

The Honorable Laura Inveen  
Noted for April 24, 2008 @ 1:00 p.m.  
With Oral Argument

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON  
IN AND FOR THE COUNTY OF KING

BAXTER AIR, INC., and all others  
similarly situated,

Plaintiffs,

v.

NOS COMMUNICATIONS, INC.,  
NOSVA LIMITED PARTNERSHIP, and  
AFFINITY NETWORK, INC.,

Defendants.

NO. 05-2-37411-0 SEA

**CLASS ACTION**

ORDER REGARDING  
PRELIMINARY APPROVAL OF  
CLASS SETTLEMENT

WHEREAS, Plaintiff Baxter Air, on behalf of itself and the Plaintiff Class, and Defendants NOS Communications, Affinity Network, and NOSVA (collectively "NOS"), all acting by and through their respective counsel, have agreed, subject to Court approval following notice to the Class and a hearing, to settle this litigation upon the terms and conditions in the Settlement Agreement, filed with the Court on April 22, 2008;

NOW, THEREFORE, based upon the Notice attached hereto, upon the Settlement Agreement, and upon all the files, records and proceedings herein, and it appearing to the Court that a hearing should be held, on notice to the Class of the Proposed Settlement, to

1 determine finally if the terms of the Proposed Settlement are fair, reasonable and  
2 adequate;

3 IT IS HEREBY ORDERED THAT:  
4

5 1. The Proposed Settlement is hereby preliminarily approved. The Court  
6 finds on the record before it that the Proposed Settlement is fair, adequate, and  
7 reasonable. It has been negotiated at arms length, after vigorous and extended litigation,  
8 and provides significant benefits to Class Members and avoids significant risks presented  
9 by trial, appeal, and collection.  
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11 2. The proposed Class Notice, attached hereto as Exhibit 1, is approved. The  
12 Court finds that the dissemination of the Class Notice under the terms and in the format  
13 provided for in this Order constitutes the best notice practicable under the circumstances,  
14 and is due and sufficient notice for all purposes to all persons entitled to such notice, and  
15 fully satisfies the requirements of due process, and the Washington Rules of Civil  
16 Procedure and all other applicable laws.  
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18 3. The parties shall, as soon as practical, but no later than May 9, 2008, send  
19 to the last known address of each person NOS has determined to be a Class Member in  
20 this case the Class Notice.  
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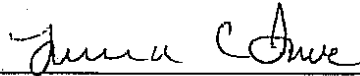
22 4. A hearing (the "Settlement Hearing") shall be held on **June 25, 2008, at**  
23 **9:00 a.m.**, in the Superior Court of the State of Washington in and for the County of  
24 King, to determine whether the Proposed Settlement of this Action should be approved as  
25  
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1 fair, reasonable, and adequate, and whether the Final Judgment approving the Settlement  
2 and dismissing all claims asserted in this Action with prejudice should be entered.

3  
4 5. Objections to the Proposed Settlement shall be heard, and any papers or  
5 briefs submitted in support of said objections shall be considered by the Court (unless the  
6 Court in its discretion shall otherwise direct), only if they comply with the objection  
7 procedures set forth in the attached Class Notice. Specifically, members of the Class who  
8 wish to object must file a notice of intent to object to the Settlement. The written notice  
9 of intent to object must be: (a) filed with the Clerk of the Court not later than June 9,  
10 2008; and (b) sent by first-class mail, postmarked not later than June 9, 2008, to Class  
11 Counsel and to counsel for NOS. Any Class Member who does not so request to object  
12 waives the right to do so in the future, and shall be forever barred from making any  
13 objection to the Proposed Settlement. Any Notice of Intent to Object must contain: (a) a  
14 heading which refers to the Action; (b) a statement whether the objector intends to appear  
15 at the Final Settlement Hearing, either in person or through counsel, and, if through  
16 counsel, identifying counsel by name, address and phone number; (c) a detailed statement  
17 of the specific legal and factual bases for each and every objection; and (d) a list of any  
18 witnesses, along with the expected testimony of each such witness, and photocopies of  
19 exhibits which the objector intends to introduce at the Final Settlement Hearing.  
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23 6. It is hereby ordered that this Action shall be stayed pending further  
24 proceedings in connection with the effectuation of the Proposed Settlement.  
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1 DONE IN OPEN COURT this 24 day of April, 2008.

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4 HON. LAURA INVEEN

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8 Presented by:

9 BRESKIN JOHNSON & TOWNSEND PLLC

10  
11 By \_\_\_\_\_

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