Michael W. Sobol (State Bar No. 194857)
msobol@lchb.com
Roger N. Heller (State Bar No. 215348)
RoseMarie Maliekel (State Bar No. 276036)
LIEFF CABRASER HEIMANN & BERNSTEIN, LLP
275 Battery Street, 29th Floor
San Francisco, CA 94111-3339
Telephone: 415.956.1000
Facsimile: 415.956.1008
E-mail: msobol@lchb.com
rheller@lchb.com
nreynolds@lchb.com

Additional Counsel on Signature Page

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

SAN FRANCISCO DIVISION

DAVID HANSELL, EDWARD TOOLEY, and CHRISTOPHER VALDEZ, individually and on behalf of all others similarly situated,

Plaintiffs,

v.

TRACFONE WIRELESS, INC., d.b.a. STRAIGHT TALK WIRELESS, and WAL-MART STORES, INC.,

Defendants.

Case No. 13-cv-03440-EMC
To be Filed in All Related Cases

CLASS PLAINTIFFS' RESPONSE TO CLARIFY THE FEDERAL TRADE COMMISSION'S NOTICE OF PENDING STIPULATED ORDER FOR PERMANENT INJUNCTION AND MONETARY JUDGMENT

Date: February 19, 2105
Time: 1:30 p.m.
Courtroom: 5, 17th Floor

Judge: Hon. Edward M. Chen

MARTIN BLAQMOOR, individually and on behalf of all others similarly situated,

Plaintiff,

v.

TRACFONE WIRELESS, INC.,

Defendant.

Case No. 13-cv-05295-EMC

MONA GANDHI, MARISHA JOHNSTON, and MARSHALL TIETJE, individually and on behalf of all others similarly situated, Plaintiffs, v. TRACFONE WIRELESS, INC. Defendant.	Case No. 13-cv-05296-EMC
JOHN BROWNING, on behalf of himself and all others similarly situated, Plaintiff, v. TRACFONE WIRELESS, INC. and WAL-MART STORES, INC., Defendants.	Case No. 14-cv-01347-EMC
FEDERAL TRADE COMMISSION, Plaintiff, v. TRACFONE WIRELESS, INC., also d/b/a STRAIGHT TALK WIRELESS, NET10 WIRELESS, SIMPLE MOBILE, and TELCEL AMERICA, Defendant	Case No. 3:15-cv-00392-EMC

Plaintiffs in the above-captioned related class action cases respectfully file this response to the FTC's Notice of Pending Stipulated Order for Permanent Injunction and Monetary Judgment[1] to clarify any confusion the Court may have based on the FTC's Notice.

As the Court is aware, Plaintiffs will be filing a class action settlement agreement with defendants TracFone and Wal-Mart (the "Class Settlement"), together with preliminary approval papers, on February 11, 2015. The Court will hold a hearing thereon on February 19, 2015. In a related case, the FTC has previously filed a complaint against TracFone which has as an attachment thereto a proposed Stipulated Order for Permanent Injunction and Monetary Judgment ("Stipulated Order"). *See* Case CV 15-0392-EMC, Doc. No. 1-1.

Both the Class Settlement and the FTC's Stipulated Order cross-reference one another and contemplate that the administration of the benefits to consumers be conducted pursuant to the specifications of the Class Settlement, subject to Court-approval. *See, e.g., id.* at 5-6. As a pre-condition to the FTC Commissioner's approval of the Stipulated Order, an FTC administrator's approval of the Class Settlement agreement was required. The Class Settlement and Stipulated Order were under negotiation simultaneously, and counsel for Plaintiffs, Defendants, and the FTC have been conferring extensively regarding coordination of both the Class Settlement and the Stipulated Order. As a result, for instance, the parties, including the FTC, have agreed that the $40 million settlement fund is being established "in conjunction with" the Class Settlement and the Stipulated Order.

While approval of the Stipulated Order alone is possible, the intent and efforts of all the parties has been to reach a coordinated, global settlement, where the benefits will be distributed to the Class as provided for in in the Class Settlement. Indeed, without the Class Settlement in place, there is no mechanism for, nor any guaranty that, class members will receive any monetary benefits at all from the settlement fund, and the FTC will be unconstrained on its use of those funds. (The Class Settlement also provides for far more and detailed injunctive relief than the Stipulated Order.) Therefore, the Class Settlement plays a vital role in the protection of

[1] The FTC's Notice was filed on February 6, 2015, in the related case, *FTC. TracFone*, CV 15-0392-EMC (Doc. No. 10).

consumers' interests.

Accordingly, Plaintiffs respectfully submit that the best interests of the consumers will be most effectively served by consideration of the Class Settlement simultaneously with the Stipulated Order, at the hearing scheduled for 1:30 p.m., February 19, 2015. (Counsel for the FTC has previously indicated its availability to attend that hearing.)

Respectfully submitted,

Dated: February 6, 2015

LIEFF CABRASER HEIMANN & BERNSTEIN, LLP

By: /s/ *Michael W. Sobol*
Michael W. Sobol

Michael W. Sobol (State Bar No. 194857)
Roger N. Heller (State Bar No. 215348)
Nicole D. Sugnet (State Bar No. 246255)
LIEFF, CABRASER, HEIMANN & BERNSTEIN, LLP
275 Battery Street, 29th Floor
San Francisco, CA 94111-3339
Telephone: (415) 956-1000
Facsimile: (415) 956-1008
msobol@lchb.com
rheller@lchb.com
nsugnet@lchb.com

Daniel M. Hattis (State Bar No. 232141)
Kirill M. Devyatov (State Bar No. 293106)
HATTIS LAW
2300 Geng Road Suite 200
Palo Alto, CA 94303
Telephone: (650) 980-1990
dan@hattislaw.com
kd@hattislaw.com

Attorneys for the Hansell, Blaqmoor, and Gandhi Plaintiffs

DATED: February 6, 2015

By: */s/ John A. Yanchunis*
John A. Yanchunis

J. Andrew Meyer (admitted *pro hac vice*)
John A. Yanchunis (admitted *pro hac vice*)
Rachel Soffin (admitted *pro hac vice*)
MORGAN & MORGAN
COMPLEX LITIGATION GROUP
201 North Franklin Street, 7th Floor
Tampa, Florida 33602
Telephone: (813) 223-5505
Facsimile: (813) 222-4787
ameyer@forthepeople.com
jyanchunis@forthepeople.com
rsoffin@forthepeople.com

Clayeo C. Arnold (State Bar No. 65070)
Christine M. Doyle (State Bar No. 106865)
Clayeo C. Arnold
A PROFESSIONAL LAW CORPORATION
865 Howe Avenue
Sacramento, California 95825
Telephone: (916) 924-3100
Facsimile: (916) 924-1829
clay@justice4you.com
cdoyle@justice4you.com

Attorneys for the Browning Plaintiffs