlement?	
6. Are there exceptions to being included?	
7. I'm still not sure if I am included.	
THE SETTLEMENT BENEFITS—WHAT YOU GET	PAGES 2-3
8. What does the settlement provide?	
9. What can I get from the settlement?	
HOW YOU GET A REFUND	PAGE 3
10. How can I get a refund?	
11. When would I get my refund?	
12. What am I giving up to get a refund or stay in the Class?	
EXCLUDING YOURSELF FROM THE SETTLEMENT	PAGES 3-4
13. How do I get out of the settlement?	
14. If I don't exclude myself, can I sue Verizon Wireless for the same thing later?	
15. If I exclude myself, can I get money from this settlement?	
THE LAWYERS REPRESENTING YOU	PAGE 4
16. Do I have a lawyer in this case?	
17. How will the lawyers be paid?	
OBJECTING TO THE SETTLEMENT	PAGES 4-5
18. How do I tell the Court that I don't like the settlement?	
19. What's the difference between objecting and excluding?	
THE COURT'S SETTLEMENT HEARING	PAGE 5
20. When and where will the Court decide whether to approve the settlement?	
21. Do I have to come to the hearing?	
22. May I speak at the hearing?	
IF YOU DO NOTHING	PAGE 6
23. What happens if I do nothing at all?	
GETTING MORE INFORMATION	PAGE 6
24. How do I get more information?	
25. What if I have a new address?	

BASIC INFORMATION

1. Why did I get this notice package?

You may be a past or present Verizon Wireless Subscriber ("Subscriber") who was billed or charged at any time for premium text messaging charges associated with content originated by Kepler & Associates, LLC d/b/a JokeMobi.com ("JokeMobi Charges") or in connection with JokeMobi.com.

The Court ordered this notice to be sent to you because you have a right to know about a proposed settlement of a class action lawsuit, and about your options, before the Court decides whether to approve the settlement. If the Court approves it and after appeals are resolved, you will receive the refunds that the settlement allows.

This package explains the lawsuit, the settlement, your legal rights, what benefits are available, who is eligible for them, and how to get them.

The Court in charge of the case is the Los Angeles County Superior Court, and the case is known as *Lauren Gresham v. Cellco Partnership d/b/a Verizon Wireless, a Delaware General Partnership*, Case No. BC 387729. The person who sued is called Plaintiff, and the company she sued, Cellco Partnership d/b/a Verizon Wireless ("Verizon Wireless"), is called the Defendant.

2. What is this lawsuit about?

The lawsuit alleges that some Verizon Wireless Subscribers were billed or charged for premium text messaging charges associated with content originated by Kepler & Associates, LLC d/b/a JokeMobi.com ("JokeMobi Charges") or in connection with JokeMobi.com, without their authorization. The lawsuit alleges that this resulted in unauthorized charges to Subscribers' accounts and seeks to represent a nationwide class of such Subscribers. Verizon Wireless denies that it has done anything wrong. The settlement is not an admission of wrongdoing.

3. Why is this a class action?

In a class action, one or more people, called Class Representatives (in this case Lauren Gresham), sue on behalf of people who have alleged similar claims. All these people are a Class or Class Members. One court resolves the issues for all Class Members, except for those who exclude themselves from the Class. Los Angeles County Superior Court Judge Anthony J. Mohr is in charge of this class action.

4. Why is there a settlement?

The Court did not decide in favor of Plaintiff or Defendant. Instead, both sides agreed to a settlement. That way, they avoid the cost of a trial and settlement benefits go to the Class Members. The Class Representatives and the attorneys think the settlement is best for the Class Members.

WHO IS IN THE SETTLEMENT

To see if you will get a refund from this settlement, you first have to determine whether you are a Class Member.

5. How do I know if I am part of the settlement?

Judge Mohr has decided that everyone who fits this description is a Class Member:

All past or present Verizon Wireless Subscribers in the United States who were billed or charged at any time for premium text messaging charges associated with content originated by Kepler & Associates, LLC d/b/a JokeMobi.com ("JokeMobi Charges") or in connection with JokeMobi.com ("JokeMobi Charges").

6. Are there exceptions to being included?

The Class does not include anyone who validly requests exclusion from the Settlement Class.

7. I'm still not sure if I am included.

If you are still not sure whether you are included, you can visit the Legal Notices section of the Verizon Wireless website, <http://www.verizonwireless.com/b2c/globalText?contentType=Legal%20Notice>, for more information.

THE SETTLEMENT BENEFITS—WHAT YOU GET

8. What does the settlement provide?

Verizon Wireless will refund to all Settlement Class Members the full amount of JokeMobi Charges paid by the Settlement Class Member for which the Settlement Class Member did not previously receive a credit or refund. To the extent that a Settlement Class Member previously received a partial credit or refund, Verizon Wireless will refund the amount of JokeMobi Charges for which the Settlement Class Member did not previously receive a credit or refund.

9. What can I get from the settlement?

If the settlement is approved, you will be entitled to a refund or credit in the full amount of JokeMobi Charges that you paid. If you previously received a partial credit or refund, you will receive a refund for the amount of JokeMobi Charges for which you did not previously receive a credit or refund.

The refund shall be provided as follows: (a) in the form of a credit on their Verizon Wireless bill or, in the sole discretion of Verizon Wireless, in the form of a cash payment, for Settlement Class Members who are current Verizon Wireless subscribers; (b) in the form of a cash payment for those Settlement Class Members who are former Verizon Wireless subscribers and who are not more than \$10 delinquent on their closed accounts; and (c) if a former Verizon Wireless subscriber

1 is ineligible to receive a cash payment due to the amount of delinquency on his or her closed
2 account, then that former subscriber shall receive a credit on the delinquent account in an amount
3 equal to the cash payment that otherwise would have been payable under the settlement.
4 Settlement Class Members do not need to submit a claim form.

5 HOW YOU GET A REFUND

6 10. How can I get a refund?

7 You do not need to do anything to receive a refund. If the settlement is approved, all Settlement
8 Class Members will receive a refund as explained in the preceding section.

9 11. When would I get my refund?

10 The Court will hold a hearing on September 15, 2008 at 11:00 a.m., to decide whether to approve
11 the settlement. If Judge Mohr approves the settlement, there may be appeals. The appeal process
12 can take time, perhaps more than a year. Please be patient.

13 12. What am I giving up to get a refund or stay in the Class?

14 Unless you exclude yourself, you stay in the Class, and that means that you can't sue, continue to
15 sue, or be part of any other lawsuit against Verizon Wireless about the legal issues in this case. It
16 also means that all of the Court's orders will apply to you and legally bind you.

17 EXCLUDING YOURSELF FROM THE SETTLEMENT

18 If you don't want a refund from this settlement, but you want to keep the right to sue or continue
19 to sue Verizon Wireless on your own about the legal issues in this case, then you must take steps
20 to get out. This is called excluding yourself—or is sometimes referred to as opting out of the
21 Settlement Class.

22 13. How do I get out of the settlement?

23 To exclude yourself from the settlement, you must send a letter by mail saying that you want to be
24 excluded from *Gresham v. Cellco Partnership d/b/a Verizon Wireless, a Delaware General*
25 *Partnership*, Los Angeles Superior Court Case No. BC 387729. Be sure to include your name,
26 address, telephone number, and your signature and the name and number of the case. You must
27 mail your exclusion request postmarked no later than August 15, 2008, to:

28 CLASS COUNSEL	DEFENSE COUNSEL
KamberEdelson, LLC	Dan Marmalefsky
53 W. Jackson Boulevard	Morrison & Foerster LLP
Suite 550	555 West Fifth St., Suite 3500
Chicago, Illinois 60604	Los Angeles, CA 90013-1024

1 You can't exclude yourself on the phone or by fax or e-mail. If you ask to be excluded, you will
2 not get any refund, and you cannot object to the settlement. You will not be legally bound by
3 anything that happens in this lawsuit. You may be able to sue (or continue to sue) Verizon
4 Wireless in the future about the legal issues in this case. **In order to be valid, any request for
5 exclusion must be received or postmarked no later than August 15, 2008.**

6 **14. If I exclude myself, do I still receive benefits from this settlement?**

7 No. If you exclude yourself, you will not be eligible to receive a refund. But you may sue,
8 continue to sue, or be part of a different lawsuit against Verizon Wireless about the legal issues in
9 this case.

10 **15. If I don't exclude myself, can I sue Verizon Wireless for the same thing later?**

11 No. Unless you exclude yourself, you give up the right to sue Verizon Wireless for the claims that
12 this settlement resolves. You must exclude yourself from *this* Class to pursue your own lawsuit.
13 Remember, your exclusion must be postmarked on or before September 15, 2008.

14 **THE LAWYERS REPRESENTING YOU**

15 **16. Do I have a lawyer in this case?**

16 The Court has appointed Jay Edelson and Myles McGuire of KamberEdelson, LLC to be the lead
17 attorneys representing the Class. They are called the "Class Counsel." You will not be charged
18 for these lawyers. If you want to be represented by your own lawyer in this case, you may hire
19 one at your own expense.

20 **17. How will the lawyers be paid?**

21 Class Counsel will ask the Court for attorneys' fees and expenses in the amount of \$238,750, and
22 an award to Plaintiff in the amount of \$1,000 for her services in helping to prosecute this case.
23 The Court has expressed no opinion about what amount would be appropriate compensation for
24 Class Counsel or Plaintiff and may award less than these amounts. Under the proposed settlement,
25 any amount awarded will be paid separately by Verizon Wireless and will not come out of any
26 funds for refunds to Class Members.

27 **OBJECTING TO THE SETTLEMENT**

28 You can tell the Court that you don't agree with the settlement or some part of it.

18. How do I tell the Court that I don't like the settlement?

If you're a Class Member, you can object to the settlement if you don't like any part of it. You
can give reasons why you think the Court should not approve it. The Court will consider your
views. To object, you must send a letter (or legal "brief") saying that you object to the settlement
in *Gresham v. Cellco Partnership d/b/a Verizon Wireless, a Delaware General Partnership*, Los
Angeles Superior Court Case No. BC 387729. Be sure to include your name, address, telephone

number, your signature, the reasons you object to the settlement, and any supporting papers or other materials you intend to rely on for your objection. You must also specifically identify the JokeMobi Charges you incurred (and the mobile telephone number on which they were incurred) so that the Court can verify that you are a member of the class.

If you object, you are still a member of the class and you are still eligible to receive a refund under the settlement if it is approved.

In order to be considered, any objection and supporting papers or other materials must be received no later than August 15, 2008, by all of the following addressees:

COURT	CLASS COUNSEL	DEFENSE COUNSEL
Clerk of the Court Los Angeles County Superior Court 111 North Hill St. Los Angeles, CA 90012	KamberEdelson, LLC 53 W. Jackson Boulevard Suite 550 Chicago, Illinois 60604	Dan Marmalefsky Morrison & Foerster LLP 555 West Fifth St., Suite 3500 Los Angeles, CA 90013-1024

19. What's the difference between objecting and excluding?

Objecting is simply telling the Court that you don't like something about the settlement. You can object only if you stay in the Class. Excluding yourself is telling the Court that you don't want to be part of the Class. If you exclude yourself, you have no basis to object, because the case no longer affects you.

THE COURT'S SETTLEMENT HEARING

The Court will hold a hearing to decide whether to approve the settlement. You may attend, and you may ask to speak, but you don't have to.

20. When and where will the Court decide whether to approve the settlement?

The Court will hold a Settlement Hearing at 11:00 a.m. on September 15, 2008, at the Los Angeles County Superior District, Department 309, located at 600 S. Commonwealth Ave., Los Angeles, California. At this hearing the Court will consider whether the settlement is fair, reasonable, and adequate. If there are objections, the Court will consider them. Judge Mohr will listen to people who have asked to speak at the hearing. The Court may also consider how much to pay Class Counsel, and whether to approve an incentive award for Ms. Gresham. After the hearing, the Court will decide whether to approve the settlement. We do not know how long these decisions will take. The Settlement Hearing may be postponed to a later date or time without notice.

21. Do I have to come to the hearing?

No. Class Counsel will answer questions Judge Mohr may have. But, you are welcome to come at your own expense. If you send an objection, you don't have to come to Court to talk about it.

As long as your written objection was received on time, the Court will consider it. You may also pay your own lawyer to attend, but it's not necessary. Finally, you may seek to intervene in the action, but you need not do so.

22. May I speak at the hearing?

You may ask the Court for permission to speak at the Settlement Hearing. To do so, you must send a letter saying that it is your "Notice of Intention to Appear" in "*Lauren Gresham v. Cellco Partnership d/b/a Verizon Wireless, a Delaware General Partnership*, Case No. BC 387729." Be sure to include your name, address, telephone number, and your signature. Your Notice of Intention to Appear must be received by the Clerk of the Court, Class Counsel, and Defense Counsel, at the three addresses in question 18, no later than **August 15, 2008**. You cannot speak at the hearing if you excluded yourself.

IF YOU DO NOTHING

23. What happens if I do nothing at all?

If you do nothing, you'll be eligible to receive a refund should the Court approve the settlement and after all appeals are resolved. But unless you exclude yourself, you won't be able to start a lawsuit, continue with a lawsuit, or be part of any other lawsuit against Verizon Wireless about the legal issues in this case, ever again.

GETTING MORE INFORMATION

24. How do I get more information?

This notice is necessarily an incomplete summary of the settlement and its terms. You are free to inspect the court files from 9:00 a.m. to 4:00 p.m. at the office of the Clerk of the Court, Los Angeles Superior Court, 111 North Hill Street, Los Angeles, California, 90012. You can call KamberEdelson, LLC, the law firm representing the class, at _____ if you have any questions. Before doing so, please read this full notice carefully. You may also go to www._____.com. **Questions may not be directed to the Court.**

25. What if I have a new address?

If this Notice was sent to you at your current address, you do not have to do anything more to receive future notices concerning this case. However, if this Notice was forwarded to you, or if it was otherwise sent to you at an address that is not current, you should immediately send a letter to _____, referencing this Notice and including your past and current mailing addresses. You should also provide a telephone number where you can be reached with any questions.

Date: _____, 2008.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

FORM OF ENVELOPE

Notice Administrator
P.O. Box 00000
City, State, 000000

Notice to Those Who Were Charged for Premium SMS Text Messages by JokeMobi.com

John Q. Class Member
123 Anywhere Street
Anytown, ST 12345-1234

(Above: Front of outside of Notice mailing)

(Below: Back of outside of Notice mailing)

**If You Were Charged for
Premium SMS Text Messages by JokeMobi.com, You Will Be
Entitled to a Payment from a Class Action Settlement**

1 ALAN HIMMELFARB (BAR NO. 90480)
Email: consumerlaw1@earthlink.net
2 JAY EDELSON (PRO HAC VICE PENDING)
MYLES MCGUIRE (PRO HAC VICE PENDING)
3 KAMBEREDELSON, LLC
2757 Leonis Blvd.
4 Vernon, California 90058
Telephone: 323.585.8696
5 Facsimile: 323.585.8198
Attorneys for Plaintiff
6 LAUREN GRESHAM

7 DAN MARMALEFSKY (BAR NO. 95477)
Email: dmarmalefsky@mofo.com
8 PENELOPE A. PREOVOLOS (BAR NO. 87607)
Email: PPreovolos@mofo.com
9 GEOFFREY A. GRABER (BAR NO. 211547)
Email: GGraber@mofo.com
10 MORRISON & FOERSTER LLP
555 West Fifth Street
11 Los Angeles, California 90013-1024
Telephone: 213.892.5200
12 Facsimile: 213.892.5454

13 Attorneys for Defendant
CELLCO PARTNERSHIP d/b/a
14 VERIZON WIRELESS

15
16 SUPERIOR COURT OF THE STATE OF CALIFORNIA
17 COUNTY OF LOS ANGELES

18 LAUREN GRESHAM, individually and on behalf
19 of a class of similarly situated individuals,

20 Plaintiff,

21 v.

22 CELLCO PARTNERSHIP d/b/a VERIZON
WIRELESS, a Delaware general partnership,

23 Defendant.

Case No. BC 387729

CLASS ACTION

**[PROPOSED] FINAL JUDGMENT
AND ORDER OF DISMISSAL
WITH PREJUDICE**

Hon. Anthony Mohr

24
25 **EXHIBIT C**

26 **[PROPOSED] FINAL JUDGMENT AND ORDER OF DISMISSAL WITH PREJUDICE**
27
28

[PROPOSED] FINAL JUDGMENT AND ORDER OF DISMISSAL WITH PREJUDICE

Case No. BC 387729

la-974317

1 This matter came on for hearing on September 15, 2008 at 11:00 a.m. The Court has
2 considered the Stipulation of Settlement ("Agreement"), oral and/or written objections and
3 comments received regarding the proposed settlement, the record in the Action and the arguments
4 and authorities of counsel. Good cause appearing,

5 IT IS HEREBY ORDERED, ADJUDGED AND DECREED AS FOLLOWS:

6 1. The Court, for purposes of this Final Judgment and Order of Dismissal With
7 Prejudice ("Judgment"), adopts the terms and definitions set forth in the Agreement.

8 2. The Court has jurisdiction over the subject matter of the Action, Plaintiff, the
9 Settlement Class Members, and Defendant Cellco Partnership d/b/a Verizon Wireless ("Verizon
10 Wireless").

11 3. The Court finds that the notice to the Settlement Class of the pendency of the
12 Action and of this settlement, as provided by the Agreement and by an Order of this Court,
13 constituted the best notice practicable under the circumstances to all persons and entities within
14 the definition of the Settlement Class, and fully complied with the requirements of Rule of Court
15 3.769 and due process.

16 4. The Court approves the settlement as set forth in the Agreement and finds that the
17 settlement is in all respects fair, reasonable, adequate and just to the Settlement Class Members,
18 and the Settling Parties are hereby directed to perform its terms.

19 5. Pursuant to Rule of Court 3.769, the Settlement Class as finally certified shall be
20 defined as follows:

21 Any subscriber of Verizon Wireless who, as reflected in Verizon's
22 records, was billed or charged at any time for premium SMS charges
23 associated with content originated by Kepler & Associates, LLC
24 d/b/a JokeMobi.com ("JokeMobi Charges") or in connection with
JokeMobi.com.

25 6. Within 30 days of the Effective Date hereof and pursuant to the Agreement,
26 Verizon Wireless shall refund to all Settlement Class Members the full amount of JokeMobi
27 Charges paid by the Settlement Class Member for which the Settlement Class Member did not
28 previously receive a credit or refund. To the extent that a Settlement Class Member previously

1 received a partial credit or refund, Verizon Wireless shall refund the amount of JokeMobi Charges
2 for which the Settlement Class Member did not previously receive a credit or refund. The refund
3 shall be provided as follows: (a) in the form of a credit on their Verizon Wireless bill or, in the
4 sole discretion of Verizon Wireless, in the form of a cash payment, for Settlement Class Members
5 who are current Verizon Wireless subscribers; (b) in the form of a cash payment for those
6 Settlement Class Members who are former Verizon Wireless subscribers and who are not more
7 than \$10 delinquent on their closed accounts; and (c) if a former Verizon Wireless subscriber is
8 ineligible to receive a cash payment due to the amount of delinquency on his or her closed account,
9 then that former subscriber shall receive a credit on the delinquent account in an amount equal to
10 the cash payment that otherwise would have been payable under the settlement. Settlement Class
11 Members do not need to submit a claim form. To the extent that a check issued to a Settlement
12 Class Member is not cashed within 90 days of the date of issuance, such funds shall be directed to
13 an appropriate *cy pres* recipient, as agreed upon by the Parties.

14 7. The Court adjudges that the payment of attorneys' fees and expenses in the total
15 amount of \$238,750 to Class Counsel and the payment of an incentive award to plaintiff Lauren
16 Gresham in the amount of \$1,000 are fair, reasonable and adequate, and that said attorneys' fees
17 and expenses shall be paid to Class Counsel and said incentive award shall be paid to plaintiff
18 Lauren Gresham pursuant to the terms of the Agreement.

19 8. As of the Effective Date, Plaintiff and all Settlement Class Members shall be forever
20 barred and enjoined from filing, commencing, prosecuting, intervening in, or participating (as class
21 members or otherwise) in any capacity, in any action or proceeding that involves or asserts any of
22 the Released Claims against any Released Parties and shall conclusively be deemed to have
23 released and forever discharged the Released Parties from all Released Claims.

24 9. Plaintiff and all Settlement Class Members shall, as of the Effective Date,
25 conclusively be deemed to have acknowledged that the Released Claims may include claims, rights,
26 demands, causes of action, liabilities, or suits that are not known or suspected to exist as of the
27 Effective Date. Plaintiff and all Settlement Class Members nonetheless release all such Released
28 Claims against the Released Parties. Further, as of the Effective Date, Plaintiff and all Settlement

1 Class Members shall be deemed to have waived any and all protections, rights and benefits of
2 California Civil Code section 1542 and any comparable statutory or common law provision of any
3 other jurisdiction.

4 10. The benefits and payments described in Paragraphs 6 and 7 are the only
5 consideration, fees, and expenses Verizon Wireless or the Released Parties shall be obligated to
6 give to Plaintiff, Settlement Class Members, and Class Counsel in connection with the Agreement
7 and the payment of attorneys' fees and expenses.

8 11. The Action and all claims asserted in the Action are dismissed on the merits and
9 with prejudice as to Plaintiff and all Settlement Class Members. Notwithstanding the foregoing,
10 this Judgment does not dismiss any of the individual claims asserted by any persons or entities who
11 have validly and timely requested exclusion from the Settlement Class. A list of persons and
12 entities who validly and timely requested exclusion is attached hereto as Exhibit 1.

13 Notwithstanding the dismissal of the Action, Verizon Wireless shall not claim and may not be
14 awarded any costs, attorneys' fees, or expenses.

15 12. Without affecting the finality of this Judgment in any way, the Court reserves
16 exclusive and continuing jurisdiction over the Action, Plaintiff, the Settlement Class Members, and
17 Verizon Wireless for the purposes of supervising the implementation, enforcement, construction,
18 and interpretation of the Agreement, the Court's Order dated _____, 2008, and this
19 Judgment.

20 13. Neither the Agreement nor the Settlement contained therein, nor any act performed
21 or document executed pursuant to or in furtherance of the Agreement or the Settlement: (a) is or
22 may be deemed to be or may be used as an admission, concession or evidence of, the validity or
23 invalidity of any Released Claims, the truth or falsity of any fact alleged by Plaintiff, the sufficiency
24 or deficiency of any defense that has been or could have been asserted in the litigation, or of any
25 alleged wrongdoing, liability, negligence, fault of the Released Parties, or any of them; (b) is or
26 may be deemed to be or may be used as an admission of, or evidence of, any fault or
27 misrepresentation or omission with respect to any statement or written document attributed to,
28 approved or made by any of the Released Parties, in any civil, criminal or administrative

1 proceeding in any court, administrative agency or other tribunal; (c) is or may be deemed to be or
2 shall be construed as or received in evidence as an admission or concession against the Released
3 Parties or Plaintiff, or each or any of them, that any of the Plaintiff's claims are with or without
4 merit, or that the consideration to be given hereunder represents an amount equal to, less than or
5 greater than that amount which could have or would have been recovered after trial. Any of the
6 Released Parties or Plaintiff may file the Agreement and/or the Judgment in any action that may be
7 brought against such party or parties in order to support a defense or counterclaim based on
8 principles of res judicata, collateral estoppel, release, good faith settlement, judgment bar or
9 reduction or any other theory of claim preclusion or issue preclusion or similar defense or
10 counterclaim, or in a proceeding to consummate or enforce the Agreement or Judgment, or as
11 otherwise required by law.

12 14. In the event that the Settlement does not become effective in accordance with the
13 terms of the Stipulation, this Judgment shall be rendered null and void to the extent provided by
14 and in accordance with the Stipulation and shall be vacated, and in such event, all orders entered
15 and releases delivered in connection herewith shall be null and void to the extent provided by and
16 in accordance with the Stipulation.

17 15. Without further approval from the Court, the Parties are authorized to agree to and
18 adopt such amendments, modifications and expansions of the Agreement and its implementing
19 documents (including all exhibits to the Agreement) as (a) shall be consistent in all material
20 respects with this Judgment, or (b) do not limit the rights of Settlement Class Members.

21 All other relief not expressly granted to the Settlement Class Members is denied.

22
23 Dated: _____, 2008

24 By: _____

25 Hon. Anthony Mohr
26 Judge of the Superior Court
27
28