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**THE SUPERIOR COURT OF CALIFORNIA**  
**COUNTY OF SANTA CLARA**

SPENCER KISER, on behalf of Himself and All )  
Others Similarly Situated and on Behalf of the )  
General Public, )  
 )  
Plaintiffs, )  
 )  
v. )  
 )  
PALMONE, INC., successor to HANDSPRING, )  
INC., and DOES 1-10, inclusive, )  
 )  
Defendants. )  
\_\_\_\_\_ )

CASE NO.: 1-04-CV-022956

**CLASS ACTION**

**NOTICE OF PENDENCY AND  
PROPOSED SETTLEMENT OF  
CLASS ACTION AND  
SETTLEMENT CLAIM  
INFORMATION**

**EXHIBIT B**

1           **OFFICIAL COURT NOTICE OF PENDENCY AND PROPOSED SETTLEMENT OF**  
2                                   **CLASS ACTION AND SETTLEMENT CLAIM INFORMATION**

3                                   *Kiser v. palmOne, Inc.*, No. 1-04-CV-022956 (Santa Clara Super. Ct.)  
4

5   **To: All persons or entities in the United States who purchased or owned between**  
6   **January 1, 1998 through December 31, 2005, any of the following products: Trēo 180, Trēo**  
7   **270, Trēo 300 and who experienced a Fliplid Issue as defined below.** Any of the foregoing  
8 products are hereinafter referred to as a “Covered Palm Product.” “Fliplid Issue” means a failure  
9 or other problems or defects, including cracking or breakage, with the flip lid shell covering the  
10 device screen and containing the integrated speaker/earpiece in the underside of the flip lid, of a  
11 Covered Palm Product.

12           **This Notice contains important information that may affect your legal rights.**

13           1.       The following case is now pending against Palm, Inc.: *Kiser v. Palm, Inc.*, (the  
14 “Action”) No. 1-04-CV-022956 (Santa Clara Super. Ct.).

15           2.       The purpose of this Notice is to provide a brief summary of the claims asserted in  
16 the Action and the terms of the proposed settlement. If you wish to be included in the proposed  
17 settlement, you do not have to do anything to indicate your consent. **If you do not exclude**  
18 **yourself from this settlement by filing a request for exclusion, as described below, that is**  
19 **received no later than October 16, 2006, you will be bound by the judgment and settlement**  
20 **entered by this Court.** This Notice describes what to do if you wish to be excluded from the  
21 proposed settlement, or if you want to object to the proposed settlement.

22           3.       The Action was filed by an individual who alleges that Palm sold the Covered  
23 Palm Products in violation of California Business & Professions Code §§ 17200 *et seq.* and  
24 California Civil Code §§ 1750 *et seq.* and in breach of express warranty. The Complaint alleges  
25 that the Trēo 180, Trēo 270, Trēo 300 had flip covers made with a defective design or materials  
26 such that the flip cover portions of these devices broke upon normal use, making the devices  
27 inoperable.  
28

1           4.       Palm denies that it has committed any violations of law or engaged in any of the  
2 wrongful or unfair acts alleged in the complaint filed in the Action or otherwise. In order to end  
3 the Action and forever resolve these claims, Palm has agreed to the settlement described below.

4           5.       For purposes of settlement only, the Court has certified a nationwide class  
5 consisting of “All persons or entities in the United States who purchased or owned a Trēo 180,  
6 Trēo 270 or Trēo 300 (‘Covered Palm Product’) from January 1, 1998 through December 31,  
7 2005, who did not purchase the Product for resale to others and who experienced a Fliplid Issue  
8 (the ‘Settlement Class’).”

9           6.       The Court has appointed the following attorneys as Class Counsel representing  
10 Plaintiff and the Settlement Class: Michael McShane and Jason Baker of the law firm  
11 Alexander, Hawes & Audet, LLP and Harris Pogust of The Mason Law Firm LLP.

12                           **PROPOSED SETTLEMENT AGREEMENT AND CLASS BENEFITS**

13           7.       The terms of the proposed settlement of the Action are set forth in detail in the  
14 Settlement Agreement and Release (“Agreement”). The Agreement has been filed in the action  
15 entitled *Kiser v. palmOne, Inc.*, No. 1-04-CV-022956 (Santa Clara Super. Ct.). It is available for  
16 public review at the office of the Clerk of the Court, Superior Court of California, County of  
17 Santa Clara, 191 N. First Street, San Jose, California, 95113. The Agreement can also be  
18 reviewed at the Website, <<http://www.kiserSettlement.com>>. In summary, the Agreement, if  
19 approved, requires the following:

- 20                           •   **Reimbursement of Out of Pocket Repair Costs:** Consumers who incurred  
21 Out of Pocket Costs to repair the Covered Palm Product, to ship the device to  
22 Palm for repair, or who paid an “advance exchange fee” to have Palm  
23 immediately ship a replacement device prior to repair and in lieu of  
24 replacement of the allegedly broken device, are eligible to be reimbursed for  
25 all or a portion of those Out of Pocket Costs incurred solely as a result of the  
26 Fliplid Issue if they submit a timely and valid claim. Those consumers who  
27 owned the Covered Palm Product for 0-1 year before experiencing a Fliplid  
28 Issue shall receive 100% of his or her Out of Pocket Costs if they submit a

1                   timely and valid claim. Those consumers who owned the Covered Palm  
2                   Product for 1-2 years before experiencing a Fliplid Issue shall receive 75% of  
3                   his or her Out of Pocket Costs if they submit a timely and valid claim. Those  
4                   consumers who owned the Covered Palm Product for more than 2 years  
5                   before experiencing a Fliplid Issue shall receive 50% of his or her Out of  
6                   Pocket Costs if they submit a timely and valid claim.

7                   • **\$20 or \$40 Discount:** Furthermore, each member of the Settlement Class  
8                   who timely submits a valid Claim Form and Proof of Purchase during the  
9                   Claim Period is eligible to receive a discount of \$20 on a minimum purchase  
10                  of \$60, or a discount of \$40 on a minimum purchase of \$120, at the election of  
11                  the Settlement Class Member (“Selected Discount”) towards purchase of new  
12                  products from Palm’s online Trêo Store at [www.palm.com](http://www.palm.com) during the  
13                  Redemption Period. These discounts are applicable to a single purchase. In  
14                  addition, free shipping will be provided for the newly purchased Palm  
15                  product. Each Settlement Class Member must attest under penalty of perjury  
16                  that he or she experienced a Fliplid Issue with a Covered Palm Product.

17                 • **Claims Form:** To be eligible for the Selected Discount discussed above, a  
18                 Settlement Class Member must make a claim by completing and submitting a  
19                 Claim Form that may be printed from the Website:

20                 **<http://www.kiser settlement.com>.** If the claim is timely and valid, the  
21                 claimant will be sent via e-mail a Promotional Code that will allow the  
22                 Settlement Class Member to receive the Selected Discount (one Promotional  
23                 Code per qualifying product). Claimants who do not have a valid email  
24                 address and wish to receive their Promotional Code via U.S. mail may so  
25                 indicate on their Claim Form.

26                 • **Claim Period:** The time period in which each Settlement Class Member will  
27                 be able to submit a Claim Form commences on August 14, 2006 and will  
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1 terminate on February 13, 2007. All claims must be postmarked on or before  
2 February 13, 2007 and be received by March 7, 2007.

- 3 • **Redemption and Payment Period:** The period in which each Settlement  
4 Class Member (who has submitted a valid Claim Form) can redeem the  
5 Selected Discount shall commence one week after the settlement becomes  
6 final in the courts, and shall terminate 270 days thereafter (the “Redemption  
7 Period”). The payment of Out of Pocket Costs will also be made during the  
8 Redemption Period.
- 9 • **Attorneys’ Fees and Costs and Payment to Plaintiff:** Subject to Court  
10 approval, Palm agrees to pay Class Counsel up to, and will not contest the  
11 reasonableness of, \$323,500 in attorneys’ fees and costs. Subject to Court  
12 approval, Palm agrees to pay up to \$1,500 to plaintiff Spencer Kiser. No  
13 other request for attorneys’ fees and costs from Palm will be made. Palm  
14 shall not be liable for any additional fees or expenses of Plaintiff, or any  
15 Settlement Class Member in connection with the Action.
- 16 • **Costs of Notice:** Palm will pay the cost of published notice, posting of the  
17 notice on the Website, mail notice and/or email notice to all consumers of  
18 Covered Palm Products whose email addresses Palm has in its database.

19 **YOUR OPTIONS WITH RESPECT TO THE PROPOSED SETTLEMENT**

20 If you fit within the definition of the Settlement Class and you agree with the settlement,  
21 you need do nothing at all to indicate your consent. **You will be a member of the Settlement**  
22 **Class and will be deemed to have agreed to the terms of the settlement.** This also means that  
23 you shall have fully, finally, and forever irrevocably released, relinquished and discharged with  
24 prejudice Palm, and each of its predecessors, successors, parents, subsidiaries and affiliates, and  
25 each of their past and present officers, directors, employees, agents, attorneys, accountants,  
26 advisors, shareholders, representatives, partners, heirs and assigns, from any and all liabilities,  
27 claims, cross-claims, causes of action, rights, actions, suits, debts, liens, contracts, agreements,  
28 damages, restitution, disgorgement, costs, attorneys’ fees, losses, expenses, obligations or

1 demands, of any kind whatsoever, whether in arbitration, administrative, or judicial proceedings,  
2 whether as individual claims or as claims asserted on a class basis or on behalf of the general  
3 public, whether known or unknown, suspected or unsuspected, threatened, asserted or  
4 unasserted, actual or contingent, liquidated or unliquidated, whether under federal statutory law,  
5 federal common law or federal regulation, or the statutory or common laws or regulations of any  
6 and all states or subdivisions, which are alleged or could have been alleged in the Action,  
7 including claims relating to any Fliplid Issue in the Covered Palm Product. By operation of the  
8 Final Judgment and Order of Dismissal, all Settlement Class Members shall be deemed to have  
9 waived any and all provisions, rights, and benefits conferred by section 1542 of the California  
10 Civil Code or any comparable statutory or common law provision of any other jurisdiction with  
11 respect to the Released Claims. Section 1542 reads as follows:

12 CERTAIN CLAIMS NOT AFFECTED BY GENERAL RELEASE: A GENERAL  
13 RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE CREDITOR DOES  
14 NOT KNOW OR SUSPECT TO EXIST IN HIS FAVOR AT THE TIME OF  
15 EXECUTING THE RELEASE, WHICH IF KNOWN BY HIM MUST HAVE  
16 MATERIALLY AFFECTED HIS SETTLEMENT WITH THE DEBTOR.  
17 ALTHOUGH THE RELEASES GRANTED UNDER THE PROPOSED  
18 SETTLEMENT ARE NOT GENERAL RELEASES, ALL SETTLEMENT  
19 CLASS MEMBERS NONETHELESS EXPRESSLY ACKNOWLEDGE THAT  
20 THEY ARE WAIVING THE PROTECTIONS OF SECTION 1542 AND OF ANY  
21 COMPARABLE STATUTORY OR COMMON LAW PROVISION OF ANY  
22 OTHER JURISDICTION.

23 Released Claims shall not include claims for personal injury and claims involving product  
24 defects unrelated to a Fliplid Issue.

25 8. If you fit within the definition of the Settlement Class, you may decide, for  
26 whatever reason, that you do not want to participate in the settlement. If you wish to be excluded  
27 from the settlement, you must send a letter or postcard, to be received no later than October 16,  
28 2006 and include your name, address, telephone number, the name of the case *Kiser v. palmOne, Inc.*, No. 1-04-CV-022956 (Santa Clara Super. Ct.), and a statement that you do not wish to participate in the settlement. All requests for exclusion must be signed by or on behalf of the person requesting exclusion and be sent to the following counsel:

Class Counsel  
Jason Baker  
Alexander Hawes & Audet LLP  
152 North Third Street, Ste. 600

San Jose, CA 95112

Any such requests must be *received* no later than October 16, 2006.

9. If you validly and timely request exclusion from the settlement (i) you will be excluded from the Settlement Class and you will not be permitted to object to the settlement; (ii) you will not be bound by the final judgment entered in this Action, and (iii) you will not be precluded from otherwise prosecuting, at your expense, any individual claim, if timely, you may have related to the matters referred to in the Action. **If you do not request exclusion from the Settlement Class, you will be bound by the settlement terms.**

10. If you fit within the definition of the Settlement Class and you would like to participate in the settlement, you still have the option of objecting to the settlement under the procedures set forth below in paragraph 14. You may (but need not) choose to hire, at your expense, an attorney to represent you for this purpose. However, you will be barred from bringing your own individual lawsuit asserting claims related to the matters referred to in the Action, and, if your objection is rejected, you will be bound by the final judgment just as if you had not objected. You additionally have the right to consult and/or retain an attorney of choice at your own expense to advise you regarding the settlement and your rights in connection with the settlement and the settlement hearing. You have the right, either personally or through an attorney retained by you, to appear and/or to seek to intervene in the Action.

**THE SETTLEMENT HEARING**

11. A settlement hearing will be held at the following location:

Date: November 14, 2006 Time: 9:00 a.m.

Superior Court of California, County of Santa Clara  
161 N. First Street, Dept. 17C  
San Jose, California, 95113  
The Honorable Jack Komar

13. The purpose of the settlement hearing is for the judge to decide whether the proposed settlement is fair, and should be approved.

14. **If you wish to object, you must file a written objection with the basis for the objection with the Court. You need not appear at the settlement hearing to object. If you do wish to appear for and be heard at the settlement hearing, you should so indicate in**

1 **your written objection. Your objection must indicate that you are a member of the**  
2 **Settlement Class.** The written objection must be received by the Clerk of the Court, Superior  
3 Court of California, County of Santa Clara, 191 N. First Street, San Jose, California, 95113 no  
4 later than **October 16, 2006**, and must identify the case as *Kiser v. palmOne, Inc.*, No. 1-04-CV-  
5 022956 (Santa Clara Super. Ct.). You must also mail copies of your written objection to the  
6 counsel listed in paragraph 9 above. All objections must be received by October 16, 2006.  
7 SETTLEMENT CLASS MEMBERS WHO DO NOT TIMELY MAKE THEIR OBJECTIONS  
8 IN THIS MANNER WILL BE DEEMED TO HAVE WAIVED ALL OBJECTIONS AND  
9 SHALL NOT BE HEARD AT THIS HEARING.

10 15. If the settlement is not approved or if it is approved but the judgment entered by  
11 the Court does not become final, the Court will vacate the conditional certification of the class,  
12 appointment of the class representative and Class Counsel, and the case will proceed as though  
13 the Settlement Class had never been certified.

#### 14 **MORE INFORMATION**

15 16. More information can be obtained by examining the file for *Kiser v. palmOne,*  
16 *Inc.*, No. 1-04-CV-022956, at the Superior Court of California, County of Santa Clara, 191 N.  
17 First Street, San Jose, California, 95113, during business hours. This Agreement can also be  
18 reviewed at the Website, <<http://www.kiserSettlement.com>>. Additionally, you may obtain  
19 more information about the claim process by sending an e-mail to [kiser.claims@palm.com](mailto:kiser.claims@palm.com), or by  
20 calling the Claims Administrator at 1-866-689-7256 or Class Counsel at 1 877 462 5772.

21 **Questions should not be directed to the Court.**

22 17. The publication of this Notice is not an expression of any opinion by the Court as  
23 to the merits of the lawsuit or as to the fairness of the proposed settlement. This notice is  
24 published to advise you of the pendency of the Action, the proposed settlement, and your rights  
25 with respect thereto.