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Attorneys for Plaintiffs and Claimants

UNITED STATES BANKRUPTCY COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA

In re

**NORTHPOINT COMMUNICATIONS  
GROUP, INC., NORTHPOINT  
COMMUNICATIONS, INC.,  
NORTHPOINT COMMUNICATIONS OF  
VIRGINIA, INC., and NORTHPOINT  
INTERNATIONAL, INC.,**

**Debtor.**

**DINA GAN, TRESSA JONES, TANJA  
WARNER, ERIC JAMES and BRANDON  
LANE, individually and on behalf of others  
similarly situated,**

**Plaintiffs,**

vs.

**E. LYNN SCHOENMANN, CHAPTER 7  
TRUSTEE SUCCESSOR TO  
NORTHPOINT COMMUNICATIONS,  
INC., DOES 1 - 50 inclusive,**

**Defendants.**

**Case No. 01-30127 - TC  
(Jointly Administered with 01-30125, 01-  
30126, and 01-30128)  
Chapter 7**

**Adversary Proceeding  
No. 01-3107 TC**

**NOTICE OF PROPOSED SETTLEMENT  
OF WARN ACT CLASS ACTION, AND  
SETTLEMENT HEARING.**

**Date: February 16, 2007**

**Time: 9:30 am**

**Place: 23<sup>rd</sup> Floor**

**United States Bankruptcy Court  
235 Pine Street  
San Francisco, California**

1 **TO: FORMER EMPLOYEES OF NORTHPOINT COMMUNICATIONS, INC. WHO**  
2 **WERE TERMINATED BY NORTHPOINT COMMUNICATIONS, INC.**  
3 **BETWEEN MARCH 1, 2001 AND MARCH 31, 2001.**

4 *PLEASE READ THIS NOTICE CAREFULLY*

5 Based on information in the records of the Trustee Successor to NorthPoint  
6 Communications, Inc. ("Trustee"), you may be a class member who is entitled to receive  
7 money under this proposed settlement.

8 Plaintiffs and the Trustee encourage all class members to participate in this settlement.  
9 The Trustee will not retaliate in any way against former NorthPoint employees who claim  
10 their share of this \$3 million dollar settlement. Participation does not change the settlement  
11 amount that the Trustee will pay, because the Trustee will pay the fixed amount of \$3  
12 million regardless of the number of former NorthPoint employees who participate.

13 ● **Important Deadlines:**

14 **Last Day To "Opt Out" Of The Settlement Class: 30 days from the date this**  
15 **Notice was mailed.**

16 **Last Day To Object To The Settlement: 30 days from the date this Notice**  
17 **was mailed.**

18 **INTRODUCTION**

19 A proposed settlement of class action claims for violations of the WARN Act and  
20 related claims has been reached by the Parties in this case and granted preliminary  
21 approval by the United States Bankruptcy Court for the Northern District of California.  
22 This notice informs you about the terms of that settlement and about your rights and  
23 options under the settlement.

24 A hearing will be held on June 1, 2007 at 9:30 am before the Honorable Thomas C.  
25 Carlson, United States Bankruptcy Judge, at the United States Bankruptcy Court for the  
26 Northern District of California, San Francisco Division, 23rd Floor, 235 Pine Street, San  
27 Francisco, California 94104, to address whether the proposed settlement of claims against  
28 defendant is fair and reasonable and should be approved. You should read this Notice very  
carefully because your rights may be affected by the settlement.

If you do not choose to Opt Out of the Settlement Class (see page three for who is in  
the settlement class), you will be bound by the terms of this settlement, regardless of  
whether you receive money.

**WHAT IS A CLASS ACTION?**

A class action is a lawsuit in which the claims and rights of many people are decided in a  
single court proceeding. One or more representative plaintiffs, also known as "class  
representatives," file a lawsuit asserting claims on behalf of the entire class.



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- **Payments to the Named Plaintiffs:** If the Court approves such payment, each Named Plaintiff will receive \$10,000 each (for a total of \$40,000). These payments are made because the Named Plaintiffs provided many hours of service to the class by helping class counsel formulate claims, by providing documents, and by providing declarations.
- **Attorneys' Fees:** Class Counsel will apply to the Court for attorneys' fees in the amount of 30% of the total class recovery, which amounts to \$900,000. This amount will be requested given that class counsel spent over a thousand hours and more than five years in pursuing this case on behalf of the Class Members, given the risks that Class Counsel took that no fees would be recovered, and given the result achieved for the Class Members. Class Counsel will also seek reimbursement in expenses they incurred out of pocket of approximately \$18,000.
- **Employer's Share of Payroll Taxes:** The \$3 million dollar settlement payment includes the employer's share of payroll taxes, which are estimated to be \$xxx.xx.

If the Court approves the settlement, after these deductions, the remaining approximately \$X,XXX,XXX in settlement funds will be distributed according to the method set forth in the "How Will My Share Be Calculated If I Participate" section, below.

#### Dismissal of Case and Release of Claims

In exchange for the money set forth above, this action will be dismissed with prejudice, and the Class Members will fully release and discharge the Trustee and NorthPoint from all claims that have been or could have been brought in this litigation and that arise from the facts alleged in this litigation.

When the claims are dismissed with prejudice, that means that the Court will not consider the claims any further; the case is over. When claims are released, that means that no one covered by the release can sue the Trustee and NorthPoint over those claims.

#### ARE YOU A CLASS MEMBER FOR PURPOSES OF THE SETTLEMENT?

You may be a Class Member if you meet all of the following criteria:

1. You were an employee of NorthPoint Communications, Inc.;
2. You were terminated by NorthPoint Communications, Inc. between March 1, 2001 and March 31, 2001;
3. You did not previously sign a release of your claims against NorthPoint, Communications, Inc.

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**WHAT ARE YOUR OPTIONS?**

You have several choices regarding what to do from here. In order to protect your rights, it is very important that you read this section carefully and that you comply with the deadlines listed in this section.

If you wish to be part of the Settlement Class and you do not wish to challenge the rate of pay that will be used to calculate any recovery due you (see below), you do not need to anything further at this point. You will be bound by the terms of this settlement, regardless of whether you receive money.

**Choosing Not to Join the Settlement Class:**

If you do not want to be a member of the settlement class or participate in the settlement and you want the right to pursue your own lawsuit, you must opt out of the Settlement within 30 days of the date this Notice was mailed. If you do not Opt Out, you will be bound by the terms of this Settlement, regardless of whether you receive money. To Opt Out you must send a letter, postmarked within 30 days of the date this Notice was mailed, with your Name, Social Security Number, and stating your intention to Opt Out of the Settlement to:

Rosenthal & Company, LLC  
300 Bel Marin Keys Blvd., Suite 200,  
Novato, CA 94949

**Objecting to the Settlement:**

If you wish to comment on, or object to, the proposed Settlement, the proposed Plan of Allocation, or the application for attorneys' fees and costs, you may do so. Written comments or objections must be postmarked within 30 days of the date this Notice was mailed, and sent to:

The Clerk of the Court  
U.S. Bankruptcy Court  
235 Pine Street, 19th Floor  
San Francisco, CA 94104

-and-

Rosenthal & Company, LLC  
300 Bel Marin Keys Blvd., Suite 200,  
Novato, CA 94949

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-and-

Chris D. Kuhner  
KORNFIELD, PAUL & NYBERG, P.C.  
1999 Harrison Street, Suite 2675  
Oakland, California 94612

or

David A. Lowe  
RUDY, EXELROD & ZIEFF, LLP  
351 California Street, Suite 700  
San Francisco, CA 94104  
(Class Counsel)

-and-

Michael A. Kahn  
FOLGER LEVIN & KAHN, LLP  
275 Battery Street, 23<sup>rd</sup> Floor  
San Francisco, 94111  
(Counsel for the Trustee)

**You are not required to submit a comment or objection.**

**HOW WILL MY SHARE BE CALCULATED IF I PARTICIPATE?**

Each Class Member who submits a Claim Form will receive a share of the approximately \$2 million in settlement funds that remain after the deductions of estimated settlement costs, employer's share of payroll taxes and named plaintiff payments and attorneys' fees and costs listed above (the Net Settlement Fund). Each share will be based upon the class member's rate of pay at the time of their termination, derived from the payroll data produced by the Trustee. As explained below, this may have a significant effect on the percentage of the Settlement Funds you receive. If you do not want to participate in the Settlement because of the calculation methodology that will be applied to your claim, you may choose to opt out of the Settlement Class and pursue an individual legal action against the defendant for violations of the WARN Act.

**ACCORDING TO PAYROLL DATA PRODUCED BY THE TRUSTEE, YOUR RATE OF PAY AT THE TIME OF YOUR TERMINATION WAS \$ \_\_\_\_\_ PER DAY.**

**Calculation of Share.**

Each share will be based upon your rate of pay at the time of your termination. To calculate your share, the Claims Administrator will start with your rate of pay at the time of your termination. Then, your rate of pay is multiplied by 44 days (the number of work days in the 60-day period following March 31, 2001). The result of this calculation is called your "Settlement Share Points." The Settlement Share Points for each approved claim will be divided by the sum

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1 of Settlement Share Points for all approved claims to determine the Settlement Share Percentage.  
2 The Settlement Share Percentage for each approved claim will be multiplied by the Net  
3 Settlement Fund to determine the amount of the settlement to be awarded to each approved claim.

4 **Examples of the Calculation Formula**

5 For example, if your rate of pay was \$100 per day, your share of the Net Settlement Fund  
6 would be calculated as follows:

- 7 1.  $100 \times 44$  (days) = 4,400 (Your Settlement Share Points)
- 8 2. Your 4,400 Settlement Share Points will be added to the Settlement Share  
9 Points for all other approved claims to determine the Total Settlement Share  
10 Points.
- 11 3. The 4,400 Settlement Share Points will be divided by the Total Settlement  
12 Share Points to determine your Settlement Share Percentage.

13 **Challenging the Rate of Pay Used To Calculate Your Share of the Net Settlement**  
14 **Fund**

15 If you believe the rate of pay used to calculate your share of the Net Settlement Fund is  
16 incorrect, and you wish to challenge that rate of pay data, you may do so by sending a letter with  
17 written documentation to support your challenge. Written challenges without supporting  
18 documentation will not be considered. Written challenges with supporting documentation must  
19 be postmarked within 30 days of the date this Notice was mailed, and sent to:

20  
21 Rosenthal & Company, LLC  
22 300 Bel Marin Keys Blvd., Suite 200,  
23 Novato, CA 94949  
24

25 **Uncashed Checks**

26 If any money remains unpaid as a result of Class Members failing to cash their settlement  
27 checks, the parties will redistribute the left over money to Class Members if the leftover amount  
28 is more than \$10,000. If the leftover amount is less than \$10,000, or if any amount is leftover  
after any second distribution, the parties intend to apply to the Court for a "cy pres" distribution  
so that the leftover money will be donated to The Legal Aid Society of San Francisco --  
Employment Law center.

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**ATTORNEYS' FEES AND COSTS**

As their fee for services rendered on behalf of the Class Members, Class Counsel will ask the Court to award as attorneys' fees a total of 30 percent from the Settlement Fund (*i.e.*, \$900,000). In addition to attorneys' fees, Class Counsel will seek reimbursement of litigation costs and expenses that they have incurred since the beginning of this litigation in June 2001, in the amount of approximately \$18,000. The amount of any award of attorneys' fees and costs will be considered and must be approved by the Court. In prosecuting this case on behalf of Class Members, Class Counsel spent more than five years and over a thousand hours investigating the case, reviewing tens of thousands of NorthPoint documents, reviewing damages information, interviewing and gathering declarations from class members about their job duties, and briefing various dispositive motions, including a successful appeal from Defendant's summary judgment motion. Under the common fund doctrine, Class Counsel will therefore apply for 30% of the money recovered on behalf of the Class. Class Members will not be required to pay Class Counsel for any other attorneys' fees, costs or expenses out of their own pockets if the Settlement Agreement and the attorneys' fee and costs requests are approved by the Court.

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**HEARING REGARDING THE SETTLEMENT**

On June 1, 2007 at 9:30 am, or as soon thereafter as practicable, the Honorable Thomas C. Carlson, United States Bankruptcy Judge, will hold a hearing at the United States Bankruptcy Court for the Northern District of California, San Francisco Division, 23rd Floor, 235 Pine Street, San Francisco, California 94104, for the purpose of determining whether the proposed Settlement is fair, reasonable, and adequate and should be approved. The Court will also consider Class Counsel's application for fees and costs. The time and date of this hearing may be continued or adjourned, so please contact Class Counsel prior to the date of the hearing if you plan to attend.

No Class Member (or the attorney for any Class Member) may appear at the hearing to object to the Settlement, unless, within 30 days of the date their Notice was mailed, such person has filed with the Clerk of the Court and served upon the Claims Administrator and counsel for all parties a written statement that indicates the specific basis for such person's objections, along with any supporting documentation.

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**EXAMINATION OF PLEADINGS AND PAPERS / ADDITIONAL INFORMATION**

This Notice does not contain all of the terms of the proposed Settlement or all of the details of these proceedings. For more detailed information, you may refer to the underlying documents and papers on file with the Court. This file may be inspected during the hours of each Court business day at the Office of the Clerk of the Court, United States Bankruptcy Court for the Northern District of California, San Francisco Division, 23rd Floor, 235 Pine Street, San Francisco, California 94104.

1 If you have questions about this Notice, or want additional information, you can contact  
2 the Settlement Administrator at 800-XXX-XXXX.

3 **Again, the important deadlines are:**

4 **Last Day To "Opt Out" Of The Settlement Class: 30 Days from the date this  
5 Notice was mailed.**

6 **Last Day To Object To The Settlement: 30 Days from the date this Notice  
7 was mailed.**

8 Dated: \_\_\_\_\_, 2007

9 \_\_\_\_\_  
10 Hon. Thomas C. Carlson  
11 United States Bankruptcy Judge

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