

The Honorable Laura Inveen
Noted for June 25, 2008 @ 9:00 a.m.
With Oral Argument

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
IN AND FOR THE COUNTY OF KING

BAXTER AIR, INC., and all others similarly
situated,

Plaintiffs,

v.

NOS COMMUNICATIONS, INC., NOSVA
LIMITED PARTNERSHIP, and AFFINITY
NETWORK, INC.,

Defendants.

No. 05-2-37411-0 SEA

~~(PROPOSED)~~ *scf*

FINAL JUDGMENT AND
ORDER APPROVING
SETTLEMENT

This matter comes before this Court on June 25, 2008. The Court having considered the Settlement Agreement, comments received regarding the proposed settlement (if any), the record in the above-captioned action (the "Action"), the evidence, and arguments and authorities presented by counsel, and for good cause appearing,

NOW THEREFORE, IT IS HEREBY ORDERED:

1. The Court has jurisdiction over the subject matter of the Action, the Class Representative, the Class Members and Defendants, NOS COMMUNICATIONS, INC., NOSVA LIMITED PARTNERSHIP, and AFFINITY NETWORK, INC and any of their

FINAL JUDGMENT AND ORDER APPROVING
SETTLEMENT - 1

ORIGINAL

LAW OFFICES
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1 past, present or future subsidiary, controlled, affiliated, related and/or parent
2 corporations, business entities or divisions, and/or any other successors, assigns or legal
3 representatives thereof (“NOS Communications”).
4

5 2. The Court finds that the notice to the Class of the pendency of the Action
6 and of this Settlement, via mailed notice as provided by the Settlement Agreement and by
7 this Court’s Order Re: Preliminary Approval of Class Settlement, constituted the best
8 notice practicable under the circumstances to all persons within the definition of the
9 Class, and fully complied with the requirements of due process and of all applicable
10 statutes and laws.
11

12 3. The Court hereby adopts and approves the Settlement Agreement and the
13 settlement terms contained therein and finds that it is in all respects fair, reasonable,
14 adequate, just, and in compliance with all applicable requirements of CR 23, the
15 Washington State Rules of Civil Procedure, Washington law and the Washington and
16 United States Constitutions (including the Due Process Clause), and all other applicable
17 laws, and in the best interests of the parties and the Class. The Court finds that an award
18 of attorney fees and litigation costs to Class Counsel in the total amount of \$600,000 is
19 reasonable in light of the work performed, the risk accepted, and the results obtained.
20 The Court also finds that incentive fee awards of \$25,000 for the Class Representative,
21 Baxter Air, and \$1,000 each to the Class Members who produced documents and
22 testified, are reasonable.
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1 4. There were no objections to the Proposed Settlement filed by any Class
2 Member. Accordingly, the Court directs the parties and their counsel to implement and
3 consummate the settlement in accordance with the terms and conditions of the Proposed
4 Settlement Agreement.

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6 5. NOS Communications, NOSVA Limited Partnership, and Affinity
7 Network, Inc. shall provide relief to the class, including injunctive relief, in the form and
8 in the manner specified in the Settlement Agreement.

9
10 6. The class is defined as follows:

11 All Washington State customers of the Defendants who, at
12 any time on or after November 16, 2001, purchased
13 defendants' interstate, intrastate, and/or international long
14 distance telecommunications services for which Defendants
15 billed in "cents per call unit."

16 7. The provisions of this Final Judgment are applicable to and binding upon
17 and inure to the benefit of each party to the Action (including each Class Member, and
18 each of NOS Communications, NOSVA Limited Partnership, and Affinity Network, Inc.,
19 and their successors and assigns).

20 8. To the extent permitted by law and without affecting the other provisions of
21 this Final Judgment, this Final Judgment is res judicata and prohibits, enjoins and
22 precludes any prior, concurrent or subsequent litigation brought individually, or in the
23 name of, and/or otherwise on behalf of the Plaintiff or any member of the Class, with
24 respect to any and all claims, rights, demands, actions, causes of action, suits, debts, liens,
25 contracts, liabilities, damages whenever incurred, agreements, costs, expenses or losses
26 arising out the claims asserted in the Complaint.


1 9. All persons who are included within the definition of the Class and who did
2 not properly file requests for exclusion are therefore bound by this Final Judgment and by
3 the Settlement Agreement and are conclusively deemed to have fully, finally and forever
4 settled and released all Released Claims, as defined in the Proposed Settlement
5 Agreement, against NOS Communications, NOSVA Limited Partnership, and Affinity
6 Network, Inc., as defined in the Settlement Agreement.
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8 10. Jurisdiction is retained by this Court for the purpose of enabling any party
9 to this Final Judgment to apply to the Court at any time for such further orders and
10 directions as may be necessary and appropriate for the construction or carrying out of this
11 Final Judgment or the Settlement Agreement, or to address any alleged breach thereof.
12

13 11. All of the claims in this Action shall be and hereby are DISMISSED WITH
14 PREJUDICE.
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16 **IT IS SO ORDERED.**

17 Dated this 25 day of June, 2008:

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20 Honorable Laura Inveen
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1 Presented by:

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