UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
NEWPORT NEWS DIVISION

FRANCIS W. HOOKER, JR.,
for himself and on behalf of all
similarly situated individuals,

Plaintiff,

v.

Case No.: 4:13-cv-00003 (AWA/LRL)

SIRIUS XM RADIO INC.

Defendant.

FINAL ORDER APPROVING SETTLEMENT AND CERTIFYING THE SETTLEMENT CLASS

The Settlement Agreement entered into on August 5, 2016 (the "Settlement Agreement") between Plaintiff Francis W. Hooker, Jr. and Defendant Sirius XM Radio Inc. ("Sirius XM") in this action (the "Action"), as well as between Sirius XM and Plaintiffs Erik Knutson, Yefim Elikman, and Anthony Parker in the related cases *Knutson v. Sirius XM Radio Inc.*, No. 12-cv-0418-AJB-DHB (S.D. Cal.) ("*Knutson*"); *Elikman v. Sirius XM Radio Inc.*, No. 15-cv-02093 (N.D. Ill.) ("*Elikman*"); and *Parker v. Sirius XM Radio Inc.*, No. 15-cv-01710-JSM-EAJ (M.D. Fla.) ("*Parker*") (together, the "Litigation"), was presented at the Final Approval Hearing on December 20, 2016. The Court having determined that notice of the Final Approval Hearing was given in accordance with the Preliminary Approval Order (Dkt. No. 188) to members of the Settlement Class and that the notice was adequate,

IT IS HEREBY ORDERED that:

1. In addition to the terms defined in this order, the Court incorporates the definitions in the Settlement Agreement for the purposes of this Order.

2. This Court has jurisdiction over the subject matter of the Litigation and over all members of the Settlement Class.

3. Pursuant to Fed. R. Civ. P. 23(b)(3), the Action is finally certified, for settlement purposes only, as a class action on behalf of the Settlement Class members as defined in Section 2 of the Settlement Agreement.

4. Pursuant to Fed. R. Civ. P. 23, Plaintiff Francis W. Hooker, Jr., Erik Knutson, Yefim Elikman and Anthony Parker are certified as the Class Representatives, solely for the purposes of effectuating the Settlement, and Michael A. Caddell and Cynthia B. Chapman of Caddell & Chapman, Christopher Colt North and William L. Downing of The Consumer and Employee Rights Law Firm, P.C., Abbas Kazerounian of the Kazerouni Law Group, APC, Joshua B. Swigart of Hyde & Swigart, Myles McGuire of McGuire Law, P.C. and Michael J. McMorrow of McMorrow Law, P.C. are certified as Class Counsel.

5. The Notice has been disseminated to the Settlement Class in the manner directed in the Preliminary Approval Order, and a declaration from Settlement Administrator Epiq Systems, Inc. ("Epiq") attesting to the proof of mailing of the Notice to the Settlement Class has been filed with the Court (Dkt. No. 191). The Court finds that the Notice fairly and accurately informed Settlement Class Members of the material aspects of this Litigation and the proposed settlement, and thereby satisfied the requirements of due process and constituted the best practicable notice under the circumstances. The Notice apprised Class members of the pendency of the Litigation, their right to object or exclude themselves from the proposed settlement, and their right to appear at the Final Approval Hearing, and it conformed with the requirements of Federal Rule of Civil Procedure 23(c)(2).

6. The notice provisions of the Class Action Fairness Act, 28 U.S.C. § 1715, have been satisfied. Dkt. No. 187.

7. The Court certifies, solely for purposes of effectuating the Settlement, the Settlement Class defined as follows:

> All natural persons residing in the United States (including all territories and other political subdivisions of the United States) who (a) received programming on a promotional basis from Sirius XM in connection with the purchase or lease of a new or used

> vehicle that ended no later than April 5, 2016; (b) were the recipients of one or more telephone calls made by or on behalf of Sirius XM to their wireless, cell or mobile phone numbers after February 15, 2008 and before July 5, 2016; and (c) never were or became paying subscribers prior to July 5, 2016. Excluded from the class definition are any employees, officers, or directors of Sirius XM, and any attorneys appearing in this case, and any judge assigned to hear this case as well as their immediate family and staff.

8. Solely for the purposes of the settlement, the Court finds that the prerequisites for a class action under Fed. R. Civ. P. 23(a) and (b)(3) have been satisfied in that: (i) the Settlement Class Members are so numerous that joinder of all Settlement Class members is impracticable; (ii) there are questions of law and fact common to the Settlement Class members; (iii) the claims of the Class Representatives are typical of the claims of the Settlement Class members; (iv) the Class Representatives will fairly and adequately represent the interests of the Settlement Class; (v) the questions of law and fact common to the Settlement Class members predominate over any questions affecting only individual Settlement Class members; and (vi) certifying the Settlement Class is superior to other available methods for the fair and efficient adjudication of the controversy.

9. The Court finally approves the terms of the Settlement Agreement and the amendment thereto (together the "Settlement Agreement") and the Settlement described therein as fair, reasonable, and adequate and in the best interests of the Settlement Class in light of the complexity, expense, and probable duration of further litigation, the risk and delay inherent in possible appeals, and the risk of collecting any judgment on behalf of the Class. In arriving at this conclusion, the Court has considered, among other things:

(1) the posture of the case at the time settlement was proposed,

(2) the extent of discovery that had been conducted,

(3) the circumstances surrounding the negotiations, and

(4) the experience of counsel in the area of consumer class action litigation.

In re Jiffy Lube, 927 F.2d 155, 159 (4th Cir. 1991.)

10. The Court finds that this Action was settled after sufficient discovery.

11. The Court further finds that the Settlement is the product of arm's length negotiations presided over by a competent mediator.

12. The Court further finds that Class Counsel are experienced in the area of consumer class action litigation.

13. The Court dismisses with prejudice all released claims belonging to the Class Representatives and Class Members who did not timely and validly request exclusion from the Settlement Class. Except as expressly provided in the Settlement Agreement, each of the parties, including each Settlement Class Member, shall bear his, her, or its own costs and attorney's fees.

14. Pursuant to Paragraph 5 of the Settlement Agreement, upon the Effective Date the Class Representatives and each of the Settlement Class Members shall be deemed to have, and by operation of this Judgment shall have released and forever discharged Sirius XM, its past, present or future officers, directors, insurers, general or limited partners, divisions, stockholders, agents, the telemarketing vendors currently known as Afni, Convergys, Dial America, iPaceSetters, Results, Servicom, StraightForward, Sykes and Career Horizons, Inc. dba TeleServices Direct, attorneys, employees, legal representatives, trustees, parents, associates, affiliates, subsidiaries, partners, heirs, executors, administrators, purchasers, predecessors, successors and assigns (collectively, the "Released Parties") from any and all claims, counterclaims, lawsuits, set-offs, costs, losses, rights, demands, charges, complaints, actions, causes of action, obligations, or liabilities of any and every kind, including without limitation (i) those known or unknown or capable or not capable of being known, (ii) those which are unknown but might be discovered or discoverable, and (iii) those accrued, unaccrued, matured or not matured existing on or before August 5, 2016, that arise out of or in any way relate or pertain to claims, no matter how styled, (a) that were asserted, or attempted to be asserted, or that could have been asserted in the Litigation, or (b) alleging use by any or all of the Released Parties or by any vendor retained by the Released Parties of any "automatic telephone dialing system," "automatic dialer," "automated dialer," "predictive dialer," "dialer," and/or any "artificial or

prerecorded voice" (to the fullest extent that those terms are used, defined, or interpreted under the TCPA, relevant regulatory or administrative promulgations, and case law) to make telephone calls to a wireless, cell or mobile telephone number in connection with efforts to contact or attempt to contact Class Members on behalf of Sirius XM, including but not limited to (i) claims arising under or relating to the TCPA or any similar state or federal law, (ii) statutory or common law claims predicated upon any alleged violations of the TCPA or any similar state or federal law, and (iii) statutory or common law claims predicated upon and/or arising from the use by any or all of the Released Parties or by any vendor retained by the Released Parties of any "automatic telephone dialing system," "automatic dialer," "automated dialer," "predictive dialer," "dialer," and/or "artificial or prerecorded voice" (collectively, the "Released Rights").

15. The Class Representatives and all Settlement Class members are enjoined from commencing, prosecuting, instituting, continuing, or in any way participating in the commencement or prosecution of any suit asserting any of the Released Rights against any of the Released Parties.

16. The Settlement Agreement and any related negotiations, statements, or proceedings shall not be construed or deemed evidence of an admission by any of the Released Parties or any other person of any fault, liability, or wrongdoing as to any facts or claims asserted in the Litigation.

17. Settlement Class members were afforded a reasonable opportunity to request exclusion from the Settlement. Only 191 timely requests for exclusion were received by Epiq. The persons who timely requested exclusion from the Settlement are listed in Exhibit A hereto. The Court hereby excludes the persons listed in Exhibit A from the Settlement, and they are not bound by the final judgment in this Action.

18. The Court approves a service award of $10,000 to Plaintiff Francis W. Hooker, Jr. and $2,500 each to Class Representatives Eric Knutson, Yefim Elikman, and Anthony Parker. The Court finds that these amounts are reasonable in light of the Class Representatives' contributions to the litigation, with the larger award to Mr. Hooker being justified by the greater

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