

SETTLEMENT AND RELEASE AGREEMENT

This Settlement and Release Agreement ("Agreement"), entered into by and between New Cingular Wireless PCS, LLC and AT&T Mobility Wireless Operations Holdings, Inc. as successor to Pine Bluff Cellular, Inc. ("Plaintiffs" or collectively as "New Cingular") and the Arkansas Department of Finance and Administration ("DFA");

WITNESSETH:

WHEREAS, New Cingular has instituted an action against DFA in the Circuit Court of Pulaski County styled *New Cingular Wireless PCS LLC and AT&T Mobility Wireless Operations Holdings, Inc. as successor to Pine Bluff Cellular, Inc. v. Larry W. Walther, in his official capacity as Director of the Arkansas Department of Finance and Administration*, 60CV-14-1722 ("Action"); AND

WHEREAS, New Cingular is acting pursuant to a class action settlement in *In re AT & T Mobility Wireless Data Services Sales Tax Litig.*, 789 F. Supp. 2d 935, 983 (N.D. Ill. 2011) (the "Class Action Settlement"), and on behalf of the affected consumers that are members of the class identified in the Class Action Settlement; AND

WHEREAS, the Action was initiated under the Arkansas Tax Procedure Act provision for filing suit when a refund request has been neither approved nor denied, Ark. Code Ann. § 26-18-406, alleging that the Department had failed to act upon a request for refund filed by New Cingular on November 9, 2010, alleging that New Cingular improperly assessed and collected Arkansas Gross Receipts tax on services that constitute "Internet Access Services" otherwise

SETTLEMENT AND RELEASE AGREEMENT - PAGE 1



DFA



New Cingular



Class

Received

JAN 04 2016

Revenue Legal Counsel

exempt from tax under Arkansas and Federal law and that it is owed a refund of taxes improperly paid by its customers pursuant to the consent of the customers as part of a settlement agreement in a Federal class action lawsuit, *In re AT & T Mobility Wireless Data Services Sales Tax Litig.*, 789 F. Supp. 2d 935, 983 (N.D. Ill. 2011).

WHEREAS, DFA has denied in the Action that the requirements of the Arkansas Tax Procedure Act, Ark. Code Ann. § 26-18-101 through -1006, were properly followed in obtaining consent of the customers; AND

WHEREAS, the parties wish to resolve and settle the allegations, claims, disputes, and controversies that are the subject matter of the Action; AND

WHEREAS, DFA, through its Director, Larry Walther, pursuant to Ark. Code Ann. § 26-18-705, may enter into an agreement to settle any controversy relating to a state tax or a tax collectible under state laws; AND

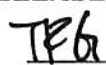
WHEREAS, DFA and New Cingular have negotiated this settlement of the Action on an "arms-length" basis between parties of equal bargaining power and the Agreement has been jointly drafted by DFA and New Cingular;


NOW, THEREFORE, in consideration of the mutual promises set forth in this Agreement and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

1. Recitals. The foregoing recitals are incorporated into and constitute a part of this Agreement.

SETTLEMENT AND RELEASE AGREEMENT - PAGE 2


DFA


New Cingular


Class

2. **No Admission of Liability.** This Agreement is entered into as an expedient and effective alternative to litigation in this Action. This Agreement is based on the parties' evaluations of the unique litigation posture and risks associated with this specific Action. DFA and New Cingular make no admission of liability, express or implied, by entering into this Agreement.

3. **DFA Payment to New Cingular.** DFA, in exchange for the release set forth below and in full and final settlement of the Action, agrees to pay to Plaintiffs the total amount of EIGHTEEN MILLION and no/100 DOLLARS (\$18,000,000.00) in resolution of the refund request filed November 9, 2010, payable as follows:

(a) By issuance of Credits against Arkansas State and local Gross Receipts and Compensating Use tax liability by Plaintiffs in the aggregate amount of THREE MILLION and no/100 DOLLARS (\$3,000,000.00) per month beginning in April of 2016 through September of 2016;

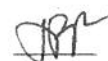
(1) Plaintiffs will reduce the amount of payment on the monthly required tax returns on their respective permits by THREE MILLION and no/100 DOLLARS (\$3,000,000.00) for April through September of 2016. Such credit shall be available to any successor in interest to either or both of the Plaintiffs.

(2) In the event that Plaintiffs are unable to utilize the entirety of the THREE MILLION and no/100 DOLLAR (\$3,000,000.00) credit in any given month, the balance of the unused credit shall rollover to the next month continuing beyond September, 2016, if necessary.

SETTLEMENT AND RELEASE AGREEMENT - PAGE 3


DFA


New Cingular


Class

for use until a total of EIGHTEEN MILLION and no/100 DOLLARS (\$18,000,000.00) in credits against tax is exhausted;

(3) The THREE MILLION and no/100 DOLLAR (\$3,000,000.00) credit will be applied each month pro-rata to reduce the tax obligations of Plaintiffs to the State, Counties, and municipalities in the State in the same proportion that the original request for refund is attributable to State, County, and Municipal gross receipts taxes. The Plaintiffs and DFA will mutually agree upon the methodology for such allocations to the Counties and municipalities. In the event that a credit amount attributable to a county or municipal levy exceeds the amount of tax due for that period, DFA shall rollover the balance of the unused credit to the next month for use.


(b) DFA shall retain the option to accelerate payment of any portion of unissued tax credits in a lump sum payment to New Cingular. If DFA chooses to exercise this option, the amount of unissued credits and the intent to make a lump sum payment will be confirmed in writing to New Cingular not less than twenty (20) days prior to the filing deadline of payments due for the current month.

4. Stale and Undeliverable Checks. If, after completing the required actions in the Plan of Distribution in accordance with the Class Action Settlement, there are stale or undeliverable checks to Arkansas customers that are presumed abandoned pursuant to the Arkansas Unclaimed Property Act, Ark. Code Ann. §§ 18-28-201 through -230, the Settlement

SETTLEMENT AND RELEASE AGREEMENT - PAGE 4


DFA


New Cingular


Class

Class under the Class Action Settlement will ensure that the Settlement Administrator undertakes the following procedures:

(a) A report of unclaimed or stale checks issued to Arkansas customers and presumed abandoned shall be filed with the Auditor of State pursuant to Ark. Code Ann. § 18-28-207; and

(b) The amount of moneys represented by the stale or undeliverable checks in (a) shall be paid over to the Auditor of State pursuant to Ark. Code Ann. § 18-28-208 for deposit in the Arkansas Unclaimed Property Proceeds Trust Fund for administration pursuant to Arkansas law.

5. Legislative Approval Required. This settlement is conditioned on the approval required under Arkansas law by the General Assembly of the State of Arkansas. Specifically:

(a) Review of the Agreement by the Litigation Reports Oversight Subcommittee of the Arkansas Legislative Council of the Arkansas General Assembly; and

(b) Review of the Agreement by the Arkansas Legislative Council of the Arkansas General Assembly.

Should the approvals or actions specified in paragraph 5(a) – (b) be denied, this Settlement and Release Agreement is null and void. Should the approvals or actions specified in paragraph 5(a) – (b) not occur prior to January 31, 2016, the Plaintiffs, at their option, may treat the Settlement and Release Agreement as null and void, and proceed to trial, which is currently scheduled for April 18, 2016, with a backup trial date of August 15, 2016.

6. Mutual Release. For and in consideration of the foregoing consideration, and upon the full execution of this Agreement and payment of the amount agreed, Plaintiffs, on

SETTLEMENT AND RELEASE AGREEMENT - PAGE 5


DFA


New Cingular


Class


behalf of themselves, their officers, shareholders, agents, heirs, administrators, attorneys, successors and assigns, do hereby dismiss, release and hold harmless DFA, its employees, agents, insurers, attorneys, predecessors, successors and assigns, from any and all matters, debts, dues, sums of money, covenants, controversies, agreements, promises, trespasses, damages, losses, expenses, costs, liabilities, or other obligations, arising from the Class Action Settlement that could have been asserted in the Action. New Cingular further agrees that upon approval of the Agreement by the Litigation Reports Oversight Subcommittee of the Arkansas Legislative Council of the Arkansas General Assembly and the Arkansas Legislative Council, New Cingular will take all steps necessary to dismiss the Action filed in the Circuit Court of Pulaski County, *New Cingular et al. v. Walther*, 60CV-14-1722. For and in consideration of the foregoing consideration, and upon the full execution of this Agreement, DFA does also hereby dismiss, release and hold harmless Plaintiffs, their employees, agents, insurers, attorneys, predecessors, successors and assigns, from any and all claims for taxes, penalties and interest paid or that should have been paid by Plaintiffs to DFA on account of obligations arising during the refund claim period.

7. **Extent of Release.** The release set forth herein shall apply to the present and future officers, directors, stockholders, attorneys, agents, insurers, servants, members, representatives, employees, subsidiaries, subcontractors, contractors, affiliates, partners, family members, predecessors, and successors in interest and assigns of the parties.

SETTLEMENT AND RELEASE AGREEMENT - PAGE 6


DFA


New Cingular


Class

8. **Costs and Expenses.** The parties shall be responsible for their respective attorney's fees, costs and expenses incurred in the Action.

9. **Controlling Law.** This Agreement shall be governed by, and construed and enforced in accordance with the laws of the State of Arkansas.

10. **Amendments.** This Agreement cannot be altered or otherwise amended except by written instrument signed by each of the parties hereto.

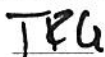
11. **Entire Agreement.** The parties acknowledge and agree that this Agreement constitutes the full, complete, and entire agreement of the parties and that there are no other representations, covenants, warranties, or other agreements binding of the parties that are not expressly set forth herein.


12. **Rule of Construction.** The parties acknowledge and agree that they have each had the opportunity to have this Agreement reviewed by counsel of their choosing. Therefore, the normal rule that ambiguities are construed against the drafter shall not apply in connection with the interpretation and construction of this Agreement.

13. **Validity of Agreement.** The parties represent and agree that the persons executing this Agreement on behalf of the parties have the full and complete permission and authority of the entity for which he or she is executing this Agreement, and have the full right and authority to commit and fully bind themselves, their representatives, agents, principals, predecessors, successors, and privies according to the provisions hereof. This Agreement is a legally valid, binding and enforceable obligation of the parties in accordance with its terms.

SETTLEMENT AND RELEASE AGREEMENT - PAGE 7


DFA


New Cingular



Class

14. Counterpart Signatures. This Agreement may be executed in one or more counterparts, including by facsimile, each of which shall be deemed an original and all of which together shall constitute one and the same instrument.

15. Successors and Assigns. This Agreement shall be binding upon and inure to the benefit of the Plaintiffs, Settlement Class, and all of their respective former and current officers, employees and directors, and their respective successors and assigns.

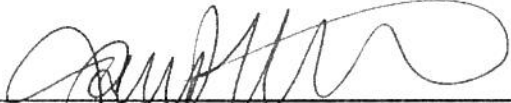
WITNESS our hands and seals as of the date set forth below.

**New Cingular Wireless PCS, LLC and AT&T Mobility Wireless Operations Holdings, Inc.,
successor to Pine Bluff Cellular, Inc.**

By: 
Thomas R. Giltner
General Attorney & Associate General Counsel

Date: 12/22/2015

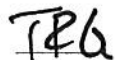
In re AT & T Mobility Wireless Data Services Sales Tax Litig. Class


By: 
James P. Frickleton, Class Counsel
Bartimus Frickleton Robertson & Goza P.C.
715 Swifts Highway
Jefferson City, MO 65109

Date: 12-21-15

SETTLEMENT AND RELEASE AGREEMENT - PAGE 8

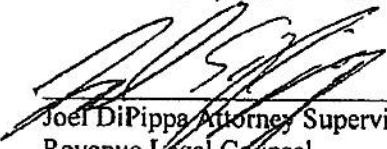

DFA


New Cingular


Class

**ARKANSAS DEPARTMENT OF FINANCE AND ADMINISTRATION,
LARRY WALTHER, DIRECTOR**

By: _____


Joel DiPippa Attorney Supervisor
Revenue Legal Counsel
Arkansas Bar Number 2003218
P. O. Box 1272, Room 2380
Little Rock, AR 72203


Date: _____

12/17/2015

APPROVED BY:

Margaret Wilson
Wilson Agosto
34 East Main Street
Somerville, New Jersey 08876
Attorney for Plaintiffs

By: _____



SETTLEMENT AND RELEASE AGREEMENT - PAGE 9


DFA

New Cingular


Class

ACKNOWLEDGMENT

STATE OF TEXAS)
COUNTY OF DALLAS) SS

On this day before me, the undersigned, a notary public, duly commissioned qualified and acting within and for said County and State, appeared Thomas R. Giltner, who stated that he is the General Attorney & Associate General Counsel for New Cingular Wireless PCS, LLC and AT&T Mobility Wireless Operations Holdings, Inc., successor to Pine Bluff Cellular, Inc., duly authorized in his capacity to execute the foregoing instrument for and in the name and behalf of New Cingular Wireless PCS, LLC and AT&T Mobility Wireless Operations Holdings, Inc., successor to Pine Bluff Cellular, Inc., and further stated and acknowledged that he had so signed, executed and delivered said foregoing instrument for the consideration, uses and purposes therein mentioned and set forth.

IN TESTIMONY WHEREOF, I have hereunto set my hand and official seal this 22nd day of December, 2015.

Patricia Thompson
Notary Public



My Commission Expires:
5-4-2016

SETTLEMENT AND RELEASE AGREEMENT - PAGE 10

[Signature]
DFA

New Cingular

[Signature]
Class

ACKNOWLEDGMENT

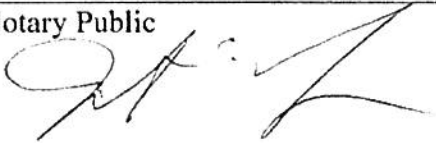
STATE OF ARKANSAS)
COUNTY OF PULASKI) SS.

On this day before me, the undersigned, a notary public, duly commissioned qualified and acting within and for said County and State, appeared Joel DiPippa, who stated that he is the Attorney for Larry Walther, Director of the Arkansas Department of Finance and Administration, duly authorized in his capacity to execute the foregoing instrument for and in the name and behalf of the State of Arkansas, and further stated and acknowledged that he had so signed, executed and delivered said foregoing instrument for the consideration, uses and purposes therein mentioned and set forth.

IN TESTIMONY WHEREOF, I have hereunto set my hand and official seal this 17th day of December, 2015.

JARETT C. LAMB
PULASKI COUNTY
NOTARY PUBLIC - ARKANSAS
My Commission Expires:
August 14, 2022
Commission No. 12389231

Notary Public



SETTLEMENT AND RELEASE AGREEMENT - PAGE 11


DFA

New Cingular


Class

Kansas
STATE OF ~~MISSOURI~~)
COUNTY OF Johnson) SS.

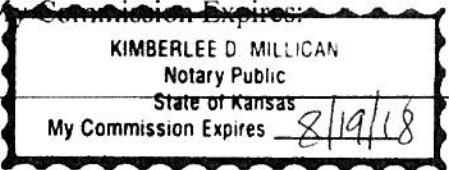
ACKNOWLEDGMENT

On this day before me, the undersigned, a notary public, duly commissioned qualified and acting within and for said County and State, appeared James Frickleton, who stated that he is the Attorney for the class represented in *In re AT & T Mobility Wireless Data Services Sales Tax Litig.*, 789 F. Supp. 2d 935, 983 (N.D. Ill. 2011), duly authorized in his capacity to execute the foregoing instrument for and in the name and behalf of the class in *In re AT & T Mobility Wireless Data Services Sales Tax Litig.*, 789 F. Supp. 2d 935, 983 (N.D. Ill. 2011), and further stated and acknowledged that he had so signed, executed and delivered said foregoing instrument for the consideration, uses and purposes therein mentioned and set forth.

IN TESTIMONY WHEREOF, I have hereunto set my hand and official seal this 21st of December, 2015.



Notary Public

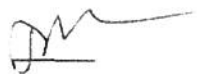
My Commission Expires:


SETTLEMENT AND RELEASE AGREEMENT - PAGE 12



DFA

New Cingular



Class