

VALLEY PLAZA REALTY, HIGHVIEW PROPERTIES III, FRANK GREEK AND SON, INC., HIGHVIEW PROPERTIES I, and TICES PROPERTIES, on behalf of themselves and all others similarly situated,

Plaintiffs,

vs.

VERIZON NEW JERSEY INC., formerly known as Bell Atlantic New Jersey, Inc., and NYNEX LONG DISTANCE COMPANY, d/b/a/ Verizon Enterprise Solutions,

Defendants.

SUPERIOR COURT OF NEW JERSEY  
LAW DIVISION: MIDDLESEX COUNTY

DOCKET NO.: L-817-15

**FILED**  
October 20, 2023  
ANA C. VISCOMI, J.S.C.

**ORDER GRANTING PLAINTIFFS' MOTION FOR FINAL APPROVAL OF THE CLASS ACTION SETTLEMENT AGREEMENT AND RELATED RELIEF**

On October 10<sup>th</sup>, 2023 at 11:00 a.m., the Court heard Plaintiffs' unopposed Motion for Final Approval of Class Action Settlement, Award of Attorneys' Fees, Reimbursement of Costs and Service Award for Representative Plaintiffs. The motion for final approval was preceded by a motion for preliminary approval, which was submitted to the Court for review and approval on May 30 2023, with preliminary approval having been granted by order dated June 27, 2023.

After considering Plaintiffs' Motion for Final Approval, the Settlement Agreement, the record and proceedings herein, the Court finds, concludes, and hereby orders as follows:

1. For the purposes of this Order, the Court adopts all defined terms as set forth in the Settlement Agreement, previously filed with this Court on May 30, 2023.

2. Having certified three classes and appointed class counsel by Order, dated June 27, 2023, the Court now grants final approval to the Settlement Class as defined above, finally approves the appointment of Frank Greek and Son, Inc., Highview Partners, LLC, as successor to both Highview Properties I, LLC and Highview Properties III, LLC; and Tices Properties, LLC, currently known as Tices Partners, LLC (collectively, “Plaintiffs”) as the representatives for the Settlement Class and finally designates and appoints Jerome M. Marcus and Jonathan Auerbach as counsel for the Settlement Classes (“Settlement Class Counsel”). Additional counsel that provided service to the representative plaintiffs and the Classes are Carl Mayer and Linda Sinuk (“Affiliated Counsel”).

3. The Court finds that the distribution of Notice of the Class Action Settlement as provided by the Settlement Agreement, and as ordered by this Court upon preliminary approval, constitutes the best notice practicable under the circumstances and fully meets the requirements of due process.

4. On the basis of the Declaration of Marcus Final Approval Declaration, the Court finds that the distribution of Notice has been effected as ordered by this Court. Specifically, the Court finds that over 243,000 notices were mailed to class members and that Publication Notice was also effected.

5. The Court finds that the Settlement represents a 100% recovery for the classes and that it obligates Defendants 1) to pay all valid claims submitted by class members, with claim amounts calculated as the difference between the amounts actually charged by Defendants and the amounts class members would have paid if none of the challenged conduct had been engaged in; 2) pay \$50,000 as Service Awards to the Representative Plaintiffs; 3) to pay the costs of Class Notice and Settlement Administration, all as set forth in greater detail in the Stipulation of Settlement and Release, agreed to by the parties. After considering the factors established by *Girsh v. Jepson*, 521 F.2d 153 (3d Cir. 1975) and *In re Prudential Ins. Co. of America Sales Practices Litig.*, 148 F.3d 283 (3d Cir. 1998), the Court further finds that, by providing for payment of 100% of the alleged overcharge to all class members who submit a

valid claim, the settlement is entirely fair, adequate and reasonable.

6. The Court further finds that after notice, and an opportunity to object and/or opt out of the settlement, no Class Member has objected to the Settlement or opted out of the proposed settlement after notice and an opportunity to do so. Accordingly, the Court finds that the class members have been treated fairly and equally and that the classes as a whole view the Settlement favorably.

7. On the basis of the Marcus Final Approval Certification, the Court also finds that Settlement followed a lengthy period of arms-length negotiations, including mediation closely supervised by Hon. Stephen M. Orlofsky (ret.) (“the Mediator”), and is not the product of fraud or overreaching by, or collusion between, the parties to this litigation. After considering the Defendants’ exposure, the Plaintiffs’ likelihood of success on their claims, the risks, expense and delays associated with difficult litigation, the Court finds that the Settlement is fair, reasonable, adequate and in the best interests of the Class. The Settlement comports fully with the requirements of Rule 4:32 of the New Jersey Rules of Civil Procedure. Accordingly, the Court hereby grants final approval of the Settlement and all of the terms of the Settlement Agreement. Plaintiffs and Defendants are ordered to carry out the Settlement according to the terms of the Settlement Agreement.

8. Class Counsel have moved for an award of attorneys’ fees unopposed by Defendants, inclusive of costs and expenses equal to \$4,950,000. The Court finds that Settlement Class Counsel have skillfully advanced the case on a contingent basis for more than fifteen (15) years, and that their efforts will result in a benefit to the Class equal to a 100% recovery of available damages. The Court further finds that the number of hours expended by Plaintiffs’ counsel is reasonable and that the value of their lodestar, which is greater than the amount of fees awarded, is reasonable. No class member has objected to the proposed fee award.

9. The Marcus Final Approval Certification states that Marcus & Auerbach

expended a total of 6810.2 hours through November of 2020, and Mr. Marcus' current firm Marcus & Marcus expended an additional 227.2 hours since then, in the prosecution of this matter. At the firm's customary rates paid by the firm's hourly clients, this represents a lodestar of \$176,080.00. Mr. Auerbach in his Certification states that at his current firm, he has expended 283.5 hours in the prosecution of this matter, resulting in a lodestar at his current rates of \$219,712.50. The Court finds that, after expenses are deducted, the fees requested represent less than the regular hourly rates of Messrs. Marcus and Auerbach at their respective current firms and their former firm. In light of these facts, the requested attorneys' fees are reasonable under the circumstances and are hereby awarded in the total amount requested. These funds, which will both pay counsel's attorney's fees and reimburse them for any expenses other than those expressly provided for herein, are to be allocated by Settlement Class Counsel as directed by the arbitrator Class counsel jointly selected to determine how fees and expenses should be allocated in this case and how the Class counsel's agreement relating to fees and expenses should be interpreted and applied. The Court expressly affirms the arbitrator's jurisdiction to make all determinations regarding any issue or dispute arising under counsel's fee agreement. It should be noted that affiliated co-Plaintiffs' counsel, Carl Mayer, has submitted his request for attorneys fees. The court has considered his expertise in this field and his time in this case since its inception. As he is the sole objector to the allocation of attorneys' fees, the court does not approve the awarding of the fees as the allocation is in dispute and returns the dispute to the Hon. Stephen M. Orlofsky (ret.) who has jurisdiction pursuant to the Dispute Resolution Agreement of August 5 and 6, 2021.

10. In addition, the Settlement Administrator is directed to issue payment from the amounts intended to compensate Settlement Class Counsel and Affiliated Counsel for their attorneys' fees and reimbursement of litigation expenses first to pay, out of each attorney's allocated fee, any outstanding fees and expenses owed by that attorney to the Mediator's firm in connection with mediation services provided to Settlement Class Counsel and Affiliated Counsel in this litigation before any attorneys' fees, inclusive of costs and expenses are distributed. The

Mediator's firm shall provide Settlement Class Counsel with appropriate invoice for the outstanding amounts owed, if any, by the respective counsel. Settlement Class Counsel shall then direct the Settlement Administrator to issue the appropriate payment to the Mediator's firm. The Settlement Administrator shall deduct from any future distribution of fees to the respective amounts to plaintiffs' counsel who owe such fees to the Mediator's firm. The Court finds that these amounts are due and owing pursuant to the contract (Dispute Resolution Agreement) between Settlement Class Counsel, Mr. Mayer, and the Mediator's firm.

11. The items of cost for the expert witness fees incurred by the class with experts LTC Consulting LLC and Gemean Corp. shall be paid directly to those entities or their designee(s) by the Settlement Administrator, as directed by Settlement Class Counsel, upon receipt of the funds for fees and expenses from Verizon. The Court finds that all such items and the amounts to be paid constitute reasonable expenses incurred in the prosecution of this action. To the extent that service providers identified in the Schedule of Costs are to be paid now for services provided during the prosecution of this action, the Court finds that payment of such amounts fully and appropriately compensates these service providers for their services.

12. The attorneys' fees and expense awards noted in the preceding Paragraphs shall be paid by the Settlement Administrator in accordance with instructions received from Settlement Class Counsel in two tranches: (1) \$2,475,000 to be paid within ten (10) days of the Effective Date, as defined in the Stipulation of Settlement, and in accordance with Settlement Class Counsel's directions as to manner of payment (e.g., check or specified wire instructions); and (2) \$2,475,000 to be paid forty-five (45) days after the Effective Date. Upon full payment to Settlement Class Counsel, the Released Parties, the Released Parties' Counsel, and the Claims Administrator shall have no further liability or responsibility to Settlement Class Counsel and Affiliated Counsel, the Representative Plaintiffs or any vendors or third parties employed by Plaintiff, Settlement Class Counsel (or Affiliated Counsel) for attorneys' fees, expenses, and/or costs incurred by Settlement Class Counsel (or Affiliated Counsel) on behalf of Plaintiff in this Action.

13. Plaintiffs have also moved for approval of service awards totaling \$50,000 to be distributed to the Representative Plaintiffs at the discretion of Settlement Class counsel. The active involvement of the Representative Plaintiffs and their service to the Classes during the fifteen years this litigation, as described in the Marcus Final Approval Declaration, included the provision of many hours of administrative time assisting counsel; the assembly, review and production of documents on behalf of each of the Representative Plaintiffs, and the provision of deposition testimony by two high-level witnesses on behalf of Representative Plaintiff Frank Greek & Son. The Court finds that this effort justifies the request for these enhanced awards, which are fair and reasonable. No Class Member has objected to the proposed service awards and the payment is not in conflict with the interests of the Classes. Accordingly, the Court grants the request for service awards in the total of amount of \$50,000, to be distributed among the Representative Plaintiffs in accordance with the recommendations of Settlement Class counsel.

14. The Settlement Agreement is not a concession or admission, and shall not be used against any of the Released Parties as an admission or indication with respect to any claim of any fault or omission by any of the Released Parties.

15. The Stipulation of Settlement and Release provides for a release of settled claims. That release – as defined in the Stipulation of Settlement – is valid and binding and is specifically adopted and made a part of this order.

16. This action is dismissed with prejudice, and all members of the Settlement Class who did not timely and adequately opt-out of the Settlement are permanently banned from prosecuting against any of the Released Parties class claims that were or could have been asserted in this action and which are released pursuant to the release provisions in the Stipulation of Settlement and Release.

IT IS SO ORDERED.

Date: October 20, 2023

*/s/ Ana C. Viscomi*

HON. Ana C. Viscomi, J.S.C.

On October 10, 2023, pursuant to R. 1:6-2, the Court's Statement of Reasons has been set forth on the record.

