

IN THE CIRCUIT COURT OF SALINE COUNTY, ARKANSAS
Third Division

PETER ROSENOW, *individually and
on behalf of a class of similarly situated persons*

v.

CASE NO. CV 2006 -182-3

ALLTEL CORPORATION and
ALLTEL COMMUNICATIONS, INC.

DEFENDANTS

FILED
SALINE COUNTY
CIRCUIT CLERK
2014 DEC 16 PM 4:18
BY: [Signature] PLAINTIFF

**PLAINTIFFS' MOTION AND INCORPORATED MEMORANDUM OF LAW IN
SUPPORT OF FINAL APPROVAL OF CLASS ACTION SETTLEMENT**

COMES NOW Plaintiff Peter Rosenow and the Certified Class ("Plaintiffs") and move for final approval of the parties' Stipulation and Settlement Agreement (hereafter, the "Settlement").¹ In support of this motion, Plaintiffs respectfully provide the incorporated legal memorandum below. Additionally, Plaintiffs also incorporate by reference the pleadings and filings in this case, both on file within the clerk's offices of this Court and the Supreme Court of Arkansas, including Plaintiffs' Unopposed Motion to Preliminarily Approve Class Action Settlement filed on November 10, 2014, any and all future filings, and counsel's argument to be heard at the fairness hearing to be held on January 5, 2015.

WHEREFORE, Plaintiffs' request the Court to enter the parties' negotiated Final Approval Order (attached as **Exhibit 1**) and find it to be fair, adequate, and just.

¹ The parties' Stipulation and Settlement Agreement is attached as Exhibit 1 to Plaintiffs' Unopposed Motion to Preliminarily Approve Class Action Settlement filed November 10, 2014, which is fully incorporated herein by reference.

INCORPORATED MEMORANDUM OF LAW

Plaintiffs respectfully provide the following legal memorandum in support of their motion for final approval of the Settlement.

I: INTRODUCTION

On November 10, 2014, the Court preliminarily approved the Settlement and ordered the parties to provide notice to the class and allow them time to exclude themselves from it or file an objection. The parties have completed notification through the Court's approved Settlement Administrator Gilardi & Co., LLC ("Gilardi & Co.") and the Arkansas Democrat Gazette. **Exhibits 2 and 3.**

The Settlement is fair, just and adequate. Indeed, thus far only five class members have opted out of the Settlement and no one has filed an objection. Class members have three more days, until December 19, 2014, to opt out or object to the Settlement. Moreover, class members have until May 5, 2015 to file a claim the benefits of the Settlement, which provides \$70.00 for every subscriber line paying the contested early termination fee.

II: FACTUAL SUMMARY

Almost nine years ago, Plaintiff Peter Rosenow filed his original class action complaint. On behalf of himself and a class of Arkansans similarly situated, Mr. Rosenow generally alleged that Alltel's Disconnect Penalty or Early Termination Fee (hereafter, "ETF") violated the Arkansas Deceptive Trade Practices Act ("ADTPA") and also allowed it to be unjustly enriched.

As this Court knows very well, this case was hard fought and even involved two appeals to the Arkansas Supreme Court. Because of the Court's familiarity, this motion will not recite its arduous history. Instead, Plaintiffs adopt and incorporate the summary history within their

motion for preliminary approval of the Settlement, and within the multiple pleadings, motions, and memorandums in the Court's record.

Importantly, even though Plaintiffs succeeded at the Arkansas Supreme Court on two occasions, there remained significant uncertainty for Plaintiffs as to class certification and as to arbitration. Alltel had moved to decertify the class, and had also stated its intent to petition the United States Supreme Court for certiorari of the Arkansas Supreme Court's decision affirming the denial of Alltel's motion to compel arbitration. Decertification of the class would have ended this case for about 72,000 account holders (having an estimated 108,000 cellular telephone lines at issue). Although Alltel's intended arbitration petition affected a smaller number of class members, it could have thrown an estimated 45,000 accounts (approximately 67,500 subscriber lines) out of court and into individual arbitration potentially.

Adding further to this uncertainty was Alltel's counterclaims. Even though the Court had dismissed its class counterclaims, Alltel could have re-asserted them after a judgment in favor of the class, or during the claims process. Additionally, Alltel could have also appealed the dismissal of its counterclaims. Appeals would have also followed any decision on Alltel's pending motion to decertify the class or any future motion along the same lines.

These appeals not only created uncertainty, but also would have drawn this case out further and increased costs, and thus, diminished the value sought for the benefit class members. Of course, even though Class Counsel and Mr. Rosenow thought they would prove their case against Alltel at trial, a Plaintiffs' verdict was also uncertain.

On the other hand, the mediated Settlement provides certainty and substantial and immediate cash relief to Mr. Rosenow and the members of the Settlement Class. Considering the class members will receive nearly 40% of their potential damages now, and an end to further

concerns of class decertification, arbitration, and Alltel's theories of setoff and counterclaims, the Settlement is unequivocally fair, just and reasonable and deserving of final approval.

III: LAW AND ARGUMENT

1. The Settlement.

Plaintiffs move for certification of the following Class for purposes of final approval of the Settlement and pursuant to Arkansas Rules of Civil Procedure ("ARCP") 23 (a), (b) and (e):

All Arkansas residents, excluding Alltel's employees, officers, directors, and agents, who have paid Alltel's Early Termination Fee between February 15, 2001 through the date of entry of the Preliminary Approval Order, other than those individuals identified in either the Order dated April 17, 2014 or Notice filed on September 9, 2014 as having excluded themselves from the Class.

The Settlement provides the following benefits to Class members:

- \$70 in cash per subscriber line paying an ETF for those class members who file valid claims.
- Additionally, Alltel agrees to pay all costs of providing notice of the Settlement to the Class and to pay all costs associated with the administration of the claims and distribution of the cash payments.
- Further, and without any deduction to the cash payments intended for Class members, Alltel also agrees to pay Class Counsel their court-approved fees and expenses not to exceed \$1,969,946, and Plaintiff Rosenow any court-approved incentive award of no more than \$5,000.

2. The Standards for Final Approval of the Settlement.

The Court must approve a settlement of claims brought on behalf of a class after reasonable notice is provided comporting with due process. Ark. R. Civ. P. 23(c)-(e). A class action settlement will be approved if it is “fair, reasonable, and adequate.” *Ballard v. Martin*, 349 Ark. 564, 574 (Ark. 2002). Arkansas Courts consider four factors together in determining whether a settlement is fair, reasonable, and adequate:

(1) The strength of the case for the plaintiffs on the merits, balanced against the amount offered in the settlement; (2) the Defendant(s)’ overall financial condition and ability to pay; (3) the complexity, length, and expense of further litigation; and (4) the amount of opposition to the settlement.

Ballard, 349 Ark. at 574-75 (adopting the four factors and analysis utilized by the Eighth Circuit in *Gruinn v. Int’l House of Pancakes*, 513 F.2d 114 (8th Cir. 1975) in assessing whether a class settlement is fair and adequate). The first factor is generally considered the most important. See *In re Wireless Tel. Fed. Cost Recovery Fees Litig.*, 396 F.3d 922, 932 (8th Cir.), cert. denied sub nom., *Stainless Sys. Inc. v. Nextel West Corp.*, 126 S. Ct. 356 (2005).

Determining fairness, reasonableness, and adequacy is committed to the Court’s sound discretion. *Ballard*, 349 Ark. at 575 (citing *Gruinn*, 513 F.2d at 123). It should not be overturned absent an abuse of discretion.² *Id.*

In exercising this discretion, the Court should be mindful of the “long-standing policy favoring settlements of civil actions,” a policy that is especially applicable to class action litigation. See *Little Rock School Dist. v. Pulaski County Special School Dist.*, 921 F.2d 1371, 1391 (8th Cir. 1990) (policy favoring settlements is so strong that settlement agreements are

² Great weight is accorded to the trial judge because the trial judge is exposed to the litigants and their strategies, positions, and proofs. The trial judge is aware of the expense and possible legal bars to success. Simply stated, the trial judge is on the firing line and can evaluate the action accordingly. *Ballard*, 349 Ark. at 575 (citing *Gruinn*, 513 F.2d at 123).

“presumptively valid”). Moreover, in applying relevant factors, the Court should not substitute its business judgment for those of the parties who negotiated the settlement, or conduct a “mini-trial” of the merits of the action. *See Carson v. American Brands, Inc.*, 450 U.S. 79, 88 n.14 (1981) (“Courts judge the fairness of a proposed compromise by weighing the plaintiff’s likelihood of success on the merits against the amount and form of the relief offered in the settlement They do not decide the merits of the case or resolve unsettled legal questions.”) *See also Ballard*, 349 Ark. at 575 (citing *Gruinn*, 513 F.2d at 123) (“Neither the trial court in approving settlement nor [the Arkansas Supreme Court] in reviewing that approval have the right or the duty to reach any ultimate conclusions on the issues of fact and law which underline the merits of the dispute.”)

In short, “a class action settlement is a private contract negotiated between the parties,” and the Rule 23 “requires the court to intrude on that private consensual agreement merely to ensure that the agreement is not the product of fraud or collusion and that, taken as a whole, it is fair, adequate, and reasonable to all concerned.” *Wireless Tel.*, 396 F.3d at 934 (citing *Christina A. ex rel. Jennifer A. v. Bloomberg*, 315 F.3d 990, 992 (8th Cir. 2003)).

Many courts have held, in fact, that class action settlements enjoy a presumption of fairness when it is the product of arm’s-length negotiations conducted by experienced, capable counsel after meaningful discovery. *See, e.g., Wal-Mart Stores, Inc. v. Visa U.S.A., Inc.*, 396 F.3d 96, 116 (2d Cir.), *cert. denied sub nom., Leonardo’s Pizza by the Slice, Inc. v. Wal-Mart Stores, Inc.*, 544 U.S. 1044 (2005). *See also City P’ship Co. v. Atlantic Acquisition Ltd. P’ship*, 100 F.3d 1041, 1043 (1st Cir. 1996).

Plaintiffs submit that the proposed Settlement is fair, reasonable, and adequate when measured under the relevant criteria. The parties have thoroughly weighed the strengths and

weaknesses of the claims and defenses and, after lengthy negotiations on an extensive record, have reached an informed and carefully crafted compromise at the conclusion of two impartial mediation sessions with nationally recognized mediator Heshia Abrams.

A. *The merits of the case weighed against the Settlement terms favor approval of the proposed Settlement.*

Plaintiffs' likelihood of success on the merits versus the Settlement weighs heavily in favor of approving the proposed Settlement Agreement. While in reviewing a proposed class settlement the Court should not decide the merits of the case³, the strength of the merits when balanced against the amount offered in the Settlement militates in favor of approving the Settlement.

As discussed in our papers for preliminary approval of the Settlement, the Class' claims were filed nearly nine years ago and the parties have engaged in substantial research and investigation of the factual and legal issues, and of course, discovery. For many years, the parties have also had full and open discussions of the strengths and weaknesses of the allegations of the complaint, and Defendants' defenses and counterclaims. Plaintiffs and Class Counsel believe the claims have merit, but Alltel's arguments also have merit. The Settlement provides certainty to the parties and the Class, and ends what would be protracted and difficult litigation and appeals.

Besides the strength of the merits, all parties agree the appropriate and commensurate relief for the Settlement Class is accurately reflected in the Settlement. The parties engaged in two mediations with Ms. Abrams in Dallas, Texas, and numerous arms-length negotiations to determine a level of relief directly proportional to the alleged damages suffered by the Class. Moreover, these negotiations regarding damages also included Alltel's affirmative defense of setoff and its potential for counterclaims against Class members filing claims against any

³ *Carson v. American Brands, Inc.*, 450 U.S. 79, 88 n. 14 (1981).

potential judgment. Such negotiations occurred over an extended period of time and included mediation sessions, numerous in-person meetings, telephone discussions, and written correspondence and proposals. The parties agree that the terms favor approval, especially in light of the further length of this case given further appeals.

B. Alltel's Financial Condition Supports Approval.

Alltel's overall financial condition is such that it can honor the agreed-upon Settlement terms.

C. The Length and Expense of Continued Litigation Weigh in Favor of the Settlement.

Without a settlement, the anticipated complexity, cost, and duration of continued litigation in this action would be considerable. This action is undoubtedly complex given the nature of Plaintiffs' claims and the defenses posed by the Defendants, and moreover, their affirmative defense of setoff and potential counterclaims against class members. The possible length and expense of further litigation is a relevant consideration used in determining whether a class action settlement agreement should be affirmed. *Ballard*, 349 Ark. 574. There exists no doubt that settling before what would be lengthy, costly, and intense trial weighs in favor of the Settlement's approval. Moreover, the trial would not have concluded this litigation due to the intended U.S. Supreme Court appeal and further appeals based upon whatever happened in the trial and the dismissed counterclaims against Class members. These costs, resources (for the parties, the Class, and the judiciary), and litigation risks have all been spared. The Settlement, which comprises highly valuable cash relief for Settlement Class Members, representing about 40% of their total damages, is a substantial, tangible recovery, without considerable risk, expense, and delay of setoffs, counterclaims, the trial and certain appeals. This result weighs heavily in favor of the proposed Settlement.

D. No Opposition to this Settlement is Present.

The fourth and final factor in determining whether a settlement is fair, reasonable and adequate is the opposition to the settlement. *Id.* With notice completed, it should be considered that only five class members have opted out and nobody has filed an objection. Even though class members have a few more days to exclude themselves or file objections, experienced counsel for the Class and Alltel, do not anticipate objections due to the substantial benefits provided by the Settlement. Further, nobody has contacted Class Counsel that they intend to object.

3. The Parties Have Fully Complied with the Preliminary Approval Order

In accordance the Preliminary Approval Order, the court-appointed claims administrator Gilardi & Co., LLC timely mailed the approved notice to 45,975 Settlement Class members whom the parties could identify from Alltel's electronic records as having paid ETFs. **Exhibit 2, ¶3.** Additionally, and as ordered by the Court, Gilardi & Co. also timely caused a copy of the Internet Notice, Mailed Notice, and Summary Notice in English and Spanish, the Order, the Complaint, Settlement Agreement, and downloadable Claim Form to be posted on the Settlement Website at: AlltelETFSettlement.com. **Exhibit 2, ¶4.** Further, the parties also timely caused the Publication Notice to be published in accordance with the Court's Preliminary Approval Order. **Exhibit 3.**

4. Final Class Certification for Settlement Purposes.

Plaintiffs, under the terms of the Settlement Agreement and the Preliminary Approval Order, seek final class certification of the following Class for settlement only:

All Arkansas residents, excluding Alltel's employees, officers, directors, and agents, who have paid Alltel's Early Termination Fee between February 15, 2001

through the date of entry of the Preliminary Approval Order, other than those individuals identified in either the Order dated April 17, 2014 or Notice filed on September 9, 2014 as having excluded themselves from the Class.

A. *The Standard for Class Certification*

Class certification is a procedural matter. *Mega Life & Health Ins. Co. v. Jacola*, 330 Ark. 261, 268, 954 S.W.2d 898, 900 (1997). At class certification, the court's focus is not "whether the plaintiff or plaintiffs have stated a cause of action or will prevail on the merits, but rather whether the requirements of Rule 23 are met." *Farm Bureau*, 323 Ark. at 709, 918 S.W.2d at 130 (quoting *Miller v. Mackey Int'l, Inc.*, 452 F.2d 424, 427 (5th Cir. 1971)). The trial court should not "delve into the merits of the underlying claim when deciding whether the requirements of Rule 23 have been met." *The Money Place, LLC v. Barnes*, 149 Ark. 518, 524, 78 S.W.3d 730, 733 (2002).

Class actions are encouraged where all class members rely on the same conduct to establish a defendant's liability. *Fraley v. Williams Ford Tractor & Equip. Co.*, 339 Ark. 322, 345-46, 5 S.W.3d 423, 438 (1999); *Seeco, Inc. v. Hales*, 330 Ark. 402, 954 S.W.2d 234 (1997); *Summons v. Missouri Pac. R.R.*, 306 Ark. 116, 124, 813 S.W.2d 240, 244 (1981). Class actions are the favored mechanism for adjudicating consumers' rights where individual amounts in controversy are so small that individual litigation would be discouraged. *Summons*, 306 Ark. at 124-125, 813 S.W.2d at 244-245; *International Union of Elec. Radio and Mach. Workers. v. Hudson*, 295 Ark. 107, 118, 747 S.W.2d 81, 87 (1988). And where repetitious litigation is likely, the Arkansas Supreme Court has instructed trial courts to use class actions to fashion an effective and inclusive group remedy to avoid the risk of inconsistent judgments, conserve judicial

resources and efficiently resolve claims. *Fraley*, 339 Ark. at 347, 5 S.W.3d at 438 (citing *Seeco*, *Mega Life & Health*, and *Summons*).

B. Plaintiffs Have Satisfied Rule 23(a).

(1) *The Class is sufficiently numerous.*

The court should make common-sense assumptions when determining numerosity. *Cheqnet Sys. v. Montgomery*, 322 Ark. 742, 748, 911 S.W.2d 956, 959 (1995). The proposed class' exact size and the class members' identities need not be established for the court to certify a class, and there exists no bright-line rule for deciding how many class members are required for numerosity. *Id.*; *Fraley*, 339 Ark. at 334, 5 S.W.3d at 430. A class of as few as 184 claimants has been held sufficiently numerous such that joinder in a single action is impracticable. *Cooper Communities, Inc. v. Sarver*, 288 Ark. 6, 10, 701 S.W.2d 364, 366 (1986).

The parties identified 45,975 accounts as having paid the ETF from August of 2004 through the summer months of 2009. Plaintiffs estimate another 27,000 subscriber accounts would have included at least one ETF payment from February of 2001 through August of 2004. Thus, the element of numerosity is satisfied easily.

(2) *Common questions of law or fact exist.*

Settlement Class Members are current Arkansas residents paid Alltel's ETF after February 15, 2001. The following issues of fact and law common to the Settlement Class:

- Whether Alltel's collection of ETFs violated the ADTPA;
- Whether Alltel's collection of ETFs allowed it to be unjustly enriched;

Settlement Class members are therefore similarly situated for certification, because their claims present common issues of law and fact. Common questions of law and fact also exist regarding the adequacy of notice and the fairness and reasonableness of the proposed Settlement.

(3) *Rosenow's claims are typical of the Class' claims.*

“[T]he typicality requirement is satisfied if the representative’s claim arises from the same wrong allegedly committed against the members of the class.” *Mega Life & Health*, 330 Ark. at 274, 954 S.W.2d at 904 (citing *Direct Gen. Insur. Co. v. Lane*, 328 Ark. 476, 944 S.W.2d 528 (1977)). The Arkansas Supreme Court has adopted Professor Newberg’s typicality explanation:

[A] plaintiff’s claim is typical if it arises from the same event or practice or course of conduct that gives rise to the claims of other class members, and if his or her claims are based on the same legal theory. When it is alleged that the same unlawful conduct was directed at or affected both the named plaintiff and the class sought to be represented, the typicality requirement is usually met irrespective of varying fact patterns which underlie individual claims. *Id.* (citing Herbert B. Newberg, *Newberg on Class Actions*, §3.13, at pp. 166-67 (2d ed. 1985)).

Rosenow and the Settlement Class Members are all residents of Arkansas that paid Alltel’s \$200 ETF and claim it violated the ADTPA and allowed Alltel to be unjustly enriched. No meaningful differences exist between Rosenow’s and the Settlement Class Members’ claims, and Rosenow’s claims are typical of the Settlement Class Members’ claims.

(4) *Rosenow will fairly and adequately represent the Class' interests.*

“Adequacy” requires the following elements:

- the representative counsel must be qualified, experienced and generally able to conduct the litigation;
- there be no evidence of collusion or conflicting interest between the representative and the class; and
- the representative must display some minimal level of interest in the action, familiarity with the practices challenged, and ability to assist in decision making as to the conduct of the litigation.

The Money Place, 149 Ark. at 527, 78 S.W.3d at 735 (quoting *BPC Inc. v. Richardson*, 341 Ark. 834, 844, 20 S.W.3d 403, 407-408 (2000)). Rosenow’s attorneys have years of class action litigation experience, and were previously appointed by the Court as Class Counsel based upon

that experience. Rosenow has not colluded, and has no interests contrary to the Settlement Class. Rosenow is extremely familiar with his case, understands his responsibility to the Class, and remains willing to do whatever is necessary to represent its best interest.

C. Rosenow Has Satisfied Rule 23(b).

The “starting point for [a court’s predominance] analysis is whether a common wrong has been alleged against [the defendant] respecting all class members.” *USA Check Cashers of Little Rock, Inc. v. Island*, 349 Ark. 71, 83, 76 S.W.3d 243, 249 (2002). “The . . . predominance inquiry tests whether proposed class is sufficiently cohesive to warrant adjudication by representation.” *Amchem Products, Inc. vs. Windsor*, 521 U.S. 591, 615 (1997) Rosenow and the Class members all allege they were commonly damaged by Alltel’s collection of ETFs. Because of the size and number of claims involved, a settlement class is superior to other alternatives for resolving the litigation. Additionally, whether the Settlement Agreement is fair and reasonable, and should be approved is a common predominating issue. The proposed Settlement Class satisfies the predominance requirement of Rule 23(b).

Therefore to effectuate this Settlement, this action should be certified as a class action under Rule 23.

IV: CONCLUSION

The proposed Settlement warrants final approval, because it is fair, adequate and reasonable to the reasons detailed above.

Dated: December 16, 2014

Respectfully submitted,

EMERSON POYNTER LLP



Scott E. Poynter (#90077)

Corey D. McGaha (#2003047)
The Rozelle-Murphy House
1301 Scott Street
Little Rock, AR 72202
Phone: (501) 907-2555
Fax: (501) 907-2556

Todd Turner (#92266)
Dan Turner (#97179)
ARNOLD, BATSON, TURNER &
TURNER, P.A.
501 Crittenden Street
P.O. Box 480
Arkadelphia, AR 71923
Phone: (870) 246-9844
Fax: (870) 246-9845

Class Counsel

CERTIFICATE OF SERVICE

I certify that a true and correct copy of the forgoing was served this 16th day of December, 2014, via U.S. mail to the following counsel:

Steven W. Quattlebaum
E.B. Chiles IV
Chad W. Pekron
QUATTLEBAUM, GROOMS, TULL & BURROW PLLC
111 Center Street
Suite 1900
Little Rock, AR 72201

Todd Turner
Dan Turner
ARNOLD, BATSON, TURNER & TURNER, P.A.
501 Crittenden Street
P.O. Box 480
Arkadelphia, AR 71923

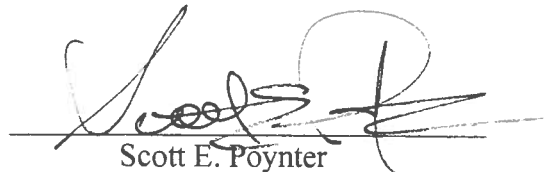

Scott E. Poynter

EXHIBIT 1

Exhibit B – Final Approval Order

**IN THE CIRCUIT COURT OF SALINE COUNTY, ARKANSAS
THIRD DIVISION**

PETER ROSENOW, individually and
on behalf of a class of similarly situated persons

PLAINTIFF

v.

Case No. CV 2006-182-3

ALLTEL CORPORATION and
ALLTEL COMMUNICATIONS, INC.

DEFENDANTS

FINAL JUDGMENT AND ORDER OF DISMISSAL WITH PREJUDICE

WHEREAS, the Class Representative Peter Rosenow and Defendants Alltel Corporation and Alltel Communications, LLC (collectively, "Alltel") have reached a proposed settlement and compromise of the disputes between them in the above-captioned action, which is embodied in a Stipulation of Settlement filed with the Court;

WHEREAS, on _____, an Order Re: Preliminary Approval of Proposed Settlement ("Preliminary Approval Order") was entered by this Court, preliminarily approving the proposed Settlement of the Action pursuant to the terms of the Stipulation and Settlement Agreement and directing that Notice be given to the members of the Settlement Class.

WHEREAS, pursuant to the Parties' plan for providing notice to the Settlement Class Members, the Settlement Class Members were notified by mail and publication of the terms of the proposed Settlement and of a Final Approval Hearing to determine, *inter alia*: (1) whether the terms and conditions of the Stipulation and Settlement Agreement are fair, reasonable and adequate for the release of the Released Claims against the Released Parties; (2) whether judgment should be entered dismissing the claims of the Class Action Complaint; (3) whether Class Counsel's application for attorney's fees and expenses should be approved; and (4) whether the payment of the incentive award should be approved.

WHEREAS, the Settlement Class Members were therefore notified of their right to appear at the hearing in opposition to the proposed Settlement, the award of attorney's fees to Class Counsel, and the payment of incentive awards.

WHEREAS, a Final Approval Hearing was held on January 5, 2015, at which [] objectors appeared and the Court reviewed all properly filed written objections and heard argument from the parties' counsel.

NOW, THEREFORE, the Court, having heard the presentations of Class Counsel and Defendants' Counsel, having reviewed all of the submissions presented with respect to the proposed Settlement, having determined that the Settlement is fair, adequate, and reasonable, having considered the application of Class Counsel for an award of attorney's fees, and having reviewed the materials in support thereof, it is hereby ORDERED, ADJUDGED and DECREED

THAT:

1. The capitalized terms used in this Order and Judgment shall have the same meaning as defined in the Stipulation of Settlement except as may otherwise be ordered.

2. The Court has jurisdiction over the subject matter of this Action and over all claims raised therein and all Parties thereto, including the Class.

3. The Class, which will be bound by this Order and Judgment, shall include all Class Members who did not submit a timely and valid Request for Exclusion. A list of all Class Members who submitted a timely and valid Request for Exclusion has been filed under seal.

4. For purposes of the Settlement and this Final Judgment and Dismissal with Prejudice, the Class consists of all Arkansas residents, excluding Alltel's employees, officers, directors and agents, who have paid Alltel's Early Termination Fee between February 15, 2001 through the date of entry of the Preliminary Approval Order, other than those individuals identified in either the Order dated April 17, 2014 or Notice dated September 9, 2014 as having excluded themselves from the Class.

5. The Court finds that the Notice set forth in the Stipulation and Settlement Agreement and effectuated pursuant to the Preliminary Approval Order constitutes the best notice practicable under the circumstances and constituted due and sufficient notice to Class Members of the pendency of the Action, the terms of the Stipulation and Settlement Agreement, and the Final Approval Hearing, and satisfies the requirements of Arkansas law and federal due process of law.

6. The Settlement, as set forth in the Stipulation and Settlement Agreement, is in all respects fair, reasonable, adequate and in the best interests of the Class, and it is approved. The Parties to the Stipulation and Settlement Agreement shall effectuate the Stipulation and Settlement Agreement according to its terms. The Stipulation and Settlement Agreement and every term and provision thereof shall be deemed incorporated herein as if explicitly set forth and shall have the full force of an Order of this Court.

7. Any Class Member who does not submit an Approved Claim shall not be entitled to any benefits under the Settlement.

8. Upon the Effective Date, the Class Representative and all Class Members shall have, by operation of this Final Judgment and Order of Dismissal with Prejudice, fully, finally and forever released, relinquished, and discharged all Released Parties from all Released Claims, whether or not such Class Member executes and submits a Claim Form.

9. Class Members, including the Class Representative, and the successors, assigns, parents, subsidiarics, affiliates or agents of any of them, are hereby permanently barred and enjoined from instituting, commencing or prosecuting, either directly or in any other capacity, any Released Claim against any of the Released Parties.

10. This Order and Judgment, the Stipulation and Settlement Agreement, the Settlement which it reflects, and any and all acts, statements, documents or proceedings relating to the Settlement are not, and shall not be construed as, or used as an admission by or against Alltel or any other Released Party of any fault, wrongdoing, or liability on their part, or of the validity of any Released Claim or of the existence or amount of damages.

11. The Court approves the payment of \$ _____ to Class Counsel for their attorney's fees and expenses.

12. The Court approves the payment of \$ _____ to the Class Representative as an incentive award.

13. The payments described in paragraphs 11 and 12, above, shall be made in the manner and at the times set forth in the Stipulation and Settlement Agreement.

14. The above-captioned Action is hereby dismissed in its entirety with prejudice. Except as otherwise provided in this Order, the parties shall bear their own costs and attorney's fees. Without affecting the finality of the Judgment hereby entered, the Court reserves jurisdiction over the implementation and interpretation of the Settlement, including distribution of the settlement benefits, enforcement and administration of the Stipulation and Settlement Agreement, including any releases in connection therewith, and any other matters related or ancillary to the foregoing.

Dated: _____

By order of the Circuit Court of Saline County, Arkansas.

Judge Grisham Phillips, Circuit Judge

EXHIBIT 2

**IN THE CIRCUIT COURT OF SALINE COUNTY, ARKANSAS
THIRD DIVISION**

PETER ROSENOW, individually and on behalf
of a class of similarly situated persons

Plaintiff,

vs.

ALLTELL CORPORATION and ALLTEL
COMMUNIOICATIONS, INC.

Defendants.

Case No. CV 2006-182-3

**DECLARATION OF KENNETH JUE ON BEHALF OF THE SETTLEMENT
ADMINISTRATOR**

I, Kenneth Jue, hereby declare as follows:

1. I am employed as a case manager by Gilardi & Co. LLC (“Gilardi”), located at 3301 Kerner Boulevard, San Rafael, California. I am over 21 years of age and am not a party to this action. I have personal knowledge of the facts set forth herein and, if called as a witness, could and would testify competently thereto. Gilardi was retained to, among other tasks, prepare and execute the approved notice plan in this matter, which includes: (i) establishing a settlement website (the “Settlement Website”), (ii) delivering the Mailed Notice to Settlement Class Members via U.S. mail, and (iii) providing call center support. Gilardi was also retained to provide claims administration, including receiving and paying approved claims.

2. This declaration is submitted to describe the notice and administrative procedures employed by Gilardi, as provided in the Settlement Agreement executed by the parties on November 10, 2014.

3. Pursuant to paragraph seven of the Court's Order Re: Preliminarily Approval of Proposed Class Action Settlement (the "Order"), on November 17, 2014, Gilardi mailed via U.S. Postal Service ("USPS") the Mailed Notice, attached here as Exhibit A, to all Class Members. Prior to mailing, Gilardi processed the mailing list of Class Members it received from Alltel through the National Change of Address database to standardize the addresses and update addresses. On November 17, 2014, Gilardi effected the mailing via first-class mail to a total of 45,975 Class Members.

4. Also pursuant to paragraph seven of the Order, on November 14, 2014, Gilardi caused a copy of the Internet Notice, Mailed Notice, and Summary Notice in English and Spanish, the Order, the Complaint, Settlement Agreement, and downloadable Claim Form to be posted on the Settlement Website at: AlltelIETFSettlement.comt.com. Class Members are able to submit a Claim Form online on the Settlement Website.

5. On November 14, 2014, Gilardi caused a dedicated toll free telephone line, 877-217-5879, to be set up with recorded answers to frequently asked questions.

I declare under penalty of perjury that the foregoing is true and correct.

Executed this 16th day of December, 2014 at San Rafael, California.


Kenneth Jue

Exhibit A

Rosenow v. Altel Settlement Administrator
c/o Gilardi & Co. LLC
P.O. Box 808003
Petaluma CA 94975-8003

Presorted
First-Class Mail
US Postage
PAID
Gilardi & Co

2D

LEGAL NOTICE



Postal Service: Please Do Not Mark Barcode

ALRS1-**<<Claim8>>**-**<<CkDig>>**

<<FName>> **<<LName>>**

<<Addr1>> **<<Addr2>>**

<<City>>, **<<State>>** **<<Zip>>**

See other side for details

ALRS1

Para ver este aviso en español, visite: www.AlltelETFSettlement.com

A proposed settlement has been reached in a class action alleging that Alltel improperly charged early termination fees to some customers in Arkansas. Alltel denies all wrongdoing. **This notice informs you of the proposed settlement so that you can decide what to do about it.**

Who's included? The class is defined as Arkansas residents, excluding Alltel's employees, officers, directors and agents, who paid Alltel's early termination fee from February 15, 2001 through November 10, 2014, other than those individuals who already have requested to be excluded from the Class.

What is the settlement? Alltel has agreed to provide a refund of \$70 per line on which an Early Termination Fee or Early Disconnect Penalty ("ETF") was paid between February 15, 2001 and November 10, 2014, by customers whose billing address was in the State of Arkansas. The settlement also permits the attorneys representing the class to ask the Court to award them fees and costs of up to \$1,969,946. The Court will determine the amount of any fees and costs awarded, which will not be deducted from the payments made to the class. This proposed settlement is subject to approval by the Court. Payments will be made only upon final approval by the Court.

Your options. If you do not exclude yourself by **December 19, 2014**, you will release your rights except as provided by the settlement. If you do not exclude yourself, you may appear in the case through your own attorney at your expense. You may file an objection to the settlement by **December 19, 2014**. Your objection must set forth your full name, current address and telephone number, the Alltel mobile telephone number(s) at issue, the reasons for your objection and a statement as to whether you intend to appear at the Final Approval Hearing on **January 5, 2015** at the Saline County Courthouse, 200 North Main Street, Benton, Arkansas 72015 at 9:00 a.m. If you do not properly and timely file and serve your objection by the required date, any objections you have to the settlement will be waived and you will be foreclosed from objecting to the settlement. If you file an objection, you may be asked to provide deposition testimony in support of it.

This notice is a summary. For more information, including how to claim benefits and obtain a Claim Form, exclude yourself from the class, or object to the settlement, review the **detailed notice** of the settlement at www.AlltelETFSettlement.com or call 1-877-217-5879. You should not contact Alltel for information about this settlement.

Use the Claim ID and Access Code below when you file your claim online:

Claim ID: <<Claim\$>> Access Code: <<Pincode>>

EXHIBIT 3

Arkansas Democrat Gazette

STATEMENT OF LEGAL ADVERTISING

Date 12/16/14
 in Account With: Vesizog Wireless
66 Resources / Malibu
3701 Queens Plaza N
Long Island NY 11714-7020

Remit To:
 Arkansas Democrat-Gazette, Inc.
 P.O. Box 2221
 Little Rock, Ark. 72203

To Insure Proper Credit
 Refer to No. _____

Invoice No. _____

AD COPY

Lines at 18th per day
 on the following dates:
11/16, 11/17, 11/18, 11/19, 11/20,
12/13, 12/17, 12/18

 Total Charge - Please Remit \$ 19,292.10

See Attached

STATE OF ARKANSAS,
 County of Pulaski. } ss.

I, Doreen E. [Signature] do solemnly swear that I am the legal billing clerk of the Arkansas Democrat-Gazette, a daily newspaper distributed in all 75 counties of Arkansas; that I was so related to this publication at and during the publication of the annexed legal advertisement in the matter of: Alto's Club [Signature]

at the dates of the several publications of said advertisement stated above, and that during said periods and at said dates, said newspaper was printed and had a bona fide circulation in all 75 counties of Arkansas; that said newspaper had been regularly distributed and had a bona fide circulation in all 75 counties therein for the period of one month before the date of the first publication of said advertisement; and that said advertisement was published in the regular daily issues of said newspaper as stated above.

Subscribed and sworn to before me this 16 day of December, 2014
[Signature]
Arnette M. Adelman

ANNETTE M. MOLODIN
 PULASKI COUNTY
 NOTARY PUBLIC - ARKANSAS
 My Commission Expires October 07, 2015
 Commission No. 1288762

