

**IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS**

*Paluzzi v. Cellco Partnership d/b/a Verizon Wireless and mBlox, Inc.*, No. 07 CH 37213

**NOTICE OF PENDENCY OF CLASS ACTION SETTLEMENT**

**YOU MAY BE ENTITLED TO A PAYMENT FROM A CLASS ACTION SETTLEMENT IF YOU WERE BILLED FOR RINGTONES OR OTHER MOBILE CONTENT ON YOUR WIRELESS PHONE BILL AT ANY TIME PRIOR TO OCTOBER 10, 2009 FROM ANY OF THE FOLLOWING COMPANIES:**

- mBlox, Inc.
- 2WayTraffic Mobile USA, Inc. f/k/a Emexus Americas, Inc.
- 2WayTraffic USA, Inc.
- Dada USA, Inc. d/b/a Dadamobile, Inc.
- Dada Entertainment, LLC
- UPOC Networks, Inc. f/k/a Upoc, Inc.
- Lavalife, LLC
- Mobile Entertainment, Inc.
- Playphone, Inc.
- SendMe, Inc.
- SJA Mobile, LLC
- W3i Mobile, LLC f/k/a Freeze Mobile, LLC
- W3i Holdings, LLC
- Sony Pictures Entertainment, Inc.

The Circuit Court of Cook County, Illinois authorized publication of this Notice. This is not a solicitation from a lawyer or a lawsuit against you.

<b>YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT</b>	
SUBMIT A CLAIM FORM <i>(see Section 6, pg. 3)</i>	The only way to get a payment. If you elect to receive a payment, you will give up your right to be part of any other lawsuits involving claims associated with this case.
EXCLUDE YOURSELF <i>(see Section 6, pg. 4)</i>	Get no payment. This is the only option that allows you to be a part of other lawsuits involving claims associated with this case.
OBJECT <i>(see Section 6, pg. 4)</i>	Write to the Court about the reasons that you are against the settlement.
ATTEND A HEARING <i>(see Section 6, pg. 4 and Section 12, pg. 6)</i>	Request that you be allowed to speak in Court about the fairness of the settlement.
DO NOTHING <i>(see Section 10, pg. 6)</i>	Receive no payment. If you elect to do nothing, you will give up your rights.

- **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 give final approval to the settlement. If it does, and after any appeals are resolved, the benefits discussed in this Notice will be distributed to those who have submitted valid claims. Please be patient.**

**BASIC INFORMATION**

**1. What Is This?**

This Notice is to inform you of the settlement of a class action lawsuit pending in the Circuit Court of Cook County, in Chicago, Illinois. The Court has granted preliminary approval of the settlement and has certified the Settlement Class defined more fully in this Notice, subject to a fairness hearing, which will take place on January 7, 2010 at 11:00 a.m. in the Richard J. Daley Center, 50 West Washington Street, Courtroom 2301, Chicago, Illinois 60602 to determine if the settlement is fair, reasonable and adequate, and to consider the request by Class Counsel for an award of attorneys’ fees and expenses, and incentive payments to the Class Representatives.

This Notice explains the nature of the class action lawsuit and the terms of the settlement and informs you of your legal rights and obligations. By agreeing to the settlement, the Defendants are not admitting that they are liable to the Settlement Class, or anyone else, or that they violated any law or regulation.

You have options, which are explained below.

## 2. What is Mobile Content and Who Are the Defendants?

“Mobile Content” is a product (such as ringtones, games, graphics and news or other alerts) that may be purchased and downloaded to your cell phone and is advertised, marketed and sold directly by third-party merchants. The Defendants are a collection of third-party merchants (2WayTraffic Mobile USA, Inc. f/k/a Emexus Americas, Inc.; 2WayTraffic USA, Inc.; Dada USA, Inc. d/b/a Dadamobile, Inc.; Dada Entertainment, LLC; Lavalife, LLC; Mobile Entertainment, Inc.; Playphone, Inc.; SendMe, Inc.; SJA Mobile, LLC; UPOC Networks, Inc. f/k/a Upoc, Inc.; W3i Mobile, LLC f/k/a Freeze Mobile, LLC; W3i Holdings, LLC, Sony Pictures Entertainment, Inc.) and mBlox, who is an “aggregator” of Mobile Content, which means that it acts as a middleman between numerous merchants that sell Mobile Content and the wireless carriers who provide you with your wireless service. Any charges associated with the third-party merchants or the aggregator would appear on your wireless statement along with the following billing “short codes.”

To view a list of the short codes, please visit [www.MobileContentSettlement.com](http://www.MobileContentSettlement.com).

## 3. What is the Lawsuit About?

Plaintiffs brought a class action lawsuit in the Circuit Court of Cook County, Illinois, on behalf of a proposed class of wireless subscribers, alleging that certain Defendants were involved in charging wireless subscribers for Mobile Content that the subscribers did not authorize. Over 30 similar lawsuits were filed against mBlox, the wireless carriers, third-party merchants, and other companies and are pending in state and federal courts throughout the country. A list of the related cases is contained in the Stipulation of Class Action Settlement, a copy of which can be found at [www.MobileContentSettlement.com](http://www.MobileContentSettlement.com). You need not live in Illinois to receive a benefit under the proposed settlement if you are eligible. This class action asserts claims for breach of contract, restitution/unjust enrichment, and tortious interference with a contract, and the settlement of this class action resolves other lawsuits asserting violations of Cal. Civ. Code § 1770, Cal. Bus. & Prof. Code § 17200, trespass to chattels and others claims. To resolve this matter without the expense and uncertainties of litigation in these several class actions, the Parties have reached this settlement, which resolves certain potential claims against the Defendants and related companies for alleged unauthorized Mobile Content charges. The settlement requires the Defendants to pay money to the Settlement Class, attorneys’ fees to Class Counsel, and an incentive payment to Class Representatives, if approved by the Court. The settlement also requires the Defendants to adhere to certain standards for the sale, marketing, and refunding of unauthorized Mobile Content. Further, Defendants have consented to the entry of a Court Order requiring them to remain in compliance with the consumer best practices guidelines established by industry trade groups such as the Mobile Marketing Association. This settlement is not an admission of wrongdoing by Defendants to Plaintiffs, the Settlement Class, any wireless subscriber, or any third party.

## 4. Who is in the Settlement Class?

You are a member of the Settlement Class and your rights are affected if you are a person in the United States and its territories who, at any time prior to October 10, 2009, were billed and paid for Mobile Content associated with the Defendants that was not authorized. This Notice explains how to determine if your unauthorized Mobile Content is associated with the Defendants. You cannot participate in this settlement if: (a) you are a current or former employee, officer, or agent of Defendants; or (b) you have claimed refunds and released a Settled Claim in another settlement involving Mobile Content (including the AT&T settlement, the Mobile Messenger settlement or the Media Breakaway settlement); or (c) you possess deceptive marketing claims encompassed within the *In re Jamster* MDL No. 1751, 05 CV 0819 JM (CAB), meaning specifically those claims alleging that “(i) VeriSign and Jamster defendants have falsely represented to consumers that mobile customers can get a free ring tone or other phone service by sending a message to Jamster or by registering on the internet; and (ii) instead of receiving the free content, those customers then received repeated text messages from defendants for which they were charged by defendants.”

## 5. What Relief is Provided To Class Members Under The Settlement?

**A. Service Improvements and Assurances.** The Defendants have agreed to continue to improve their consumer protection practices, including their refund policy and have agreed to permit an outside company to review their practices. In addition, the Defendants have agreed to the entry of a Court Order requiring that each of them remain in compliance with the consumer best practices guidelines from industry associations such as the Mobile Marketing Association, CTIA, and other leading industry groups, as amended from time to time, an example of which can be viewed at [www.mmaglobal.com/bestpractices.pdf](http://www.mmaglobal.com/bestpractices.pdf).

**B. Payment Options For Settlement Class Members Filing Claim Forms.** In addition to the above-described service assurances, all Settlement Class Members will be entitled to submit a Claim Form for a cash settlement benefit. The settlement will provide up to \$63 million to pay the claims of class members who qualify, along with the costs of the settlement and attorneys’ fees. The amount available to pay claims may be lowered to \$36 million if a similar settlement with AT&T Wireless is approved prior to the Court’s final approval of this case. The Claim Form will present each Class Member with two options for receiving a payment. Those who select

Option #1 will, upon providing basic information and attesting that they received and paid an unauthorized charge covered by the settlement, receive a \$10 Set Cash Award. Those who select Option #2 will be required to provide more detailed information about subscription or other recurring charges for Mobile Content associated with the Defendants, but will be eligible to receive a Cash Refund of up to three months of such charges. If approved, the Claims Administrator will issue a check to each Class Member who submits a valid Claim Form. But if the amount of Claim Forms submitted, plus sixty percent of the refunds submitted by the wireless carriers directly, expenses, attorneys' fees, and incentive awards is more than the settlement cap, then each person who submitted a valid Claim Form will get their pro rata share of the total sum to be paid to the Settlement Class. Class Members additionally have the option of donating their cash benefits to a designated charity.

## **6. What are my Legal Rights?**

### *How Do I File a Claim for a Payment?*

If you were billed for charges for Mobile Content at any time prior to October 10, 2009 that you believe were unauthorized and were associated with any of the Defendants you may submit a Claim Form to obtain a Set Cash Award or a Cash Refund.

To receive any payment through the claims process, you must properly and timely submit a Claim Form, either electronically or by mail. You may obtain a Claim Form by requesting a copy from the Claims Administrator by calling 1-800-262-0455 or following the instructions below. We highly encourage you to submit your claim electronically. Not only is it easier and more secure, it is completely free and takes only minutes.

If you would still prefer to download, print, and mail your Claim Form, go to [www.MobileContentSettlement.com](http://www.MobileContentSettlement.com).

Depending on the identity of your wireless carrier, it may also be possible for you to contact your wireless carrier directly and request a refund for unauthorized charges for Mobile Content associated with the Defendants.

**Either the on-line form must be submitted or the paper form must be postmarked by February 22, 2010 or your Claim Form will be rejected.**

Follow the steps below to file a Claim Form.

**Step 1 – You Must First Determine Whether Your Charges Were Unauthorized.** You cannot recover under this settlement if you authorized the charges for Mobile Content associated with the Defendants. The Claim Form will require you to affirm under penalty of perjury that any claim is only for a charge to which you did not authorize.

**Step 2 - Identify Unauthorized Charges For Mobile Content Associated With Defendants.** If you are unclear about whether the unauthorized charges for Mobile Content you received were associated with the Defendants, this information is either located on your wireless bills or can be obtained from your wireless carrier's customer service. Charges for Mobile Content on your wireless bills should contain descriptions or billing "short codes."

To view a list of the short codes, please visit [www.MobileContentSettlement.com](http://www.MobileContentSettlement.com).

**Step 3 – Complete a Claim Form.** Go to [www.MobileContentSettlement.com](http://www.MobileContentSettlement.com) to access the online Claim Form or download a paper copy, or call 1-800-262-0455 to request a paper copy. Everyone who submits a Claim Form must provide all the required information in the "Claimant Information" section, confirm that you have not submitted a Claim Form for the same Mobile Content charges in another settlement, and sign the "Certification" section. Class Members then are given a choice to receive a payment either under "Option #1" for a \$10 Set Cash Award, or under "Option #2" for a Cash Refund of up to three months of subscription or recurring charges for Mobile Content associated with Defendants if more detailed information about such charges is provided.

- *Option #1:* To properly file a claim for a set cash award under Option #1, a Class Member need only fully complete the Claimant Information, check off all applicable boxes affirming the truth of the corresponding statements, and complete the "Certification" by signing (or selecting the box if filing electronically) the Claim Form. For Option #1, you need not provide any of the additional information required under Option #2 below.
- *Option #2:* To properly file a claim for a refund for up to three months of a subscription or other recurring charge under Option #2, a Class Member must complete the Claimant Information, check off all applicable boxes affirming the truth of the corresponding statements, and provide the requested information about the specific charges claimed to have been unauthorized. Finally, a Class Member must add the charges listed, insert the number next to the "Total Amount Claimed," and complete the "Certification" by signing (or selecting the box if filing electronically) the Claim Form. Information under Option #1 need not be provided.

- Under both Option #1 and Option #2, the claimant has the option of automatically giving the refund to one of the following Court-Approved charities or non-profit organizations:
  - Repower America
  - The American Cancer Society
  - American Bar Association’s Fund for Justice and Education

Class Counsel will match the contributions from Class Member refunds to these charities or non-profit organizations up to \$250,000.

**Step 4 – Submit Your Claim Form Electronically Or Postmark And Mail Your Paper Claim Form To The Claims Administrator.** You must submit the completed Claim Form to the Claims Administrator, following the instructions for submission, either electronically or by mail, on or before February 22, 2010. **Remember, you must submit your Claim Form by February 22, 2010.**

*What Happens After a Claim Form is Filed?*

Upon receipt, the Claims Administrator will review your Claim Form to determine whether you are entitled to a refund for unauthorized charges. If your Claim Form is approved, the Claims Administrator will mail those selecting Option #1 a \$10 check, those selecting Option #2 a check for up to three months of recurring or subscription charges, or, if selected, a letter indicating the payment was sent to the selected Court-approved charity or non-profit organization. Only if the settlement fund is exceeded will Class Members receive an equal, or *pro rata*, share of the remaining settlement money. By submitting a Claim Form in this settlement, you will then be bound by all orders and judgments of the Court, and your claims related to unauthorized charges for Mobile Content associated with Defendants will be released against Defendants and any and all Released Parties in all related class action lawsuits in accordance with the settlement. A full explanation of this process is set out in the Stipulation of Class Action Settlement, which can be found at [www.MobileContentSettlement.com](http://www.MobileContentSettlement.com).

*How Not To Participate in the Settlement Class*

If you do not wish to be a member of the Settlement Class, you may request to be excluded by writing to the Claims Administrator. To do so, you must provide your full name and address, state that you want to opt out of the proposed settlement, and deliver your request for exclusion by mail, hand, or overnight delivery service to: Paluzzi Settlement Claims Administrator, P.O. Box 6177, Novato, CA 94948-6177. To be valid, your request for exclusion **must** be postmarked by no later than December 10, 2009.

*How Do I Object to the Settlement?*

The Court will hold a Fairness Hearing on January 7, 2010 at 11:00 a.m. at the Richard J. Daley Center, 50 West Washington Street, Courtroom 2301, Chicago, Illinois 60602. The purpose of the Fairness Hearing is to determine if the settlement is fair, reasonable and adequate, and to consider Class Counsels’ request for an award of attorneys’ fees and expense as well as incentive award(s) to the Class Representatives, or on such other date as the Court may otherwise determine. You or your attorney have the right to appear before the Court and object to the settlement. However, to do so you must first file a Notice of Intention to Appear and Object. All such objections to the settlement **must** be filed by December 10, 2009. If you decide to object to the settlement, you must (1) provide your full name and address (and of your attorney if you intend to appear through counsel); (2) provide a statement of the basis for each objection asserted; (3) provide evidence that you are a member of the Settlement Class; (4) include all arguments, citations, legal authorities, documents and evidence supporting such objection(s); (5) provide the names and addresses of any witnesses, if any, who will attend the Fairness Hearing to speak with respect to your objection(s) to the settlement; (6) deliver your objection(s) by mail, hand, or overnight delivery service to the Claims Administrator, Class Counsel and mBlox, Inc.’s Counsel; and (7) file a copy of your objections with the Court in this matter. Failure to provide evidence that you are a Class Member may result in your objection being disregarded.

**7. If I Remain in the Settlement Class, Who Represents Me?**

The Court has approved the following attorneys to represent the Settlement Class. They are called “Class Counsel.” You will not be charged for these lawyers. If you want to be represented by your own lawyer, you may hire one at your own expense.

**Lead Class Counsel:**

Jay Edelson  
Myles McGuire  
Ryan D. Andrews  
Steven Lezell  
KamberEdelson LLC  
350 North LaSalle, Suite 1300  
Chicago, IL 60654  
Tel: 1-866-354-3015  
www.kamberedelson.com

**Plaintiffs' Steering Committee:**

Robert Shelquist (chair)  
Lockridge Grindal Nauen, P.L.L.P.  
Suite 2200  
100 Washington Avenue South  
Minneapolis, MN 55401-2197

David Healy  
Offices of David Healy  
2846 Remington Green Circle, Suite B  
Tallahassee, FL 32308

John G. Jacobs  
The Jacobs Law Firm, Chtd.  
122 South Michigan Ave; Suite 1850  
Chicago, IL 60603

David Parisi  
Parisi & Havens LLP  
15233 Valleyheart Drive  
Sherman Oaks, CA 91403

Clifford A. Cantor  
Law Offices of Clifford A. Cantor, P.C.  
627 208th Ave. SE  
Sammamish, WA 98074-7033

Ilan Chorowsky  
Progressive Law Group, LLC  
354 West Main Street  
Madison, WI 53703

Philip Bock  
Richard Doherty  
Bock & Hatch, LLC  
134 North LaSalle, Ste. 1000  
Chicago, IL 60602

Brian Wanca  
Anderson + Wanca  
3701 Algonquin Rd, Ste. 760  
Rolling Meadows, IL 60008

**8. What is the Plaintiffs Attorneys' Fees Award?**

The Court has appointed the attorneys listed above to represent the Settlement Class. At the fairness hearing described above, Class Counsel will be seeking final approval of the settlement and request approval by the Court of the fee award consistent with the terms of the Stipulation of Class Action Settlement, consisting of attorneys' fees and costs up to \$11,430,000, but not less than \$4,015,000.

**9. What Is The Incentive Award To The Class Representatives?**

As part of the preliminary approval of the settlement, the Court has appointed Susan Paluzzi, Grace Piccici, Patricia Vernon and the named plaintiffs in several related class actions as Class Representatives. Subject to Court approval, these persons will share in an award of \$35,000 for their service in this matter and the related matters. These persons are listed in the Stipulation of Class Action Settlement, available at [www.MobileContentSettlement.com](http://www.MobileContentSettlement.com).

## **10. What Claims Are Being Released in this Settlement?**

Unless you timely file and serve a valid request for exclusion you will be part of the Settlement Class. By remaining in the Settlement Class, all of the Court's Orders will apply to you. Among other things, you will give the Defendants a full and complete release of all claims related to alleged unauthorized Mobile Content charges billed to you prior to October 10, 2009 that were associated with the Defendants. A release means that you cannot sue or be a part of any other lawsuit against the Released Parties in connection with the claims or issues involved in this class action lawsuit or any of the related class actions. A full explanation of the Release is set out in the Stipulation of Class Action Settlement, available at [www.MobileContentSettlement.com](http://www.MobileContentSettlement.com).

## **11. What Is Class Counsel's Opinion Of The Settlement?**

In connection with the settlement, the Court has given preliminary approval to the appointment of Class Counsel who have conducted extensive investigation into the factual and legal claims of the Settlement Class and the defenses that might be asserted by the various Defendants. Based on their investigation and experience, Class Counsel believe that the settlement is fair, reasonable and adequate and in the best interests of the Settlement Class. In making this evaluation, Plaintiffs and Class Counsel have also taken into account the expense and length of continued proceedings necessary to continue prosecuting this class action and similar cases against the Defendants through trial, verdict, judgment and appeals, and have taken into account the uncertainty and the risk of the outcome of litigation especially in complex actions such as these as well as the difficulties and delays inherent in such actions.

## **12. When Will The Court Determine The Fairness Of The Settlement?**

The Court has given preliminary approval to the settlement. A final hearing on the settlement, which is called a Fairness Hearing, will be held to determine the fairness of the settlement. At the Fairness Hearing, the Court will hear any proper objections and arguments to the settlement, as well as Class Counsel's request for an award of attorneys' fees and expenses, and the incentive awards to the Class Representative(s). The Court will hold the Fairness Hearing on January 7, 2010 at 11:00 a.m. at the Richard J. Daley Center, 50 West Washington Street, Courtroom 2301, Chicago, Illinois 60602.

**YOU ARE NOT OBLIGATED TO ATTEND THE FAIRNESS HEARING UNLESS YOU PLAN TO OBJECT TO THE SETTLEMENT.**

If the settlement is not finally approved, the case and the Related Actions will proceed as if no settlement had been attempted or agreed upon. There can be no assurance that if the settlement is not approved, the Settlement Class will recover more than is provided in the settlement, or indeed, anything at all.

## **13. Where Can I Obtain More Information About The Settlement?**

Any questions you or your attorney may have concerning this Notice should be directed to Class Counsel at the address listed below, or you can contact: Paluzzi Settlement Claims Administrator, P.O. Box 6177, Novato, CA 94948-6177, 1-800-262-0455, or email [Administrator@MobileContentSettlement.com](mailto:Administrator@MobileContentSettlement.com). Please include the case name and number, and your name and your current return address on any letters, not just the envelopes. **You may also contact Class Counsel at 1-866-354-3015. You may also read the Stipulation of Class Action Settlement available at [www.MobileContentSettlement.com](http://www.MobileContentSettlement.com). You may also request a copy of the Stipulation of Class Action Settlement from the Claims Administrator by calling 1-800-262-0455 or emailing [Administrator@MobileContentSettlement.com](mailto:Administrator@MobileContentSettlement.com).**

**Please do not contact the Court. Instead, to obtain information about the terms and conditions concerning the settlement, you may contact Class Counsel, as follows:**

### **Class Counsel:**

Jay Edelson  
Myles McGuire  
Ryan D. Andrews  
Steven Lezell  
KamberEdelson LLC  
350 North LaSalle, Suite 1300  
Chicago, IL 60654  
Tel: 1-866-354-3015  
[www.kamberedelson.com](http://www.kamberedelson.com)

By Order of the Court Dated: September 10, 2009