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**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA**

DANIEL NORCIA, on his own behalf
and on behalf of all others similarly
situated,

Plaintiffs,

vs.

SAMSUNG TELECOMMUNICATIONS
AMERICA, LLC, a New York
Corporation, and SAMSUNG
ELECTRONICS AMERICA, INC., a
New Jersey Corporation,

Defendants.

CASE NO. 3:14-cv-582-JD

**~~PROPOSED~~ ORDER CERTIFYING
SETTLEMENT CLASS AND
PRELIMINARILY APPROVING CLASS
ACTION SETTLEMENT**

1 Before the Court is plaintiff Daniel Norcia’s motion for preliminary approval of class
2 action settlement. Dkt. No. 168. The Court finds the motion to be suitable for decision without
3 oral argument pursuant to Civil Local Rule 7-1(b). Preliminary approval is granted as follows.

4 1. The Court has reviewed the terms of the parties’ Settlement Agreement
5 (“Agreement”), Dkt. No. 169-1, and preliminarily finds that the Agreement appears sufficiently
6 fair, reasonable, and adequate to warrant dissemination of class notice of the proposed settlement
7 and to schedule a formal fairness hearing. The Court finds that the Agreement contains no
8 obvious deficiencies and that the parties entered into the settlement in good faith, following
9 arm’s-length negotiations between their respective counsel and multiple mediation sessions
10 presided over by Magistrate Judge Laurel Beeler. The Court adopts the definitions set forth in the
11 Agreement, and all defined words or phrases used in this order will have the same meaning as in
12 the Agreement.

13 2. The Court certifies the following class for settlement purposes only, pursuant to
14 Rule 23(b)(3) of the Federal Rules of Civil Procedure:

15 **All persons or entities who purchased one or more 16 GB Galaxy S4 smart phones in**
16 **the State of California from April 2013 until July 2013. (“Settlement Class”)**

17 Excluded from the Settlement Class are defendant Samsung Electronics America, Inc.
18 (“Samsung”) and its subsidiaries and affiliates, employees, officers, directors, agents and
19 representatives and their family members; Class Counsel; all judicial officers who have presided
20 over the Action; and all persons who have timely elected to opt out from the Settlement Class in
21 accordance with this order.

22 3. The Court finds that, for the purpose of settlement only, the requirements of Rule
23 23 of the Federal Rules of Civil Procedure are met by the class. Joinder of all class members in a
24 single proceeding would be impracticable, if not impossible, because of their numbers and
25 dispersion. Common questions of law and fact exist among class members, and predominate over
26 questions affecting individual class members. Plaintiff’s claims are typical of those of the
27 Settlement Class. Plaintiff and his counsel will fairly and adequately protect the interests of the
28 Settlement Class. Plaintiff has no interest antagonistic to those of the Settlement Class and has

1 retained counsel experienced and competent to prosecute this matter on behalf of the class.

2 Finally, a class settlement is superior to other available methods for a fair and efficient resolution
3 of the controversy.

4 4. The Court appoints plaintiff Daniel Norcia to serve as class representative. Further,
5 pursuant to Rule 23(g)(1) of the Federal Rules of Civil Procedure, the Court appoints Eduardo G.
6 Roy and Daniel C. Quintero of Prometheus Partners, L.L.P. and Alec Cierny of The Cierny Firm
7 to serve as Class Counsel.

8 5. In accordance with the declarations filed by Verizon Wireless (Dkt. No. 139-1),
9 AT&T (Dkt. No. 139-2), and T-Mobile (Dkt. No. 139-3), and the voluntary partial production of
10 documents and information by Sprint (hereafter collectively referred to as the “Cell Phone
11 Carriers”), the Court orders the Cell Phone Carriers to compile and each produce a single Excel
12 document in the manner agreed to in each Cell Phone Carrier’s respective declaration, providing
13 the contact information, including email addresses, for the Cell Phone Carriers’ customers who
14 are, or are likely to be, included in the Settlement Class defined in paragraph 2 above (hereafter
15 the “Class List”). The Cell Phone Carriers must each produce to the court-appointed Settlement
16 Administrator its respective Class List within thirty (30) business days after the entry of this
17 preliminary approval order. The parties are not entitled to receive or review the Class Lists
18 produced by the Cell Phone Carriers, which shall be held strictly confidentially by the court-
19 appointed Settlement Administrator.

20 6. Pursuant to Rule 23(c)(2)(B) and Rule 23(e) of the Federal Rules of Civil
21 Procedure, the Court orders that the Settlement Class be given electronic and publication notice of
22 the pendency of this action and the parties’ proposed settlement. The Court finds that the Class
23 Notice dissemination procedure set forth in Paragraphs 56-61 of the Settlement Agreement (i) is
24 the best practicable notice; (ii) is reasonably calculated, under the circumstances, to apprise
25 Settlement Class Members of the pendency of the action and of their right to object or to exclude
26 themselves from the proposed settlement; (iii) is reasonable and constitutes due, adequate and
27 sufficient notice to all persons entitled to receive notice; and (iv) meets all applicable
28 requirements as set forth by law. Thus, the Court adopts and incorporates the Class Notice

1 dissemination procedures set forth in Paragraphs 56-61 of the Settlement Agreement into this
2 order.

3 7. The Court approves the Class Notice, Short Form Notice, Publication Notice, and
4 Claim Form, which are attached as Exhibits A-D to the Agreement. The Court also approves the
5 creation of a Settlement Website by the Settlement Administrator.

6 8. The Court appoints Heffler Claims Group (“Heffler”) as Settlement Administrator
7 to disseminate notice to the Settlement Class and administer the settlement. The Court orders
8 Heffler to: (i) complete dissemination of notice to the Settlement Class within sixty (60) business
9 days after entry of this order in accordance with Paragraphs 52-61 of the Settlement Agreement;
10 (ii) file proof of the dissemination of notice to the Settlement Class at or before the Final
11 Approval Hearing; (iii) establish a post office box to be used for receiving requests for
12 exclusions, objections, notices of intention to appear, and any other communications;
13 (iv) promptly furnish Class Counsel and Defense Counsel with copies of any and all written
14 requests for exclusion, notices of intention to appear, or other communications from Settlement
15 Class Members; and (v) provide the Opt-Out List to Class Counsel and Defense Counsel no later
16 than seven (7) business days after the close of the 60-day opt-out period and file a declaration
17 attesting to the completeness and accuracy thereof no later than three (3) business days thereafter
18 or on such other date as the parties may direct.

19 9. The Court sets a Final Approval Hearing on **January 28, 2021, at 10 a.m.** to
20 consider the fairness, reasonableness, and adequacy of the proposed Settlement Agreement and
21 determine whether it should finally be approved by the Court. At that time, the Court will hear
22 any applications for attorneys’ fees, expenses, and/or incentive awards.

23 10. The Court sets August 24, 2020, as the deadline for filing any application for
24 attorneys’ fees, expenses, and/or incentive awards.

25 11. The Court sets January 15, 2021, as the deadline for filing the motion for final
26 approval. The final approval briefing must discuss the class members’ response as required by
27 the N.D. Cal. Procedural Guidance for Class Action Settlements (*see* Final Approval, Paragraph
28 1). The motion may be noticed for January 28, 2021, at 10 a.m.

1 12. The Court sets November 23, 2020, as the deadline by which Settlement Class
2 Members must submit any: (i) request for exclusion from the Settlement Class; or (ii) objection to
3 the Agreement, the proposed settlement, or to the Attorneys' Fee Award. The procedures and
4 requirements for opting out of the Settlement Class or objecting to the Agreement, the proposed
5 settlement, or to the Attorneys' Fee Award are set forth below.

6 13. The Court sets January 15, 2021, as the deadline for filing any reply memorandum
7 in further support of the Attorneys' Fee Award application.

8 14. The Court orders that any Settlement Class Member who wishes to exclude
9 him/herself from the Settlement Class must submit a written request for exclusion to the
10 Settlement Administrator via first class U.S. Mail postmarked no later than November 23, 2020.
11 Any Settlement Class Member who does not submit a timely written request for exclusion from
12 the Settlement Class will be bound by all proceedings, orders, and judgments in the Action.

13 15. The Court orders that any Settlement Class Member who does not exclude
14 him/herself from the Settlement Class and who wishes to object to the fairness, reasonableness, or
15 adequacy of the Agreement, the proposed settlement, or to the Attorneys' Fee Award must submit
16 his or her objections to the Settlement Administrator at the address listed on the Class Notice, via
17 first class United States mail postmarked no later than November 23, 2020. The objection shall be
18 in writing, signed by the Settlement Class Member, and shall contain all of the following
19 information: (i) the objector's full name, address, and telephone number; (ii) a written statement
20 of all grounds for the objection accompanied by any legal support; (iii) copies of any papers,
21 briefs, or other documents upon which the objection is based; (iv) a written statement as to
22 whether the objector intends to appear at the Final Approval Hearing; (v) a declaration setting
23 forth any other objections submitted by the objector, or the objector's counsel, to any class action
24 settlement submitted in any court, whether state, federal or otherwise, in the United States in the
25 previous five (5) years; and (vi) if the objector intends to appear at the Final Approval Hearing
26 through counsel, the objection must also identify the attorney(s) representing the objector who
27 will appear at the Final Approval Hearing. Any attorney hired by a Settlement Class Member for
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1 the purpose of objecting to the Settlement Agreement, the proposed settlement, or to the
2 Attorneys' Fee Award shall be at the Settlement Class Member's own expense.

3 The above-listed deadline for objections also applies to any government agency that
4 intends to file an objection or statement of interest after receiving the requisite notice pursuant to
5 the Class Action Fairness Act, 28 U.S.C. § 1715(b).

6 16. Any Settlement Class Member who timely files a written objection but whose
7 objection is overruled by the Court will have ten (10) business days to file a Claim Form and
8 become a member of the Settlement Class.

9 17. The Court preliminarily enjoins all Settlement Class Members unless and until
10 they have timely excluded themselves from the Settlement Class (i) from filing, commencing,
11 prosecuting, intervening in or participating as a plaintiff, claimant or class member in any other
12 lawsuit or administrative, regulatory, arbitration or other proceeding against Samsung in any
13 jurisdiction based on, relating to or arising out of the claims and causes of action or the facts and
14 circumstances giving rise to the Action and/or the Released Claims; (ii) from filing, commencing
15 or prosecuting a lawsuit or administrative, regulatory, arbitration or other proceeding against
16 Samsung as a class action on behalf of any Settlement Class Members who have not timely
17 excluded themselves (including by seeking to amend a pending complaint to include class
18 allegations or seeking class certification in a pending action), based on, relating to or arising out
19 of the claims and causes of action or the facts and circumstances giving rise to the Action and/or
20 the Released Claims.

21 **IT IS SO ORDERED.**

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24 Dated: July 22, 2020



JAMES DONATO
United States District Judge