

WASHINGTON LEGAL FOUNDATION
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May 11, 2007

Via email: AMM@kttlaw.com
Via facsimile: 305-372-3508
Adam M. Moskowitz
Kozyak Trobin & Throckmorton, P.A.
2525 Ponce de Leon, 9th Floor
Coral Gables, FL 33134

Re: *Perez v. Asurion*, No. 06-20743 (S.D.FL)

Dear Mr. Moskowitz:

The Washington Legal Foundation (WLF) represents Mr. Glenn Lammi who is a class member in the *Perez v. Asurion* case. We intend to file objections on his behalf and possibly other class members to the proposed settlement and attorneys' fees by the court ordered date of May 21, 2007, but are unable to do so meaningfully due to the lack of information that has heretofore been provided to class members, in order to properly assess whether the settlement is fair, adequate, and reasonable.

For example, no information has been provided to class members about the true value of the proposed phone card with a face value of \$5.00, including the charges per minute, connect charges, and the like. Obviously, a phone card that charges 5 cents per minute is worth twice as much as a phone card that charges 10 cents per minute. How can class members, or the court, properly assess the worth of the settlement? As for attorneys' fees, the Omnibus Order dated February 28, 2007, para. 64, states that the parties agreed that "Class Counsel would be paid up to \$1,600,000 in fees and costs, subject to Court approval and that Defendants would not pay this award from the Class settlement fund." However, I did not see anything in the settlement about a "settlement fund"; rather, the Amended Stipulation of Settlement and Release, page 12, has definitions only for "Settlement," "Settlement Participants," and "Settlement Website."

More importantly, the order further states that the fees "is less than the actual lodestar amount for each of the law firms." Again, class members are not provided with any information upon which to assess that claim. Class counsel has obviously computed its lodestar and fees to arrive at the \$1.6 million figure, but you have apparently decided not to provide that information to the class until June 6, 2007, which is well *after* the date you had the court order class members to submit their written objections to the court. These sand-bagging, "hide-the-ball" tactics on your part are wholly unfair to the class and my client, violates Fed. R. Civ. Proc. 23(h)(2) which allow objections by class members to the motion for attorney's

fees, which motion has not yet been filed, and more importantly, does a gross disservice to the court that precludes her from making a fully informed decision as to whether the settlement is fair, adequate, and reasonable.

Accordingly, we hereby request that you provide us with additional information about the value of the settlement, and documentation about class counsel's lodestar, including time sheets, itemization of expenses, etc., and why you think the amounts requested are reasonable, by next Wednesday, May 16, by overnight delivery and/or email at pkamenar@wlf.org. We, of course, reserve all of our rights in this matter and do not waive any of them.

Sincerely yours,

/s/Paul D. Kamenar
Paul D. Kamenar



Adam M. Moskowitz, Esq.
amm@kttlaw.com | 305.377.0652

May 16, 2006

Via Email and Facsimile Transmission

Mr. Paul D. Kamenar, Esq.
Washington Legal Foundation ("WLF")
2009 Massachusetts Avenue, N.W.
Washington, D.C. 20036

Re: Perez Settlement

Dear Mr. Kamenar:

We are in receipt of the letter you emailed to my office Friday evening regarding our preliminarily approved Settlement. You state that you intend to object to this proposed settlement, demand that we provide you with various information and materials including our time sheets, itemization of expenses, etc. by a deadline of this Wednesday via overnight delivery, and assert that you reserve all our your rights. Many class members have simply called our office or otherwise requested information, and we have provided them with the requested information.

We certainly want to provide information to every class member including your client, Mr. Glenn Lammi, whom I understand is the Chief Counsel of the legal studies division at your organization, the Washington Legal Foundation. Our practice has always been to let the judicial system perform its function. Therefore, the Court will decide -- after all of the information and comments are heard from all class members -- whether to grant final approval of our proposed settlement. You and your colleague are welcome to make a formal appearance at our Final Fairness Hearing that that is scheduled for June 22, 2007 at 9:00 a.m. The Notice explains the procedures you must follow if you intend to appear in person and have your objections heard for the record. You can also advise your colleague to stay in the class, object to the settlement and/or simply opt-out of the class.

In any event, we want to provide as much information as possible for all class members prior to the hearing on final approval and therefore we will try to provide responsive information to your letter.

A. Attorney's Fees and Costs sought by Class Counsel.

As you are aware from your prior cases, there is a two step process for the approval of a class action settlement. Parties first seek preliminary approval of the proposed settlement and must show that the settlement falls within the "range of reasonableness." If granted by the Court, notice is then provided to the entire class and a hearing is set for the Court to hear all comments from all class members. We have approximately 10.3 million class members. Your colleague is purportedly among those 10.3 million and therefore we want to make sure that he is provided with sufficient information for him to decide to approve the settlement, object and/or opt out. This is a rare class action in that the total fees sought by all counsel (\$1.6 million) is less than the actual time that was spent by these four law firms litigating these three matters. There is no multiplier being sought in this case by any counsel.

The Court established a deadline of June 6, 2007 for class counsel to file a formal motion seeking the costs and fees in this matter. We intend to honor that deadline. We have already filed our affidavits which will support our formal motion for the requested costs and fees. You can review these affidavits which state the hours, rates and work performed by each Firm in these three cases in deciding what advice to give your colleague in this case. None of these monies sought by counsel will come from any relief that is being provided to the class in this matter.

B. Specifics Regarding the Vouchers and Phone Cards.

It does not appear that your colleague is a member of the subclass and therefore he will not be receiving a voucher for a free replacement phone that is valued between \$75 and \$150. Please note that the website has a section whereby your colleague can enter his name and wireless phone number and the computer will automatically tell him if he is a member of the subclass. Each voucher is fully transferable and good for 90 days after the date it is issued so to increase the value of the voucher.

According to your letter, your colleague believes he is a member of the national class and therefore may make a claim for a free phone card. First, the Defendants have agreed to provide a minimum of \$1.5 million dollars in face value of these cards. Accordingly, if less than 300,000 class members apply for the cards, each card might have a significantly greater face value than \$5.00. Second, each card is fully transferable and good for 360 days from issuance to increase its value. Third, a \$5.00 card will include 50 minutes of domestic calling time and therefore have a rate of 10 cents a minute for each call (again, depending upon the number of claims that are submitted, class members may receive cards that include much more than just 50 minutes). The only occasion that a surcharge applies is when the card is used at a pay phone; there is no surcharge for all other calls although regular wireless charges under the class member's own plan may apply.



Mr. Paul D. Kamenar, Esq.
May 16, 2007
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We hope that this additional information is helpful to your colleague in deciding what to do in this case. We are always available to discuss the settlement terms in person if you and/or your colleague would like to call us on the phone or email us directly.

Sincerely yours,

A handwritten signature in black ink, appearing to read "Adam Moskowitz". The signature is fluid and cursive, with the first name "Adam" and last name "Moskowitz" clearly distinguishable.

Adam Moskowitz

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