

PUBLISHED

Filed: January 15, 2009

**UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT**

PALISADES COLLECTIONS LLC,

Plaintiff,

v.

CHARLENE SHORTS,

Defendant-Appellee,

v.

AT&T MOBILITY LLC; AT&T
MOBILITY CORPORATION,

Counter-Defendants-Appellants.

No. 08-2188
(5:07-cv-00098-
IMK)

CHAMBER OF COMMERCE OF THE
UNITED STATES,

Amicus Supporting Appellants.

ORDER

The Court denies appellants' petition for rehearing en banc. No member of the Court requested a poll on the petition for rehearing en banc. Judge Niemeyer filed an opinion dissenting from the denial of rehearing en banc.

Entered at the direction of Chief Judge Williams.

For the Court

/s/ Patricia S. Connor
Clerk

NIEMEYER, Circuit Judge, dissenting from the denial of rehearing en banc:

While I find the petition for rehearing persuasive, I do not request a poll of the court. Because there is a respectable division of opinion on the issue of whether a party joined as an additional defendant to a counterclaim has rights under the Class Action Fairness Act, I prefer to release this case to the early consideration of the Supreme Court. This is an important issue of statutory interpretation, and the majority's interpretation creates an unfortunate loophole in the Class Action Fairness Act that only the Supreme Court can now rectify.