

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NORTH CAROLINA  
CHARLOTTE DIVISION  
DOCKET NO. 3:17-cv-00095-FDW-DCK

ELLA MATTHEWS AND RUSSELL )  
NOLL, )  
 )  
Plaintiffs, )  
 )  
vs. )  
 )  
TCL COMMUNICATION, INC., TCT )  
MOBILE (US) INC., TCT MOBILE, INC., )  
AND TCT MOBILE (US) HOLDINGS )  
INC., )  
 )  
Defendant. )  
 )  
\_\_\_\_\_ )

ORDER

Upon consideration of Plaintiffs' Unopposed Motion for Preliminary Approval and its supporting exhibits, it is ORDERED:

1. For purposes of settlement only, the Court preliminarily finds the following Settlement Classes meet the requirements of Fed. R. Civ. P. 23(a) and (b)(3):

“North Carolina Class”: all persons residing in North Carolina who purchased an Alcatel OneTouch Idol 3 4.7 inch or 5.5 inch smartphone during the time period of January 1, 2015 – December 27, 2016.

“Kentucky Class”: all persons residing in Kentucky who purchased an Alcatel OneTouch Idol 3 4.7 inch or 5.5 inch smartphone during the time period of January 1, 2015 – December 27, 2016.

2. The Court finds that certification of the Rule 23 classes, solely for purposes of Settlement, is appropriate in that: (a) the Settlement Class Members are so numerous that joinder of all Settlement Class Members is impracticable; (b) there are questions of law and fact

common to the Settlement Class which predominate over any individual questions; (c) claims of the Class Representatives are typical of the claims of the Settlement Class; (d) the Class Representatives and Plaintiffs' Counsel have fairly and adequately represented and protected the interests of the Settlement Class; and (e) a class action settlement is superior to other available methods for the fair and efficient adjudication of the controversy.

3. The Court conditionally approves Named Plaintiffs Ella Matthews and Russell Noll as Class Representatives.

4. The Court conditionally appoints Nicholas A. Migliaccio and Jason S. Rathod of Migliaccio & Rathod LLP, and Gary E. Mason and Jennifer Goldstein of Whitfield Bryson & Mason LLP as Class Counsel.

5. The proposed settlement set forth in the Settlement Agreement, attached as Exhibit A to the Memorandum in Support of the Plaintiffs' Unopposed Motion for Preliminary Approval, appears upon preliminary review to be fair, reasonable and adequate, negotiated and entered into at arm's length and in good faith, and within the range of possible judicial approval, and therefore is preliminarily approved for consideration at a final approval or fairness hearing.

6. RG/2 Claims Administration LLC is approved as the Notice and Claims Administrator.

7. The form and content of the Official Court Notices of Settlement of Class Action ("Notices") and Claim Form, attached as Exhibits A, B, and C, respectively, to the Settlement Agreement, are approved;

8. The Court orders that, as provided in the Settlement Agreement, within twenty (20) days of this Order, the Administrator shall cause a Summary Notice of Settlement, substantially in the form attached as Exhibit B to the Settlement Agreement, to be published in a

manner reasonably calculated to reach the Kentucky Class and North Carolina Classes. The Administrator will also cause Facebook Banner Advertising and Promotions to be run in a 12-month campaign targeting users of Alcatel mobile devices located in North Carolina and Kentucky.

9. Prior to the dissemination of the Summary Notice, the Claims Administrator shall establish a website ([www.AlcatelBand12settlement.com](http://www.AlcatelBand12settlement.com)). Any mailed or publication notice will reference the website address. The website will contain relevant court documents, frequently asked questions, Summary and Detailed Notices, and Claim Form. Defendants shall post information concerning the settlement on its website.

10. Within 30 days of this Order, the Administrator shall mail the Detailed Notice and Claim Form, substantially in the forms attached as Exhibits A and C to the Settlement Agreement, respectively, by first class mail, postage prepaid, to each Class Member to the extent that the specific addresses of such Class Members are within the possession, custody, or control of Defendants. In addition, the Detailed Notice shall be mailed to each Class Member whose identity becomes actually known to Defendants or the Administrator as a result of the Summary Notice or who contacts the Administrator within twelve (12) months after the entry of the Court's Preliminary Approval Order.

11. The Court finds that the foregoing plan for Class Notice is the best notice practicable under the circumstances and satisfies the requirements of due process and Rule 23.

12. Any member of the Settlement Classes who wishes to participate in the settlement must execute and return a valid Claim Form to RG/2 within twelve (12) months of the initial mailing of the Detailed Notice and Claim Form. Anyone in the Settlement Classes who wishes to object to the settlement must file with the Court and serve on the parties an objection

describing the reasons for objecting within [30] days after the initial mailing of the Detailed Notice and Claim Form. Anyone in the Settlement Classes who wishes to opt-out of the Settlement must send a letter to Defendants' counsel within [30] days after the Detailed Notice was mailed, signed by the member of the Class, explaining that he or she wants to be excluded from the Settlement Classes. The letter should include the name, address, telephone number, and the last four digits of the putative opt-out's social security number. Those in the Settlement Classes shall submit claims, opt-out and lodge objections as set forth in the Notices and Claim Form.

13. A final approval or fairness hearing will be held on **April 5, 2018, at 9:30 AM** in Courtroom #1-1 of the Charles R. Jonas Federal Building, 401 W. Trade Street, Charlotte, N.C. 28202. As provided in the Notices, this date and time may be changed without the need of further notice to the Class.

14. Under the authority of the All Writs Act, 28 U.S.C. § 1651(a), the Court enjoins members of the Settlement Classes from initiating any lawsuit and stays until final approval any pending lawsuits, asserting any claims relating to Defendants' removal of LTE Band 12 functionality in Alcatel OneTouch Idol 3 4.7 inch or 5.5 inch smartphones, including all claims that are or could be raised in the First Amended Complaint, against Defendants on behalf of anyone in the Settlement Classes.

15. Counsel for the parties are authorized to jointly use all reasonable procedures in connection with approval and administration of the settlement that are not materially inconsistent with this Order or the Settlement Agreement, including making without further approval of the Court minor changes to the form or content of the Notices, and other exhibits that they jointly agree are reasonable and necessary.

IT IS SO ORDERED.

Signed: March 13, 2018

A handwritten signature in black ink, appearing to read "Frank D. Whitney", written over a horizontal line.

Frank D. Whitney  
Chief United States District Judge

