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**IN THE UNITED STATES DISTRICT COURT  
FOR THE CENTRAL DISTRICT OF CALIFORNIA**

EUGENE ROSENFELD, On Behalf  
of Himself and All Others Similarly  
Situating,

Plaintiff,

vs.

GATEWAY, INC.,

Defendant.

CASE NO. CV 08-03381 SVW (CTx)

~~PROPOSED~~ FINAL APPROVAL  
ORDER AND JUDGMENT

Date: March 16, 2009  
Time: 1:30 p.m.  
Judge: Stephen V. Wilson  
Courtroom: 6

Plaintiff, Eugene Rosenfeld (“Plaintiff” or “Rosenfeld”), on behalf of himself and the Settlement Class, having filed a motion (“Motion”) for an order preliminarily approving the Settlement Agreement (“Agreement”) entered into by the parties to this action; Defendant, Gateway, Inc. (“Gateway”), having filed any papers in support of approval of the settlement; the said Motion, having come on regularly for hearing before the above-entitled Court; the Court having entered its Order Regarding Preliminary Approval of Class Action Settlement on December 12, 2008; the Court having conducted a hearing regarding final approval of the settlement on March 16, 2009 at 1:30 p.m., at which time it considered any objections filed with or presented to the Court and the parties’ responses thereto; the Court being fully advised in the premises and good cause appearing therefor, the

1 Court enters its order granting final approval of the settlement, and finds and orders  
2 as follows:

3 1. The Court has jurisdiction over the subject matter of this Action and all  
4 parties to this Action, including all members of the Settlement Class as defined in  
5 Section I(F) of the Settlement Agreement (“Agreement”) previously filed in this  
6 Action.

7 2. The Agreement and the settlement set forth therein are found and  
8 determined to be fair, reasonable, and adequate, and are hereby approved and  
9 ordered performed by all parties to the Agreement.

10 3. The Court has determined that the notice given to the Settlement Class  
11 fully and accurately informed the Settlement Class of all material elements of the  
12 proposed settlement and constituted the best practicable notice to all members of  
13 the Settlement Class and fully meets the requirements of due process.

14 4. Immediately upon entry of this Final Approval Order and Judgment,  
15 the Complaint in this Action shall be dismissed in its entirety with prejudice. This  
16 dismissal shall be without costs to any party, except as specifically provided for in  
17 the Agreement.

18 5. This Final Approval Order and Judgment applies to all claims or  
19 causes of action settled under the terms of the Agreement, and shall be fully binding  
20 with respect to all members of the Settlement Class who did not properly request  
21 exclusion. The persons who filed timely and valid requests for exclusion from the  
22 Settlement Class and who are, therefore, not bound by this Final Approval Order  
23 and Judgment, are set forth in Exhibit 1 attached hereto.


24 6. The Court adjudges that the Plaintiff and all members of the  
25 Settlement Class who did not properly request exclusion are barred and  
26 permanently enjoined from asserting, instituting, or prosecuting, either directly or  
27 indirectly, any claims settled under the terms of the Agreement, which they ever  
28 had, or now have, to the extent provided in the Agreement.

1           7.     Without affecting the finality of this Final Approval Order and  
2 Judgment in any way, the Court retains jurisdiction over (a) the implementation and  
3 enforcement of the Agreement until each and every act agreed to be performed by  
4 the parties to the Agreement shall have been performed; (b) any other action  
5 necessary to conclude this settlement and to implement the Agreement; and (c) the  
6 enforcement, construction and interpretation of the Agreement.

7           8.     Neither this Final Approval Order and Judgment, nor the Agreement,  
8 nor the fact of settlement, nor the settlement proceedings, nor settlement  
9 negotiations, nor any related document, shall be used as an admission of any fault  
10 or omission by Gateway or be offered or received in evidence as an admission,  
11 concession, presumption, or inference against Gateway for any purpose whatsoever  
12 other than in such proceedings as may be necessary to consummate or enforce the  
13 Agreement.

14           9.     Class Counsel are awarded costs, expenses, and attorneys' fees in the  
15 agreed upon amount of \$300,000, to be paid by Gateway to Lead Class Counsel  
16 pursuant to the terms of the Settlement Agreement. Plaintiff is awarded a \$2,500  
17 incentive award to be paid by Gateway pursuant to the terms of the Settlement  
18 Agreement.

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20 Dated: August 25, 2009

  
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The Honorable Stephen V. Wilson