

Palma v MetroPCS Wireless, Inc.
2014 NY Slip Op 33256(U)
December 9, 2014
Supreme Court, New York County
Docket Number: 159035/14
Judge: Cynthia S. Kern
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SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK: Part 55

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KAREN PALMA and YVONNE PACHECO, on behalf
of themselves and all others similarly situated,

Plaintiffs,

-against-

Index No. 159035/14

DECISION/ORDER

METROPCS WIRELESS, INC., METROPCS
CALIFORNIA, LLC, METROPCS NEW YORK, LLC,
METROPCS FLORIDA, LLC, METROPCS
NETWORKS CALIFORNIA, LLC and METROPCS
NETWORKS, LLC,

Defendants.

-----X

HON. CYNTHIA KERN, J.S.C.

Recitation, as required by CPLR 2219(a), of the papers considered in the review of this motion for : _____

Papers	Numbered
Notice of Motion and Affidavits Annexed.....	<u>1</u>
Answering Affidavits and Cross Motion.....	<u> </u>
Replying Affidavits.....	<u> </u>
Exhibits.....	<u>2</u>

Plaintiffs Karen Palma and Yvonne Pacheco, on behalf of themselves and all others similarly situated, move for an Order (1) granting preliminary approval of the Joint Settlement and Release ("Settlement Agreement"); (2) approving plaintiffs' proposed schedule for final settlement approval; (3) conditionally certifying the following settlement classes under Article 9 of the Civil Practice Law and Rules ("CPLR") for purposes of effectuating the settlement: (a) All Account Service Representatives who worked for defendants MetroPCS Wireless, Inc., MetroPCS California, LLC, MetroPCS New York, LLC, MetroPCS Florida, LLC, MetroPCS

Networks California, LLC and MetroPCS Networks, LLC (hereinafter collectively referred to as “defendants” or “MetroPCS”) in New York between May 28, 2008 and December 31, 2013; and (b) All Account Service Representatives who worked for MetroPCS in California between May 28, 2010 and December 31, 2013; (4) appointing Morgan & Morgan, P.A. (“M&M”), as counsel for the class; and (5) approving plaintiffs’ Notices of Proposed Settlement of Class Action Lawsuit and Fairness Hearing (the “Notices of Settlement”) and directing their distribution. For the reasons set forth below, plaintiffs’ motion is granted without opposition.

As an initial matter, that portion of plaintiffs’ motion for an Order granting preliminary approval of the Settlement Agreement is granted on the ground that it is fair, adequate and reasonable.

Additionally, that portion of plaintiffs’ motion for an Order conditionally certifying the proposed settlement classes under Article 9 of the CPLR for purposes of effectuating the settlement is granted on the ground that both of the proposed classes within the proposed settlement class satisfy each of the five statutory requirements of CPLR § 901 and the considerations set forth in CPLR § 902.

Further, that portion of plaintiffs’ motion for an Order appointing M&M as counsel for the class is granted on the ground that M&M has done substantial work identifying, investigating, prosecuting and settling the claims; that M&M has substantial experience prosecuting and settling wage and hour class actions; and that M&M is well-versed in wage and hour and class action law, which makes it well-qualified to represent the interests of the class.

Further, that portion of plaintiffs’ motion for an Order approving the Notices of Settlement and directing their distribution is granted on the ground that the Notices of Settlement

are reasonably informative to the members of the class.

Finally, that portion of plaintiffs' motion for an Order approving plaintiffs' proposed schedule for final settlement approval is granted. It is hereby

ORDERED that plaintiffs' motion is granted in its entirety; and it is further

ORDERED that the Settlement Agreement is preliminarily approved; and it is further

ORDERED that for settlement purposes, the settlement classes proposed by plaintiffs are certified pursuant to Article 9 of the CPLR; and it is further

ORDERED that Morgan & Morgan, P.A. is appointed as counsel for the class; and it is further

ORDERED that the Notices of Proposed Settlement of Class Action Lawsuit and Fairness Hearing are approved; and it is further

ORDERED that the Class Action Settlement Procedure proposed by plaintiffs is approved and is set forth as follows:

- Within ten business days of the date of this Order, defendants shall provide the Claims Administrator with a list, in electronic form, of the names, last known addresses, and dates of employment of all the putative Class Members (the "Class List");
- The Claims Administrator shall mail the Notice to Class Members within fifteen business days of this Order;
- Class Members will have forty-five calendar days from the date the Notice is mailed to opt out of the settlement or object to the settlement ("Notice Period");
- Plaintiffs will file a Motion for Final Approval of Settlement at least fourteen calendar days prior to the fairness hearing;
- The Court will hold a final fairness hearing on April 7, 2014 at 9:30 a.m. at Part 55, Room 432 at the Supreme Court of the State of New York, located at 60 Centre Street, New York, New York;
- If this court grants plaintiffs' Motion for Final Approval of the Settlement, the court will issue a Final Order and Judgment. If no party appeals the court's Final Order and Judgment, the "Effective Date" of the settlement will be 30 days after the court enters its Final Order and Judgment;

- If rehearing, reconsideration or appellate review is sought, the "Effective Date" shall be thirty days after the court's entry of a final order and judgment after resolving any appeals;
- Defendants shall deposit the entire Settlement Payment in a Qualified Settlement Fund maintained and/or controlled by the Claims Administrator on the Effective Date;
- The Claims Administrator will disburse settlement checks to the Class Members, court-approved attorney's fees and costs, court-approved service award to plaintiff and the Claims Administrator's fee within fourteen calendar days of the Effective Date; and
- The parties shall abide by all other terms of the Settlement Agreement.

This constitutes the order and judgment of the court.

Dated: 12/9/14

Enter: _____


J.S.C.

CYNTHIA S. KERN
J.S.C.