

**IN THE UNITED STATES DISTRICT COURT
DISTRICT OF KANSAS**

ROXIE SIBLEY, et al.,)	
)	
Plaintiffs,)	
)	CIVIL ACTION
v.)	
)	No. 08-2063-KHV
SPRINT NEXTEL CORPORATION, et al.,)	
)	
Defendants.)	
_____)	

MEMORANDUM AND ORDER

This matter is before the Court on Plaintiffs’ Motion For Approval Of Adequacy Of Settlement Notice Process (Doc. #833) filed May 21, 2018 and plaintiffs’ revised Notice Of Settlement (Doc. #846-1) filed July 5, 2018. For reasons below, the Court sustains plaintiffs’ motion in part.

On June 27, 2018, the Court sustained plaintiffs’ motion to certify three settlement subclasses under Rule 23(b)(3), Fed. R. Civ. P., and sustained in part Plaintiffs’ Motion For Approval Of Adequacy Of Settlement Notice Process (Doc. #833). Memorandum And Order (Doc. #844) at 13-14. The Court withheld full approval of plaintiffs’ notice plan because the proposed notice of settlement did not satisfy the mandatory requirements of Rule 23(c)(2)(B), Fed. R. Civ. P., which governs certification notices for classes certified under Rule 23(b)(3). Id. at 10-13. In particular, the Court held that the proposed notice failed to define the settlement subclasses and did not allow class members to easily ascertain whether they are in a settlement subclass. Id. at 13. Accordingly, the Court ordered plaintiffs to submit a revised notice of settlement. Id. at 13-14.

On July 5, 2018, plaintiffs filed a revised notice of settlement. Notice Of Settlement (Doc. #846-1). The revised notice defines the recently certified settlement subclasses, but it does

not allow class members to easily ascertain whether they belong to one of the settlement subclasses. Id. at 2. Like prior drafts, the revised notice explains that class members can determine whether they belong to a subclass by viewing a document filed with the Court: Exhibit 2 to Doc. #832-1. Compare id. at 2, with Notice Of Settlement in Declaration Of Michele Fisher In Support Of Motion For Certification Of Settlement Subclasses (Doc. #840-1) filed June 18, 2018 at 40. Exhibit 2 to Doc. #832-1 – a 1115-page document – lists the settlement allocation for each class member and the class members in each settlement subclass. Declaration Of Michele R. Fisher In Support Of Second Supplemental Motion For Preliminary Approval Of Settlement (Doc. #832-1) filed May 21, 2018 at 55-1170.

To access this document in the method described in the notice of settlement, class members would have to create a Public Access To Court Electronic Records (“PACER”) account and pay to view the exhibit on the PACER web site. Notice Of Settlement (Doc. #846-1) at 2 (“whether [class members] fall within a Settlement Subclass, can be found in the 5/2017 *Sibley* Settlement Allocations (Ex. 2) filed with the Court on May 21, 2018 at Docket No. 832-1”); see <http://www.uscourts.gov/services-forms/fees/electronic-public-access-fee-schedule> (last visited July 17, 2018) (PACER fees). The Court questions why the notice of settlement directs class members to the Court’s docket rather than the settlement web sites which provide free access to the same document. Notice Of Settlement (Doc. #846-1) at 5 (describing web sites as source for “additional information”); see sprintretailsettlement.com (last visited July 17, 2018) (free access to list of subclass members); nka.com/case/sprintretailsettlement (last visited July 17, 2018) (same). On or before **July 27, 2018**, plaintiffs shall revise the notice of settlement to explain that the settlement web sites provide free access to a list of the class members in each subclass (Exhibit 2

to Doc. #832-1) and instruct class members how to access the document.¹

IT IS THEREFORE ORDERED that Plaintiffs' Motion For Approval Of Adequacy Of Settlement Notice Process (Doc. #833) filed May 21, 2018 is **SUSTAINED in part**. On or before **July 27, 2018**, plaintiffs shall submit a revised notice of settlement which explains that the settlement web sites provide free access to a list of the class members in each subclass and instructs class members how to access that information.

IT IS FURTHER ORDERED that the Court **AMENDS** Nunc Pro Tunc Memorandum And Order (Doc. #847) filed July 17, 2018 to conditionally **SUSTAIN** Plaintiffs' Motion for Preliminary Approval Of Settlement (Doc. #814) filed March 2, 2017, Plaintiffs' Amended Motion For Preliminary Approval Of Settlement (Doc. #817) filed March 7, 2018 and Plaintiffs' Second Supplemental Motion For Preliminary Approval Of Settlement (Doc. #831) filed May 21, 2018 **subject to the Court's approval of the adequacy of the settlement notice process.**

Dated this 17th day of July, 2018 at Kansas City, Kansas.

s/ Kathryn H. Vratil
KATHRYN H. VRATIL
United States District Judge

¹ On June 28, 2018, the Court conditionally sustained plaintiffs' pending motions for preliminary approval of settlement "subject to plaintiffs providing the Court a notice of settlement which complies with Rule 23(c)(2)(B), Fed. R. Civ. P." Nunc Pro Tunc Memorandum And Order (Doc. #847) filed July 17, 2018 at 5 (correcting errors in Memorandum And Order (Doc. #845) filed on June 28, 2018)). The Court amends its order to conditionally sustain plaintiffs' motions for preliminary approval subject to the Court's approval of the adequacy of the settlement notice process.