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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

EDWARD M. WALSH and DAVID F.)
KESLER,)
)
Plaintiffs,)
)
vs.)
)
GLOBALSTAR, INC.,)
)
Defendant.)

Case No. 07-CV-01941 TEH
~~PROPOSED~~ FINAL ORDER AND
JUDGMENT APPROVING CLASS
SETTLEMENT

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**[PROPOSED] FINAL ORDER AND JUDGMENT
APPROVING CLASS SETTLEMENT**

WHEREAS, a class action is pending in this Court against Defendant Globalstar, Inc. (“Globalstar”), and styled *Edward M. Walsh and David F. Kesler v. Globalstar, Inc.*, Civil Action No. 07-01941-TEH (the “Action”);

WHEREAS, pursuant to Rules 23(a) and 23(b)(3) of the Federal Rules of Civil Procedure and by Preliminary Approval Order dated May 17, 2010 this Court preliminarily certified the Action, for settlement purposes only, to proceed as a class action, with attorneys Gary E. Mason, Donna F. Solen and Nicholas A. Migliaccio from Mason LLP, Michael McShane from the law firm of Audet & Partners, LLP, and Michael F. Ram and Karl Olson from the law firm of Ram & Olson LLP to serve as Class Counsel, and with Plaintiffs Edward M. Walsh and David F. Kesler appointed as Class Representatives (“Class Representatives”);

WHEREAS, this matter came before the Court for a Fairness Hearing on October 4, 2010 pursuant to the Preliminary Approval Order of this Court dated May 17, 2010 on the application of the Parties for approval of the Settlement set forth in the Stipulation of Class Settlement Agreement dated as of September 14, 2009 and the First Amendment to Class Settlement Agreement dated as of April 2, 2010 (collectively, the “Stipulation” or “Settlement”); and

WHEREAS, due and adequate notice having been given to the Settlement Class as required by the Stipulation and the Preliminary Approval Order entered by this Court on May 17, 2010 and the Court having considered all papers filed and proceedings had herein to be proper and good cause appearing to enter a Final Judgment and Order of Dismissal;

NOW, THEREFORE, IT IS HEREBY ORDERED, ADJUDGED AND DECREED that:

1. **Incorporation of Documents.** This Final Order and Judgment incorporates herein and makes a part hereof (*i*) the Class Settlement Agreement and First Amendment to Class Settlement Agreement (a copy of which, without exhibits, is appended hereto as Exhibit 1); (*ii*) the

1 Class Notice and Class Publication Notice (copies of which are appended hereto as Exhibit 2), (iii)
2 the Post-Settlement Notice, Post-Settlement Publication Notice, Election Form and related materials
3 (appended hereto as Exhibits 3 through 8); and, (iv) the CAFA service list (appended hereto as
4 Exhibit 9). All capitalized terms used herein are defined as they are in the Stipulation.
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6 2. **Jurisdiction of the Court.** The Court has personal jurisdiction over all Settlement
7 Class Members because adequate notice has been provided to them and because they have been
8 provided the opportunity to exclude themselves from the Action. The Court has subject matter
9 jurisdiction over this Action, including, without limitation, jurisdiction to approve the Settlement
10 Agreement and to dismiss the Action on the merits and with prejudice.

11 3. **Final Certification of the Class for Settlement Purposes.** A class for settlement
12 purposes is hereby finally certified consisting of the Class Representatives and all other persons who
13 were Subscribers to the Globalstar Satellite Service in the United States and were not in Default on
14 their subscription payments at any time from January 1, 2006 to February 28, 2007, except any such
15 Subscribers (i) who have been excluded from the Settlement Class (by filing a timely and valid
16 request for exclusion or by virtue of a Bankruptcy Proceeding) pursuant to Section I(3)(a) of the
17 Stipulation and this Court's Hearing Order of May 17, 2010; (ii) who are employees of Globalstar,
18 members of the immediate family (parents, spouses, siblings and children) of Globalstar employees,
19 and any subsidiary or affiliate of Globalstar or related entities; (iii) who are Government Customers;
20 (iv) who are Resellers or Customers of Resellers; or, (v) who participated in the Canadian
21 Settlement. A list of those persons who have timely and validly excluded themselves from the
22 Settlement Class, and who are therefore not bound by this Final Order and Judgment, has been filed
23 jointly by the Parties with the Court and is incorporated herein and made a part hereof. Those
24 Settlement Class Members who have not been excluded from the Settlement Class are bound by this
25 Final Order and Judgment and the terms of the Settlement Agreement.
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1 4. **Class Findings.** For purposes of the Settlement of the Action (without an
2 adjudication on the merits), the requirements of due process and the Federal Rules of Civil
3 Procedure and the Rules of the Court have been met in that:

4 The Settlement Class is ascertainable on the basis of objective criteria, and members of
5 the Settlement Class are so numerous that it is impracticable to bring all members of the Settlement
6 Class before the Court.

7 There is a well-defined community of interest among members of the Settlement Class
8 in certain questions of law or fact that are common to the Settlement Class, are substantially similar
9 and predominate over any individual questions of fact and law. The Plaintiffs allege, *inter alia*, that
10 Globalstar sold satellite telephones and satellite communication services to consumers when it knew,
11 but failed to disclose, that its service was deteriorating and would not work for communicating from
12 locations where cellular or landline service is limited or unavailable. Thus, common questions
13 include whether: (i) Globalstar knew of the alleged degradation of the Globalstar Satellite Service
14 during the Class Period; (ii) Globalstar failed to disclose material information regarding the
15 Globalstar Satellite Service to Plaintiffs and the Settlement Class at the time they purchased their
16 Service; and, (iii) Globalstar violated a duty to disclose the alleged degradation of its Satellite
17 Service giving rise to claims under California’s Unfair Competition Law (“UCL”), Cal. Bus. &
18 Prof’l Code § 17200, *et seq.*, and Consumers Legal Remedies Act (“CLRA”), Cal. Civ. Code §
19 1750, *et seq.* These common questions are central to each Settlement Class Member’s claim and
20 predominate over questions affecting only individual members of the Settlement Class.
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24 The claims of the Plaintiffs are typical of the claims of the Settlement Class, and the
25 Plaintiffs will fairly and adequately protect the interests of the Class, in that: (i) the interests of the
26 Plaintiffs and the nature of their alleged claims are consistent with those of the Settlement Class; (ii)
27 there are no conflicts between or among the Plaintiffs and Settlement Class Members; (iii) the
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1 Plaintiffs have been and are capable of continuing to be active participants in both the prosecution
2 of, and the settlement negotiations of, the Action; and (iv) the Plaintiffs and the Settlement Class
3 Members are represented by qualified, reputable counsel who are experienced in preparing and
4 prosecuting class actions, including those involving the sort of practices alleged in the Third
5 Amended Complaint.

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7 A resolution of the Action in the manner proposed by the Settlement Agreement is
8 superior to other available methods for a fair and efficient adjudication of the Action. In making
9 these findings, the Court has considered, among other factors: (i) the interest of Settlement Class
10 Members in individually controlling the prosecution or defense of separate actions; (ii) the
11 impracticability or inefficiency of prosecuting or defending separate actions; (iii) the extent and
12 nature of any litigation concerning these claims already commenced; and (iv) the desirability of
13 concentrating the litigation of the claims in a particular forum.

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15 5. **Satisfaction of Due Process.** The Court finds that the mailing of the Class Notice
16 and the publishing of the Class Publication Notice as provided for by, and undertaken pursuant to,
17 the Preliminary Approval Order (i) constituted the best practicable notice to members of the
18 Settlement Class under the circumstances, (ii) constituted notice that was reasonably calculated,
19 under the circumstances, to apprise members of the Settlement Class of the pendency of the Action
20 and of the terms of the Settlement Agreement and their rights thereunder, including their rights to
21 object to those terms or to exclude themselves from the proposed Settlement and to appear at the
22 Fairness Hearing, (iii) was reasonable and constituted due, adequate and sufficient notice to all
23 persons entitled to be provided with notice, and (iv) fully complied with the requirements of the
24 United States Constitution, the Federal Rules of Civil Procedure and the Rules of the Court.

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26 6. **CAFA Notice.** The Court finds that service of the Stipulation together with the
27 materials specified in 28 U.S.C. § 1715(b), upon the entities and individuals listed in Exhibit 9
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1 hereto on September 24, 2009, constituted sufficient and adequate notice to the appropriate federal
2 and state officials as required by the Class Action Fairness Act (“CAFA”), 28 U.S.C. § 1715.

3 7. **Adequate Representation.** Class Counsel and the Plaintiffs have adequately
4 represented the Settlement Class throughout this litigation.

5 8. **Final Approval.** The terms and provisions of the Settlement Agreement have been
6 entered into in good faith and are hereby fully and finally approved as fair, reasonable and adequate
7 as to, and in the best interests of, each of the Parties and the Settlement Class Members and in full
8 compliance with all applicable requirements of law, including constitutional due process. The
9 Parties and Settlement Class Members are hereby directed to implement and consummate the
10 Settlement Agreement according to its terms and provisions; provided, however, that (a) the Parties
11 are hereby authorized, without needing any further approval from the Court, to agree and adopt such
12 amendments to, and modifications and expansions of, the Settlement Agreement and its
13 implementing documents, as are consistent with this Final Order and Judgment and do not limit the
14 relief available under the Settlement Agreement; and (b) Defendant is hereby authorized, in its sole
15 discretion but in consultation with Plaintiffs’ Counsel, and without the approval of this Court, to
16 implement the settlement prior to the Final Settlement Date.

17 9. **Claims Released.** The Release set forth in Section G of the Stipulation is expressly
18 incorporated in this Final Order and Judgment in all respects (and also is set forth in its entirety
19 together with relevant definitions below as Appendix A hereto) and is effective as of the date of this
20 Final Order and Judgment, such that the Released Parties are forever discharged from the claims or
21 liabilities that are the subject of the Settlement Class Members’ Release and the Defendant’s
22 Release. In addition to other matters set forth in the Settlement Class Members’ Release, this
23 paragraph covers, without limitation, any and all claims for Attorneys’ Fees and Expenses, costs or
24 disbursements incurred by Class Counsel or any other counsel representing Plaintiffs or Settlement
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1 Class Members, or incurred by Plaintiffs or the Settlement Class Members, or any of them, in
2 connection with or related in any manner to this Action, the Settlement of this Action, the
3 administration of such Settlement and/or the subject of the Settlement Class Members' Release,
4 except to the extent awarded by the Court. In addition to other matters set forth in the Defendant's
5 Release, this paragraph covers, without limitation, any and all claims for Attorneys' Fees and
6 Expenses, costs or disbursements incurred by Globalstar's Counsel or any other counsel representing
7 Defendant, or incurred by Defendant in connection with or related in any manner to this Action, the
8 Settlement of this Action, the administration of such Settlement and/or the subject of the
9 Defendant's Release, except to the extent awarded by the Court.

11 10. **Permanent Injunction.** All Settlement Class Members who have not been excluded
12 from the Settlement Class (and all persons acting on behalf of Settlement Class Members who have
13 not been excluded from the Settlement Class) are hereby permanently and forever barred and
14 enjoined from: (i) directly, representatively or in any other capacity filing, commencing,
15 prosecuting, intervening in, or participating in and/or continuing to prosecute or participate in, or
16 receiving any benefits or other relief from, directly or indirectly (as class members or otherwise),
17 any action, lawsuit, claims or other proceeding, in any jurisdiction based on or relating to any of the
18 claims and causes of action in this Action and/or the subject of the Settlement Class Members'
19 Release, or the facts and circumstances relating thereto; and (ii) organizing Settlement Class
20 Members who have not been excluded from the Settlement Class into a separate class for purposes
21 of pursuing as a purported class action any lawsuit (including by seeking to amend a pending
22 complaint to include class allegations, or seeking class certification in a pending action) based on or
23 relating to the claims and causes of action in this Action and/or the subject of the Settlement Class
24 Members' Release, or the facts and circumstances relating thereto. The Court finds that entry of this
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1 Permanent Injunction is necessary and appropriate to aid the Court's jurisdiction over the Action and
2 to protect and effectuate the Settlement Agreement and this Final Order and Judgment.

3 11. **Notice.** The Parties are hereby directed to mail the Post-Settlement Notice, Post-
4 Settlement Publication Notice, Election Form and related materials substantially in the form attached
5 hereto as Exhibits 3 through 8, as provided by the Settlement Agreement. The Court finds that the
6 Post-Settlement Notice, Post-Settlement Publication Notice, Election Form and related materials and
7 methodology set forth in the Settlement Agreement (i) constitute the best practicable notice to
8 Settlement Class Members of the Final Order and Judgment, the relief available to Settlement Class
9 Members pursuant to the Final Order and Judgment, and applicable time periods, (ii) constitute due,
10 adequate and sufficient notice for all other purposes to all Settlement Class Members, and (iii) fully
11 comply with the requirements of the United States Constitution, the Federal Rules of Civil Procedure
12 and the Rules of the Court.

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15 12. **Binding Effect.** The terms of the Settlement Agreement and of this Final Order and
16 Judgment, including all exhibits thereto, shall be forever binding on the Plaintiffs, Settlement Class
17 Members, and Defendant, as well as their heirs, executors and administrators, successors and
18 assigns, and those terms shall have *res judicata* and other preclusive effect in all pending and future
19 claims, lawsuits or other proceedings that assert claims that are encompassed within the Settlement
20 Class Members' Release and the Defendant's Release set forth in Section G of the Stipulation.

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22 13. **No Admissions.** Neither this Final Order and Judgment nor the Stipulation and
23 Settlement Agreement (nor any document referred to herein or any action taken to carry out this
24 Final Order and Judgment) is, may be construed as, or may be used as any evidence, admission or
25 concession by or against the Released Parties of the validity of any claim or any actual or potential
26 fault, wrongdoing or liability whatsoever. Entering into or carrying out the Settlement Agreement,
27 and any negotiations or proceedings related thereto shall not in any event be construed as, or deemed
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1 to be evidence of, an admission or concession with regard to the denials or defenses by any of the
2 Released Parties and shall not be offered or received in evidence in any action or proceeding against
3 any of them in any court, administrative agency or other tribunal for any purpose whatsoever other
4 than as evidence of the settlement or to enforce the provisions of this Final Order and Judgment and
5 the Settlement Agreement; provided however, that this Final Order and Judgment and the Stipulation
6 and Settlement Agreement may be filed in any action against or by any of the Released Parties to
7 support a defense of *res judicata*, collateral estoppel, release, waiver, good faith settlement, covenant
8 not to sue, accord and satisfaction, judgment bar or reduction, full faith and credit, or any theory of
9 claim preclusion or issue preclusion or similar defense or counterclaim.
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11 14. **Enforcement of Settlement Agreement.** Nothing in this Final Order and Judgment
12 shall preclude any action to enforce its terms or the terms of the Settlement Agreement, including,
13 without limitation, the Releases and Permanent Injunction.
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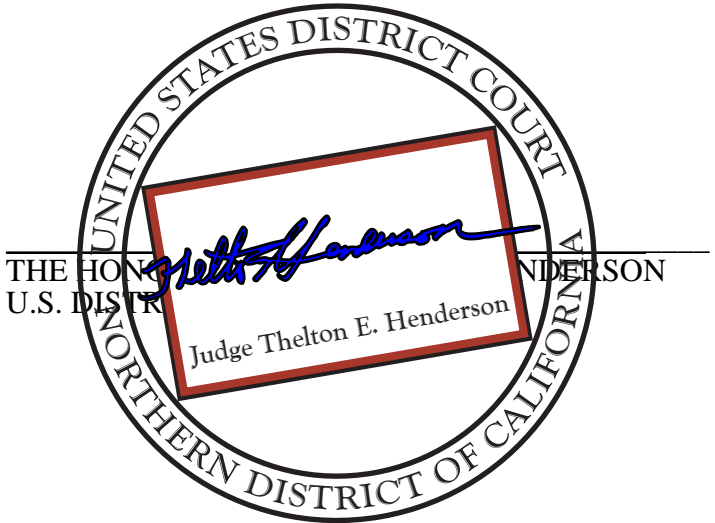
15 15. **Nullification of Settlement Agreement.** In the event the Settlement Agreement does
16 not become final, pursuant to its terms, or in the event that it does not become effective as required
17 by its terms for any other reason, this Final Order and Judgment shall become null and void and the
18 Parties shall be restored to their respective positions *status quo ante* as set forth in Section J of the
19 Stipulation. In such event, the Stipulation and Settlement Agreement and this Final Order and
20 Judgment shall have no force and effect and neither document may be used or referred to for any
21 purpose whatsoever.
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23 16. **Severability of Attorneys' Fees and Expenses Award.** Notwithstanding anything
24 herein to the contrary, this Final Order and Judgment shall be entirely severable from, and not
25 subject to appeal on the basis of, any award of Attorneys' Fees and Expenses or costs to be made to
26 Class Counsel and any such award of Attorneys' Fees and Expenses or costs shall have no effect on
27 the finality or effectiveness of this Final Order and Judgment.
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1 17. **Retention of Jurisdiction.** The Court has jurisdiction to enter this Final Order and
2 Judgment. Without in any way affecting the finality of this Final Order and Judgment, the Court
3 retains exclusive jurisdiction as to all matters relating to administration, consummation, enforcement
4 and interpretation of the Settlement Agreement and of this Final Order and Judgment (including,
5 without limitation, with respect to the Release and Permanent Injunction), and for any other
6 necessary purpose.
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8 18. **Dismissal with Prejudice.** This Action, including all claims and counterclaims
9 asserted in it and/or resolved herein, is hereby dismissed on the merits and with prejudice against the
10 Plaintiffs and all other Settlement Class Members (with respect to the claims they have asserted) and
11 the Defendants (with respect to the counterclaims they have asserted), without fees or costs to any
12 party except as otherwise provided in this Final Order and Judgment or any separate order
13 concerning Attorneys' Fees and Expenses and/or incentive awards to the Class Representatives.
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16 IT IS SO ORDERED.



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20 Dated: 10/13, 2010

APPENDIX A

The full text of the Settlement Class Members' Release and Defendants' Release, with definitions, are as follows:

RELEASE

(1) Definitions. As used in the Release and elsewhere in this Settlement Agreement, the following terms have the following meanings:

(b) "Defendant's Released Claims" means any and all claims that Globalstar has or may have against any of the Plaintiffs, Settlement Class Members, or their attorneys relating to the institution or prosecution of the Action.

(c) "Plaintiffs' Released Claims" means any and all claims (including "Unknown Claims" as defined herein), demands, rights, liabilities and causes of action of every nature and description whatsoever, known or unknown, suspected or unsuspected, asserted or that might have been asserted, by the Plaintiffs or any Settlement Class Member, against Globalstar arising out of or related to the Globalstar Satellite Service, Globalstar Satellite Telephones, any Service Agreement, any Service Plan, or any of the matters alleged in or in any way concerning, or that could have been alleged in, the Third Amended Complaint and the predecessor complaints.

(d) "Released Parties" means Globalstar, Plaintiffs and any Settlement Class Member, including their past, present and future parents, subsidiaries, affiliates, predecessors, successors, assigns, entities and divisions, and each of their respective past, present and future officers, directors, employees, general agents, agents, producers, brokers, solicitors, representatives, attorneys, insurers, co-insurers, re-insurers, partners, joint venturers, accountants, trustees, heirs, administrators, executors, predecessors, successors and assigns, or any of them, including any person or entity acting on the behalf or direction of any of them.

(e) "Unknown Claims" means all claims, demands, rights, liabilities, and causes of action of every nature and description which any Plaintiff, or any Settlement Class Member, does not know or suspect to exist in his, her or its favor at the time of the Release herein which, if known by him, her, or it might affect his, her or its decision whether to object to this Settlement.

1 2. Settlement Class Members' Release: Upon the Final Settlement Date, the Plaintiffs
2 and each Settlement Class Member, on behalf of themselves, and their respective predecessors,
3 successors, affiliates, heirs, agents, attorneys, executors, administrators, successors and assigns, and
4 any persons they represent, shall, by operation of this Stipulation and the Final Order and Judgment,
5 with respect to each and every Plaintiffs' Released Claim, release and be deemed to release and
6 forever discharge, and shall forever be enjoined from prosecuting, any Plaintiffs' Released Claims
7 against Globalstar. By entering into this Stipulation, Plaintiffs represent and warrant that they have
8 not designated, hypothecated, transferred, or otherwise granted any interest in the Plaintiffs'
9 Released Claims, or any of them, to any other person or entity.

10 3. Globalstar's Release: Upon the Final Settlement Date, Globalstar on behalf of itself,
11 and its respective predecessors, successors, affiliates, heirs, agents, attorneys, executors,
12 administrators, successors and assigns, and any persons they represent, shall, by operation of this
13 Stipulation and the Final Order and Judgment, with respect to each and every Defendant's Released
14 Claim, release and be deemed to release and forever discharge, and shall forever be enjoined from
15 prosecuting, any Defendant's Released Claims against any of the Plaintiffs or Settlement Class
16 Members. By entering into this Stipulation, Globalstar represents and warrants that it has not
17 designated, hypothecated, transferred, or otherwise granted any interest in the Defendant's Released
18 Claims, or any of them, to any other person or entity.

19 4. Unknown Claims Released:

20 (a) With respect to any and all Plaintiffs' Released Claims, the Settling Parties
21 stipulate and agree that, upon the Final Settlement Date, the Plaintiffs shall expressly waive, and
22 each of the Settlement Class Members shall be deemed to have waived and by operation of the Final
23 Order and Judgment shall have waived, the provisions, rights and benefits of California Civil Code
24 §1542, which provides:

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26 **A general release does not extend to claims which the creditor does not**
27 **know or suspect to exist in his or her favor at the time of executing the**
28 **release, which if known by him or her must have materially affected his**
 or her settlement with the debtor.

1 The Plaintiffs shall expressly and each of the Settlement Class Members shall be deemed to have,
2 and by operation of the Final Order and Judgment shall have, expressly waived any and all
3 provisions, rights and benefits conferred by any law of any state or territory of the United States, or
4 principle of common law, which is similar, comparable or equivalent to California Civil Code
5 §1542.

6 (b) The Plaintiffs and Settlement Class Members recognize that they may
7 hereafter discover facts in addition to or different from those which they now know or believe to be
8 true with respect to the subject-matter of the Plaintiffs' Released Claims, but the Plaintiffs shall
9 expressly, fully, finally and forever settle and release, and each Settlement Class Member, upon the
10 Final Settlement Date, shall be deemed to have and by operation of the Final Order and Judgment
11 shall have fully, finally, and forever settled and released, any and all Plaintiffs' Released Claims,
12 known or unknown, suspected or unsuspected, contingent or non-contingent, whether or not
13 concealed or hidden, which now exist, or heretofore have existed, upon any theory of law or equity
14 now existing or coming into existence in the future, including, but not limited to, conduct which is
15 negligent, intentional, with or without malice, or a breach of any duty, law or rule, without regard to
16 the subsequent discovery or existence of such different or additional facts. The Plaintiffs
17 acknowledge, and the Settlement Class Members shall be deemed by operation of the Final Order
18 and Judgment to have acknowledged, that the foregoing waiver was separately bargained for and a
19 key element of the Settlement of which this Release is part.

20 5. Without in any way limiting its scope, the Release set forth herein covers, without
21 limitation, any and all claims for Attorneys' Fees and Expenses, costs or disbursements incurred by
22 Class Counsel or any other counsel representing Plaintiffs or Settlement Class Members, or by
23 Plaintiffs or Settlement Class Members, or any of them, in connection with or related in any manner
24 to the Action, the settlement of the Action, the administration of such settlement and/or the
25 Plaintiffs' Released Claims, except to the extent otherwise specified in the Settlement Agreement.

1 6. By execution of this Stipulation, Globalstar does not intend to release any claim
2 against any insurer, reinsurer or other third party for any cost or expense incurred hereunder in
3 connection with the Action, including Attorneys' Fees and Expenses and costs.
4 Nothing in the Releases set forth herein shall preclude any action to enforce the terms of the
5 Settlement Agreement, the Final Order and Judgment, the Release, or the Permanent Injunction.
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