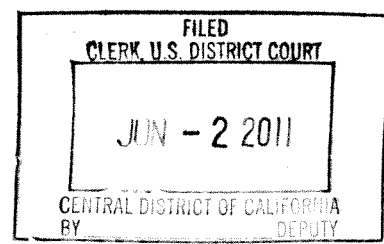


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WILLIAM E. MATSUMURA (Bar No. 129106)
AT&T SERVICES LEGAL DEPARTMENT
1150 S. Olive Street, Suite 2850
Los Angeles, California 90015
Telephone: 213-743-6722
Facsimile: 213-748-1230

Attorneys for Defendant
AT&T Mobility LLC



COPY

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

PHYLLIS CONWAY,
Plaintiff,

v.

AT&T, INC, a California
Corporation; ERICK ALVAREZ, an
individual; and DOES 1 TO 25,
inclusive.
Defendants.

CV11-04713 JAK (AJW)

CASE NO. ..

NOTICE OF REMOVAL TO THE
UNITED STATES DISTRICT COURT
FOR THE CENTRAL DISTRICT OF
CALIFORNIA PURSUANT TO 28
U.S.C. SECTIONS 1331 AND 1441(B)

[FEDERAL QUESTION: EMPLOYEE
RETIREMENT INCOME SECURITY
ACT AND LABOR MANAGEMENT
RELATIONS ACT]

DECLARATION OF FRED SCHUTZ

TO THE UNITED STATES DISTRICT COURT FOR THE CENTRAL
DISTRICT OF CALIFORNIA, AND PLAINTIFF PHYLLIS CONWAY:

PLEASE TAKE NOTICE that defendant AT&T Mobility LLC (erroneously
sued as AT&T, Inc.), on June 2, 2011, shall remove and hereby removes this action
from the Superior Court of the State of California for the County of Los Angeles to
this United States District Court for the Central District of the State of California,
on the basis of federal question jurisdiction. In furtherance of this Notice,
defendants show:

- 1. On May 12, 2011, Plaintiff Phyllis Conway effectuated service by mail

1 and Notice of Acknowledgement of Service upon defendant AT&T Mobility LLC,
2 a Complaint, filed in the Superior Court of the State of California for the County of
3 Los Angeles entitled "PHYLLIS CONWAY, Plaintiff, vs. AT&T, INC., a
4 California corporation; ERICK ALVAREZ, an individual; and DOES 1 through 25,
5 inclusive," Case No. SC 111946 ("Complaint"). The Complaint alleges a cause of
6 action for "Wrongful Termination in Violation of Public Policy," "Intentional
7 Infliction of Emotional Distress," "Discrimination," "Harassment," and
8 "Retaliation."

9 2. Removing defendant AT&T Mobility LLC first received notice of the
10 Plaintiff's Complaint, as amended, and the allegations contained therein on May 21,
11 2011, when service was effectuated upon AT&T Mobility LLC by mail and Notice
12 and Acknowledgement of receipt. Accordingly, pursuant to 28 U.S.C. Section
13 1446(b), this Notice of Removal is timely. It is filed within thirty days after receipt
14 by defendant AT&T Mobility LLC of a copy of the pleading setting forth the claim
15 for relief upon which this action is based. A true and correct copy of each of the
16 documents which constitute all process, pleadings and orders received by
17 defendants in this action are attached as the following:

- 18 • Exhibit A Summons served on each defendant, Complaint
19 with attachments;
- 20 • Exhibit B Amendment to Complaint naming defendant AT&T Mobility
21 LLC as a defendant; and,
- 22 • Exhibit C Notice and Acknowledgement of Receipt dated May 21, 2011.

23 3. Federal Question Jurisdiction. This Court has jurisdiction over this
24 action under 28 U.S.C. Sections 1331 and 1441(b) and 29 U.S.C. Section 185. This
25 civil action brought by Plaintiff in state court is a civil action over which the district
26 courts of the United States have original jurisdiction.

27 4. The time within which Defendants have to file a notice of removal of
28 the action with this Court has not expired. 28 U.S.C. §1446(b).

1 5. This federal court has jurisdiction of this civil action on two separate
2 and independent jurisdictional grounds.

3 6. First, this matter is a civil action over which this Court has original
4 jurisdiction under the provisions of the Employee Retirement and Income Security
5 Act, 29 U.S.C. §1001 et seq. and is one which may be removed to this Court by
6 Defendants pursuant to 28 U.S.C. §1441(a) and (b) in that it is founded upon
7 claims arising under the laws of the United States. At all times relevant to the
8 underlying action, Plaintiff was a participant in various employee benefit plans
9 offered through his employer, including the AT&T Mobility Disability Benefits
10 Program (“Disability Plan”), an employee welfare benefit plan under ERISA.

11 7. As is alleged in her Complaint, third cause of action styled
12 “Discrimination” and fourth cause of action styled “Harassment,” “plaintiff has
13 suffered...lost wages and other employment benefits...” Complaint, para. 50 and
14 72. A cause of action for recovery of lost employment benefits is governed by the
15 employee benefits plans that define said benefits.

16 8. Although Plaintiff has not explicitly referred to ERISA or the
17 Disability Plan in her state court action, it is clear from her papers that Plaintiff is
18 stating a cause of action for recovery of employment benefits. All state court
19 claims for said benefits are completely preempted by ERISA. See, Pilot Life Ins.
20 Co. v. Dedeaux, 481 U.S. 41, 54-56; 107 S. Ct. 1549, 1556-1557; 95 L.Ed.2nd 39,
21 52-53 (1987); Marin Gen. Hosp. v. Modesto & Empire Traction Co., 581 F.3rd 941,
22 945 (9th Cir. 2009).

23 9. Plaintiff cannot avoid federal question jurisdiction by artfully
24 pleading claims with state law labels, including claims related to the administration
25 of an employee welfare benefit plan. See e.g., Metropolitan Life Ins. Co. v.
26 Taylor, 481 U.S. 58, 67; 107 S.Ct. 1542, 1548; 95 L.Ed.2nd 55, 65 (1987). All state
27 court claims for plaintiff’s “benefits” are completely preempted by ERISA.

28 10. Second, this matter is a civil action over which this Court has original

1 jurisdiction under the provisions of Section 301 of the Labor Management
2 Relations Act ("LMRA"), 29 U.S.C. §185 and is one which may be removed to
3 this Court by Defendants pursuant to 28 U.S.C. §1441(a) and (b) in that it is
4 founded upon claims arising under the laws of the United States. Defendant
5 AT&T Mobility LLC is, and at all times relevant to this action has been, an
6 employer and a party to a Collective Bargaining Agreement with the
7 Communications Workers of America ("CWA") within the meaning of the LMRA.
8 29 U.S.C. §185.

9 11. As is alleged in her Complaint, third cause of action styled
10 "Discrimination" and fourth cause of action styled "Harassment," "plaintiff has
11 suffered...lost wages and other employment benefits..." Complaint, para. 50 and
12 72. Recovery of said wage losses are governed by the terms of employment set
13 out in the Collective Bargaining Agreement between AT&T Mobility LLC and the
14 Communications Workers of America ("Collective Bargaining Agreement" or
15 "CBA"). The portions of the CBA that are relevant to this removal are attached as
16 Exhibit D to the Schutz Dec. filed herewith.

17 12. Where the terms of a CBA govern the essential terms of employment,
18 the LMRA completely preempts any state law claims including any claim for lost
19 wages because the claim will be decided under federal labor law (the LMRA) and
20 not state law. A state law claim is completely preempted by the LMRA if the
21 terms of the relevant CBA determine the outcome of the claim. "Any such suit is
22 purely a creature of federal law, notwithstanding the fact that state law would
23 provide a cause of action in the absence of §301." Franchise Tax Board of State of
24 Calif. V. Construction Laborers Vacation Trust for Southern Calif., 463 U.S. 1, 23;
25 103 S.Ct. 2841, 2854; L.Ed.3rd (1983).

26 13. In her Complaint, plaintiff asserts a "lost wages" claim within her 3rd
27 Cause of Action styled "Discrimination" and 4th Cause of Action styled
28 "Harassment" (Complaint paras. 42 and 60.) A claim for lost wages arises

1 squarely and exclusively under the terms of the CBA—it “requires the
2 interpretation of a collective bargaining agreement.” Lingle v. Norge Div. of
3 Magic Chef, Inc. 486 U.S. 399, 413; 108 S.Ct. 1877, 1885; 100 L.Ed.2nd 410, 423
4 (1988). Under these circumstances, plaintiff’s recovery for wages claim is
5 completely preempted by by Section 301 of the Labor Management Relations Act
6 of 1947, as amended, 29 U.S.C. Section 185.

7 14. With the attachment of the Complaint and amendment thereto
8 naming defendant AT&T Mobility LLC, this Court has been provided with a copy
9 of all process, pleadings, and orders in this action to date.

10 15. Following receipt of a court-conformed copy of this "NOTICE OF
11 REMOVAL OF ACTION UNDER 29 U.S.C. SECTION 1001, ET SEQ.
12 [FEDERAL QUESTION: EMPLOYEE RETIREMENT INCOME SECURITY
13 ACT],” Defendants will promptly file a copy thereof with the Clerk of the Superior
14 Court of California in and for the County of Los Angeles. 28 U.S.C. §1446(d).

15 16. Venue. Venue lies in the United States District Court for the Central
16 District of California because Plaintiff’s state court action was filed in and is
17 pending in the Superior Court of California, in and for the County of Los Angeles,
18 which is in this judicial district. 28 U.S.C. §1441(a).

19 17. Defendants are informed and believe that no other defendants have
20 been served by Plaintiff. Defendant AT&T, Inc. was erroneously named and
21 plaintiff has stipulated to dismissing said defendant and the parties have agreed to
22 substituting AT&T Mobility LLC as the sole corporate, employer defendant.
23 Individual defendant Erick Alvarez has not been served.

24 ///

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1 WHEREFORE, Defendants request that the Court accept this Notice of
2 Removal and that the action pending against them in the Superior Court of the State
3 of California, County of Los Angeles, Case No. SC111946, be removed to this
4 Court for all proceedings.

5 Dated: June 2, 2011

6 AT&T SERVICES LEGAL DEPT.

7
8 By: 
9 WILLIAM E. MATSUMURA
10 Attorneys for Defendants
11 AT&T MOBILITY LLC (erroneously
12 sued as AT&T, Inc. and substituted
13 therefore)

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**SUMMONS
(CITACION JUDICIAL)**

SUM-100

**NOTICE TO DEFENDANT: AT & T, Inc., a California
(AVISO AL DEMANDADO): Corporation; Erick Alvarez, an
individual; and Does 1 to 25, inclusive.**

**YOU ARE BEING SUED BY PLAINTIFF: Phyllis Conway
(LO ESTÁ DEMANDANDO EL DEMANDANTE):**

FOR COURT USE ONLY
(SOLO PARA USO DE LA CORTE)
ORIGINAL FILED
LOS ANGELES SUPERIOR COURT
JOHN A CLARKE CLERK
MAR 23 2011
By: _____
DEPUTY

NOTICE! You have been sued. The court may decide against you without your being heard unless you respond within 30 days. Read the information below.

You have 30 CALENDAR DAYS after this summons and legal papers are served on you to file a written response at this court and have a copy served on the plaintiff. A letter or phone call will not protect you. Your written response must be in proper legal form if you want the court to hear your case. There may be a court form that you can use for your response. You can find these court forms and more information at the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), your county law library, or the courthouse nearest you. If you cannot pay the filing fee, ask the court clerk for a fee waiver form. If you do not file your response on time, you may lose the case by default, and your wages, money, and property may be taken without further warning from the court.

There are other legal requirements. You may want to call an attorney right away. If you do not know an attorney, you may want to call an attorney referral service. If you cannot afford an attorney, you may be eligible for free legal services from a nonprofit legal services program. You can locate these nonprofit groups at the California Legal Services Web site (www.lawhelpcalifornia.org), the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), or by contacting your local court or county bar association. NOTE: The court has a statutory lien for waived fees and costs on any settlement or arbitration award of \$10,000 or more in a civil case. The court's lien must be paid before the court will dismiss the case. **¡AVISO! Lo han demandado. Si no responde dentro de 30 días, la corte puede decidir en su contra sin escuchar su versión. Lea la información a continuación.**

Tiene 30 DÍAS DE CALENDARIO después de que le entreguen esta citación y papeles legales para presentar una respuesta por escrito en esta corte y hacer que se entregue una copia al demandante. Una carta o una llamada telefónica no lo protegen. Su respuesta por escrito tiene que estar en formato legal correcto al dease que procesen su caso en la corte. Es posible que haya un formulario que usted pueda usar para su respuesta. Puede encontrar estos formularios de la corte y más información en el Centro de Ayuda de las Cortes de California (www.sucorte.ca.gov), en la biblioteca de leyes de su condado o en la corte que le quede más cerca. Si no puede pagar la cuota de presentación, pida al secretario de la corte que le dé un formulario de exención de pago de cuotas. Si no presenta su respuesta a tiempo, puede perder el caso por incumplimiento y la corte le podrá quitar su sueldo, dinero y bienes sin más advertencia.

Hay otros requisitos legales. Es recomendable que llame a un abogado inmediatamente. Si no conoce a un abogado, puede llamar a un servicio de remisión a abogados. Si no puede pagar a un abogado, es posible que cumpla con los requisitos para obtener servicios legales gratuitos de un programa de servicios legales sin fines de lucro. Puede encontrar estos grupos sin fines de lucro en el sitio web de California Legal Services, (www.lawhelpcalifornia.org), en el Centro de Ayuda de las Cortes de California, (www.sucorte.ca.gov) o poniéndose en contacto con la corte o el colegio de abogados locales. AVISO: Por ley, la corte tiene derecho a reclamar las cuotas y los costos exentos por imponer un gravamen sobre cualquier recuperación de \$10,000 ó más de valor recibida mediante un acuerdo o una concesión de arbitraje en un caso de derecho civil. Tiene que pagar el gravamen de la corte antes de que la corte pueda desechar el caso.

The name and address of the court is:
(El nombre y dirección de la corte es):

Santa Monica Courthouse
1725 Main Street
1725 Main Street
Santa Monica, CA 90401

CASE NUMBER:
(Número del Caso):

SC111946

The name, address, and telephone number of plaintiff's attorney, or plaintiff without an attorney, is:
(El nombre, la dirección y el número de teléfono del abogado del demandante, o del demandante que no tiene abogado, es):

Andrew L. Treger, Esq., Bar No. 240637 310-226-7570 310-867-2721
WEBER & BAER
2029 Century Park East, Suite 1400
Los Angeles, CA 90067

Clerk, by _____ Deputy
(Secretario) (Adjunto)

(For proof of service of this summons, use Proof of Service of Summons (form POS-010).)
(Para prueba de entrega de esta citación use el formulario Proof of Service of Summons, (POS-010)).

NOTICE TO THE PERSON SERVED: You are served

- 1. as an individual defendant.
- 2. as the person sued under the fictitious name of (specify):
- 3. on behalf of (specify):

- under: CCP 416.10 (corporation) CCP 416.60 (minor)
- CCP 416.20 (defunct corporation) CCP 416.70 (conservatee)
- CCP 416.40 (association or partnership) CCP 416.90 (authorized person)
- other (specify):

- 4. by personal delivery on (date):

[SEAL]

1 Jonathan S. Weber, Esq. (CA Bar No. 110138)
2 Andrew L. Treger, Esq. (CA Bar No. 240637)
3 WEBER & BAER
4 2029 Century Park East, Ste. 1400
5 Los Angeles, CA 90067
6 Tel: (310) 226-7570
7 Fax: (310) 867-2721

FILED
LOS ANGELES SUPERIOR COURT
MAR 23 2011
JOHN A. CLARKE, CLERK
BY Y. K. K... DEPUTY

8 Attorneys for Plaintiff

9 SUPERIOR COURT OF THE STATE OF CALIFORNIA
10 COUNTY OF LOS ANGELES - WEST DISTRICT

11 PHYLLIS CONWAY,
12 Plaintiff,
13 vs.
14 AT & T, Inc., a California Corporation;
15 ERICK ALVAREZ an individual; and
16 DOES 1 TO 25, inclusive.
17 Defendants.

CASE NO. **SC111946**
Gerald Rosenberg, Judge

COMPLAINT FOR:

- 1. WRONGFUL TERMINATION IN VIOLATION OF PUBLIC POLICY
 - 2. INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS
 - 3. DISCRIMINATION (GOV. CODE SEC. 12900 et. seq.)
 - 4. HARASSMENT
 - 5. RETALIATION
- CASE MANAGEMENT CONFERENCE

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JUL 11 2011 830am Dept. K
Date

DEMAND FOR A JURY TRIAL

All allegations made in this Complaint are based on information and belief except those allegations which pertain to plaintiff, which are based upon personal knowledge. Plaintiff's information and belief are based upon; inter alia, Plaintiff's own investigation and investigation conducted by Plaintiff's counsel.

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I. INTRODUCTION

1. Plaintiff asserts an individual claim for wrongful termination and other damages resulting from plaintiff's employment at AT & T, Inc. (Hereinafter "ATT"), in the City of Los Angeles, County of Los Angeles, California.

II. PARTIES

2. The plaintiff, Phyllis Conway, resides in Los Angeles County, California. Plaintiff's employment and claims occurred in Los Angeles County, California. All acts, conduct and events alleged herein occurred within California, including Los Angeles County.

3. Prior to filing of this complaint, Plaintiff has timely filed her complaint to FEHA and subsequently a Right to Sue Letter was issued. Please see attached Exhibit 1.

4. Defendant ATT has their principal place of business in Los Angeles, California. Based on information and belief, ATT does business in Los Angeles County, California and at all time relevant herein.

5. At all times material to this complaint, Plaintiff is informed and believes that defendant Erick Alvarez is an individual living in and/or employed in the County of Los Angeles, State of California.

6. The true names or capacities whether individual, corporate or otherwise, of Defendant Does 1 through 25, inclusive, are unknown to Plaintiff who therefore sues said Defendants by such fictitious names. Plaintiff believes and alleges that each of the Defendants designated herein by fictitious names is in some manner legally responsible for the events and happenings herein referred to and caused damages proximately and foreseeably to Plaintiff as alleged herein. Plaintiff will amend this Complaint to show their true names and capacities when same are ascertained, as well as the manner in which each fictitious defendant is responsible.

7. At all times herein mentioned, each of the Defendants was the agent, servant, partner, aider and abettor, co-conspirator and joint venturer of each of the remaining Defendants herein and were at all times operating and acting within the purpose and scope of said agency, service, employment, partnership, conspiracy and joint venture and rendered substantial assistance and encouragement to the other Defendants, knowing that their conduct constituted a breach of duty.

1 8. There exists, and at all times herein mentioned, there existed, a unity of interest in
2 ownership between certain Defendants and other certain Defendants such that any individuality and
3 separateness between the certain Defendants has ceased and these Defendants are the alter ego of the other
4 certain Defendants and exerted control over those defendants. Adherence to the fiction of the separate
5 existence of these certain Defendants as any entity distinct from other certain Defendants will permit an
6 abuse of the corporate privilege and would sanction fraud and would promote injustice.
7

8
9 **III. DESCRIPTION OF THE CLAIMS**

10 9. At all times herein mentioned, plaintiff Conway was an adult female, and therefore a
11 member of a protected class as defined by FEHA (Fair Employment and Housing Act), Government Code
12 Sections 12900 et. seq.

13 10. This action is brought pursuant to the California Fair Employment and Housing Act,
14 Government Code Sections 12900 et. seq. and all applicable statutes and common law.

15 11. At all times mentioned in this complaint, plaintiff is informed and believes that Defendant
16 ATT and each of them regularly employed 5 or more persons, bringing defendant ATT within the
17 provisions of section 12900 et. sec.

18 12. Plaintiff Conway commenced an employment relationship with defendant, ATT, on or about
19 January 17, 1994, as a sales consultant and performed extraordinarily well receiving praise and expected
20 continual employment at ATT.

21 13. During the course of employment, in approximately 2004, Plaintiff, who is 69 years old,
22 developed Osteoporosis and Arthritis in the lumbar spine and began to require additional sitting time.
23 Defendant ATT required Plaintiff to stand and remove her chair from the floor area when managerial
24 employees were present.

25 14. Subsequently, Plaintiff has been a participant in several class action lawsuits against ATT.
26 The most recent class action lawsuit was initiated in November of 2010. Upon learning of Plaintiff's
27 involvement in said class action lawsuit, defendant questioned Plaintiff about her participation in said
28 lawsuit.

1 15. In February of 2009, Plaintiff complained and filed a grievance in 2009 when defendant
2 violated company policy.

3 16. Thereafter, Defendants began to discriminate against, harass and humiliate Plaintiff.
4 Plaintiff was subjected to repetitive abusive text messages and conduct by defendant. Further, Defendant
5 Alvarez began to unjustly criticize Plaintiff's job performance as a pretext for discriminating against
6 Plaintiff on the basis of her age, disability and in retaliation for participating in a class action lawsuit and
7 filing of a grievance.

8 17. Plaintiff was wrongfully terminated on January 20, 2011 as a result of said discrimination.

9 18. Indeed, plaintiff was subjected to ongoing discrimination against her because of her age,
10 disability and in retaliation for participating in a class action lawsuit and filing of a grievance. Plaintiff was
11 subjected to unwanted harassing behavior by Defendant Alvarez because of the aforementioned prohibited
12 reasons. Plaintiff was unfairly and improperly targeted and criticized by Defendant Alvarez because of her
13 religion despite outstanding work performance. Defendant Alvarez's conduct was an attempt to create a
14 hostile work environment which would result in Plaintiff's resignation and/or would result in Plaintiff's
15 unlawful termination. When such wrongful conduct did not result in such action by plaintiff, plaintiff was
16 wrongfully terminated on January 20, 2011. Defendant Alvarez permeated the workplace with
17 discriminatory intimidation, ridicule and insult which created a hostile work environment. The harassing
18 conduct was severe and pervasive and a reasonable individual in a similar situation to Plaintiff would have
19 considered the work environment to be hostile or abusive. Plaintiff considered the work environment to be
20 hostile or abusive as the harassment altered the conditions of her employment. Defendant Alvarez and
21 Defendant ATT participated in, assisted and encouraged the harassing conduct which created the hostile
22 work environment for Plaintiff. As a result of the conduct of Defendant Alvarez and Defendant ATT,
23 Plaintiff was harmed and Defendants were substantial factors in causing harm to Plaintiff.

24 19. Defendant ATT failed to take all reasonable steps necessary to prevent harassment from
25 occurring in violation of Government Code Section 12940.

26 20. Further, Defendant ATT was grossly negligent and acted with reckless disregard in its
27 failure to protect Plaintiff from the above discussed discrimination and harassment and take appropriate
28 corrective action. Instead, Plaintiff was wrongfully terminated.

1 21. The conduct of defendants constitutes unlawful termination in violation of public policy and
2 in breach of the covenant of good faith and fair dealing in combination with retaliation for complaining
3 about this illegal behavior.

4 22. On March 17, 2011, Plaintiff filed a complaint with FEHA alleging multiple violations and
5 DFEH issued to plaintiff a right to sue letter.

6 23. As a result of defendants' actions against him, plaintiff has suffered and continues to suffer
7 damages, in the form of lost wages and other employment benefits, and severe emotional distress, the exact
8 amount of which will be proven at trial.

9 24. Defendants and each of them acted for the purpose of causing plaintiff to suffer financial
10 loss and severe emotional distress and are guilty of oppression and malice, justifying an award of
11 exemplary and punitive damages.

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15 **FIRST CAUSE OF ACTION**

16 **WRONGFUL TERMINATION IN VIOLATION OF PUBLIC POLICY**
17 **(On behalf of Plaintiff against Defendant ATT)**

18 25. Plaintiff incorporates by reference all other paragraphs of this complaint as if fully set forth
19 and further alleges as follows:

20 26. The above-described conduct of defendants constitutes retaliation, and wrongful termination
21 of plaintiff in violation of public policy embodied in the FEHA.

22 27. As a result of defendants; wrongful termination of her, plaintiff has suffered and continues
23 to suffer damages, in the form of lost wages and other employment benefits, and severe emotional distress
24 the exact amount of which will be proven at trial.

25 28. Defendants and each of them acted for the purpose of causing plaintiff to suffer financial
26 loss and severe emotional distress and are guilty of oppression and malice, justifying an award of
27 exemplary and punitive damages.

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SECOND CAUSE OF ACTION
INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS
(On behalf of Plaintiff against All Defendants)

29. Plaintiff incorporates by reference all other paragraphs of this complaint as if fully set forth and further alleges as follows:

30. Defendants ATT, Erick Alvarez and DOES 1 through 25, inclusive, owed Plaintiff Conway a duty of care not to create or impose any undue physical or mental stress on Plaintiff.

31. Within this time period complained of, Defendants, and each of them, breached that duty when they engaged in an intentional and/or negligent and dishonest course of conduct which was calculated to cause and/or it was foreseeable that it would cause, and which did cause Plaintiff extreme mental distress

32. The acts complained of were extreme and outrageous, and exceeded the bounds of those usually tolerated in a civilized community.

33. As a proximate result of the Defendants' conduct, Plaintiff has suffered and continues to suffer emotional distress, consisting of outrage, shock and humiliation, reasonably occurring and likely to occur based on the sexual harassment she experienced and the employer's failure to take immediate and appropriate action in response, all to her damage in an amount according to proof.

34. Each of the acts complained of herein were done willfully, maliciously and oppressively, and with the wrongful intention of injuring Plaintiff, from an improper and evil motive amounting to malice and in conscious or reckless disregard of the Plaintiff's rights. Plaintiff is thus entitled to recover punitive damages from Defendants, and each of them, in an amount according to proof.

THIRD CAUSE OF ACTION
DISCRIMINATION (GOV. CODE SEC. 12900 et. seq.)
(On behalf of Plaintiff against Defendant ATT)

35. Plaintiff incorporates by reference all other paragraphs of this complaint as if fully set forth and further alleges as follows:

1 36. At all times herein mentioned, plaintiff Conway was an adult female, and therefore a
2 member of a protected class as defined by FEHA (Fair Employment and Housing Act), Government Code
3 Sections 12900 et. seq.

4 37. This action is brought pursuant to the California Fair Employment and Housing Act,
5 Government Code Sections 12900 et. seq. and all applicable statutes and common law.

6 38. At all times mentioned in this complaint, plaintiff is informed and believes that Defendant
7 ATT and each of them regularly employed 5 or more persons, bringing defendant ATT within the
8 provisions of section 12900 et. sec.

9 39. Plaintiff Conway commenced an employment relationship with defendant, ATT, on or about
10 January 17, 1994, as a sales consultant and performed extraordinarily well receiving praise and expected
11 continual employment at Fastenal.

12 40. During the course of employment, in approximately 2004, Plaintiff, who is 69 years old,
13 developed Osteoporosis and Arthritis in the lumbar spine and began to require additional sitting time.
14 Defendant ATT required Plaintiff to stand and remove her chair from the floor area when managerial
15 employees were present.

16 41. Subsequently, Plaintiff has been a participant in several class action lawsuits against ATT.
17 The most recent class action lawsuit was initiated in November of 2010. Upon learning of Plaintiff's
18 involvement in said class action lawsuit, defendant questioned Plaintiff about her participation in said
19 lawsuit.

20 42. In February of 2009, Plaintiff complained and filed a grievance in 2009 when defendant
21 violated company policy.

22 43. Thereafter, Defendants began to discriminate against, harass and humiliate. Plaintiff was
23 subjected to repetitive abusive text messages and conduct by defendant. Further, Defendant Alvarez began
24 to unjustly criticize Plaintiff's job performance as a pretext for discriminating against Plaintiff on the basis
25 of her age, disability and in retaliation for participating in a class action lawsuit and filing of a grievance.

26 44. Plaintiff was wrongfully terminated on January 20, 2011 as a result of said discrimination.

27 45. Indeed, plaintiff was subjected to ongoing discrimination against her because of her age,
28 disability and in retaliation for participating in a class action lawsuit and filing of a grievance. Plaintiff was

1 subjected to unwanted harassing behavior by Defendant Alvarez because of the aforementioned prohibited
2 reasons. Plaintiff was unfairly and improperly targeted and criticized by Defendant Alvarez because of her
3 religion despite outstanding work performance. Defendant Alvarez's conduct was an attempt to create a
4 hostile work environment which would result in Plaintiff's resignation and/or would result in Plaintiff's
5 unlawful termination. When such wrongful conduct did not result in such action by plaintiff, plaintiff was
6 wrongfully terminated on January 20, 2011. Defendant Alvarez permeated the workplace with
7 discriminatory intimidation, ridicule and insult which created a hostile work environment. The harassing
8 conduct was severe and pervasive and a reasonable individual in a similar situation to Plaintiff would have
9 considered the work environment to be hostile or abusive. Plaintiff considered the work environment to be
10 hostile or abusive as the harassment altered the conditions of her employment. Defendant Alvarez and
11 Defendant ATT participated in, assisted and encouraged the harassing conduct which created the hostile
12 work environment for Plaintiff. As a result of the conduct of Defendant Alvarez and Defendant ATT,
13 Plaintiff was harmed and Defendants were substantial factors in causing harm to Plaintiff.

14 46. Defendant ATT failed to take all reasonable steps necessary to prevent harassment from
15 occurring in violation of Government Code Section 12940.

16 47. Further, Defendant ATT was grossly negligent and acted with reckless disregard in its
17 failure to protect Plaintiff from the above discussed discrimination and harassment and take appropriate
18 corrective action. Instead, Plaintiff was wrongfully terminated.

19 48. The conduct of defendants constitutes unlawful termination in violation of public policy and
20 in breach of the covenant of good faith and fair dealing in combination with retaliation for complaining
21 about this illegal behavior.

22 49. On March 17, 2011, Plaintiff filed a complaint with FEHA alleging multiple violations and
23 DFEH issued to plaintiff a right to sue letter.

24 50. As a result of defendants' discriminatory actions against him, plaintiff has suffered and
25 continues to suffer damages, in the form of lost wages and other employment benefits, and severe
26 emotional distress, the exact amount of which will be proven at trial.

27 51. Defendant's and each of them acted for the purpose of causing plaintiff to suffer financial
28

1 loss and severe emotional distress and are guilty of oppression and malice, justifying an award exemplary
2 and punitive damages.

3
4 **FOURTH CAUSE OF ACTION**

5 **HARASSMENT**
6 **(On behalf of Plaintiff against All Defendants)**

7 52. Plaintiff incorporates by reference all other paragraphs of this complaint as if fully set
8 forth and further alleges as follows:

9 53 At all times herein mentioned, plaintiff Conway was an adult female, and therefore a
10 member of a protected class as defined by FEHA (Fair Employment and Housing Act), Government Code
11 Sections 12900 et. seq.

12 54. This action is brought pursuant to the California Fair Employment and Housing Act,
13 Government Code Sections 12900 et. seq. and all applicable statutes and common law.

14 55. At all times mentioned in this complaint, plaintiff is informed and believes that Defendant
15 ATT and each of them regularly employed 5 or more persons, bringing defendant ATT within the
16 provisions of section 12900 et. sec.

17 56. Plaintiff Conway commenced an employment relationship with defendant, ATT, on or about
18 January 17, 1994, as a sales consultant and performed extraordinarily well receiving praise and expected
19 continual employment at Fastenal.

20 57. During the course of employment, in approximately 2004, Plaintiff, who is 69 years old,
21 developed Osteoperosis and Arthritis in the lumbar spine and began to require additional sitting time.
22 Defendant ATT required Plaintiff to stand and remove her chair from the floor area when managerial
23 employees were present.

24 58. Subsequently, Plaintiff has been a participant in several class action lawsuits against ATT.
25 The most recent class action lawsuit was initiated in November of 2010. Upon learning of Plaintiff's
26 involvement in said class action lawsuit, defendant questioned Plaintiff about her participation in said
27 lawsuit.

28

1 59. In February of 2009, Plaintiff complained and filed a grievance in 2009 when defendant
2 violated company policy.

3 60. Thereafter, Defendants began to discriminate against, harass and humiliate. Plaintiff was
4 subjected to repetitive abusive text messages and conduct by defendant. Further, Defendant Alvarez began
5 to unjustly criticize Plaintiff's job performance as a pretext for discriminating against Plaintiff on the basis
6 of her age, disability and in retaliation for participating in a class action lawsuit and filing of a grievance.

7 61. Plaintiff was wrongfully terminated on January 20, 2011 as a result of said discrimination.

8 62. Indeed, plaintiff was subjected to ongoing discrimination against her because of her age,
9 disability and in retaliation for participating in a class action lawsuit and filing of a grievance. Plaintiff was
10 subjected to unwanted harassing behavior by Defendant Alvarez because of the aforementioned prohibited
11 reasons. Plaintiff was unfairly and improperly targeted and criticized by Defendant Alvarez because of her
12 religion despite outstanding work performance. Defendant Alvarez's conduct was an attempt to create a
13 hostile work environment which would result in Plaintiff's resignation and/or would result in Plaintiff's
14 unlawful termination. When such wrongful conduct did not result in such action by plaintiff, plaintiff was
15 wrongfully terminated on January 20, 2011. Defendant Alvarez permeated the workplace with
16 discriminatory intimidation, ridicule and insult which created a hostile work environment. The harassing
17 conduct was severe and pervasive and a reasonable individual in a similar situation to Plaintiff would have
18 considered the work environment to be hostile or abusive. Plaintiff considered the work environment to be
19 hostile or abusive as the harassment altered the conditions of her employment. Defendant Alvarez and
20 Defendant ATT participated in, assisted and encouraged the harassing conduct which created the hostile
21 work environment for Plaintiff. As a result of the conduct of Defendant Alvarez and Defendant ATT,
22 Plaintiff was harmed and Defendants were substantial factors in causing harm to Plaintiff.

23 63. Defendant ATT failed to take all reasonable steps necessary to prevent harassment from
24 occurring in violation of Government Code Section 12940.

25 64. Further, Defendant ATT was grossly negligent and acted with reckless disregard in its
26 failure to protect Plaintiff from the above discussed discrimination and harassment and take appropriate
27 corrective action. Instead, Plaintiff was wrongfully terminated.

1 65. The conduct of defendants constitutes unlawful discrimination based on plaintiff's religion,
2 including harassment, in violation of the *California Fair Employment and Housing Act*.

3 66. As a result of defendant's discriminatory actions against her, plaintiff has suffered and
4 continues to suffer damages, in the form of loss wages and other employment benefits, and severe
5 emotional and physical distress, the exact amount of which will be proven at trial.

6 67. Defendants and each of them acted for the purpose of causing plaintiff to suffer financial
7 loss and severe emotional distress and physical distress and are guilty of oppression of malice, justifying an
8 award of exemplary and punitive damages.

9 68. As a result of defendant's discriminatory acts as alleged herein, plaintiff is entitled to
10 reasonable attorneys fees and costs of said suit, as provided by *California Government Code* Section
11 12965(b)

12
13 **FIFTH CAUSE OF ACTION**

14 **RETALIATION**

15 **(On behalf of Plaintiff against Defendant ATT)**

16
17 69. Plaintiff incorporates by reference all other paragraphs of this Complaint as if fully set
18 forth and further alleges as follows:

19 70. Plaintiff complained of defendants unlawful business conduct.

20 71. Defendants terminated plaintiff's employment in retaliation for her rejection of this
21 conduct and complaints regarding such behavior.

22 72. As a direct and proximate result of the foregoing, plaintiff sustained damages, in the form
23 of lost wages and other employment benefits, and severe emotional distress, the exact amount of which will
24 be proven at trial.

25 73. Defendants and each of them acted for the purpose of causing plaintiff to suffer financial
26 loss and severe emotional distress and are guilty of oppression and malice, justifying a award of exemplary
27 and punitive damages.

1 **WHEREFORE, Plaintiff prays for judgment on behalf of himself individually as follows:**

- 2
- 3 1. For compensatory and general damages in a sum in excess of the jurisdictional minimum of this
- 4 Court and according to proof;
- 5 2. For punitive and exemplary damages as allowed and according to proof;
- 6 3. For treble damages pursuant to California Civil Code Section 3345;
- 7 4. For prejudgment interest on all damages as is allowed by the laws of the State of California;
- 8 5. For attorneys' fees, expenses, and costs of the suit;
- 9 6. Such other, further and different relief which the Court deems necessary, just and proper.

10

11 DATED: March 17, 2011

WEBER & BAER

12

13 BY: 

14 Andrew L. Treger, Esq.
15 Attorneys for Plaintiff

16 **JURY DEMAND**

17 Plaintiff demands a trial by jury on all issues which may be tried by a jury.

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LAW OFFICES
WEBER & BAER
2000 CENTURY PARK EAST, SUITE 1400
LOS ANGELES, CA 90007
TELEPHONE (310) 226-7570
FAX (310) 226-7571

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EXHIBIT 1

*** EMPLOYMENT ***

**COMPLAINT OF DISCRIMINATION UNDER
THE PROVISIONS OF THE CALIFORNIA
FAIR EMPLOYMENT AND HOUSING ACT**

DFEH # E201011R7110-00
DFEH USE ONLY

CALIFORNIA DEPARTMENT OF FAIR EMPLOYMENT AND HOUSING

YOUR NAME (Indicate Mr. or Ms.) CONWAY, PHYLLIS TELEPHONE NUMBER (INCLUDE AREA CODE) (310)994-8977

ADDRESS 2144 DUXBURY CIRCLE

CITY/STATE/ZIP LOS ANGELES, CA 90034 COUNTY LOS ANGELES COUNTY CODE 037

NAMED IS THE EMPLOYER, PERSON, LABOR ORGANIZATION, EMPLOYMENT AGENCY, APPRENTICESHIP COMMITTEE, OR STATE OR LOCAL GOVERNMENT AGENCY WHO DISCRIMINATED AGAINST ME:

NAME AT&T INC. TELEPHONE NUMBER (include Area Code) (310)473-3649

ADDRESS 2333 S SEPULVEDA BLVD DFEH USE ONLY

CITY/STATE/ZIP LOS ANGELES, CA 90064 COUNTY LOS ANGELES COUNTY CODE 037

NO. OF EMPLOYEES/MEMBERS (if known) 150+ DATE MOST RECENT OR CONTINUING DISCRIMINATION TOOK PLACE (month, day, and year) 01/20/2011 RESPONDENT CODE 00

THE PARTICULARS ARE:

I allege that on about or before 01/20/2011, the following conduct occurred:

- | | | |
|--|--|--|
| <input checked="" type="checkbox"/> termination | <input type="checkbox"/> denial of employment | <input type="checkbox"/> denial of family or medical leave |
| <input type="checkbox"/> laid off | <input type="checkbox"/> denial of promotion | <input type="checkbox"/> denial of pregnancy leave |
| <input type="checkbox"/> demotion | <input type="checkbox"/> denial of transfer | <input type="checkbox"/> denial of equal pay |
| <input checked="" type="checkbox"/> harassment | <input type="checkbox"/> denial of accommodation | <input type="checkbox"/> denial of right to wear pants |
| <input type="checkbox"/> genetic characteristics testing | <input checked="" type="checkbox"/> failure to prevent discrimination or retaliation | <input type="checkbox"/> denial of pregnancy accommodation |
| <input type="checkbox"/> constructive discharge (forced to quit) | <input checked="" type="checkbox"/> retaliation | |
| <input type="checkbox"/> impermissible non-job-related inquiry | <input type="checkbox"/> other (specify) _____ | |

by AT&T INC.

because of:

- | | | | |
|---|---|---|---|
| <input type="checkbox"/> sex | <input type="checkbox"/> national origin/ancestry | <input checked="" type="checkbox"/> disability (physical or mental) | <input checked="" type="checkbox"/> retaliation for engaging in protected activity or requesting a protected leave or accommodation |
| <input checked="" type="checkbox"/> age | <input type="checkbox"/> marital status | <input type="checkbox"/> medical condition (cancer or genetic characteristic) | |
| <input type="checkbox"/> religion | <input type="checkbox"/> sexual orientation | <input type="checkbox"/> other (specify) _____ | |
| <input type="checkbox"/> race/color | <input type="checkbox"/> association | | |

State of what you believe to be the reason(s) for discrimination

I WAS HARASSED, DISCRIMINATED AND WRONGFULLY TERMINATED ON THE BASIS OF MY AGE, PHYSICAL DISABILITY, AND IN RETALIATION FOR MY INVOLVEMENT IN A CLASS ACTION LAWSUIT AGAINST AT & T, INC.

I wish to pursue this matter in court. I hereby request that the Department of Fair Employment and Housing provide a right-to-sue. I understand that if I want a federal notice of right-to-sue, I must visit the U.S. Equal Employment Opportunity Commission (EEOC) to file a complaint within 30 days of receipt of the DFEH "Notice of Case Closure," or within 300 days of the alleged discriminatory act, whichever is earlier.

I have not been coerced into making this request, nor do I make it based on fear of retaliation if I do not do so. I understand it is the Department of Fair Employment and Housing's policy to not process or reopen a complaint once the complaint has been closed on the basis of "Complainant Elected Court Action."

By submitting this complaint I am declaring under penalty of perjury under the laws of the State of California that the foregoing is true and correct of my own knowledge except as to matters stated on my information and belief, and as to those matters I believe it to be true.

Dated 03/17/2011

At Los Angeles

DATE FILED: 03/17/2011

DFEH-300-03a (02/08)
DEPARTMENT OF FAIR EMPLOYMENT AND HOUSING

STATE OF CALIFORNIA

EXHIBIT A 21



DEPARTMENT OF FAIR EMPLOYMENT & HOUSING

1055 WEST 7TH STREET, SUITE 1400, LOS ANGELES, CA 90017

(213) 439-6770

www.dfeh.ca.gov

March 17, 2011

RE: E201011R7110-00
CONWAY/AT&T INC.

NOTICE TO COMPLAINANT'S ATTORNEY

Enclosed is a copy of your client's complaint of discrimination filed with the Department of Fair Employment and Housing (DFEH) pursuant to the California Fair Employment and Housing Act, Government Code section 12900 et seq. Also enclosed is a copy of your client's Notice of Case Closure, which constitutes your client's right-to-sue notice. Pursuant to Government Code section 12962, DFEH will not serve these documents on the employer.

Please refer to the enclosed Notice of Case Closure for information regarding filing a private lawsuit in the State of California.

Sincerely,

Tina Walker

Tina Walker
District Administrator

Enclosure: Complaint of Discrimination
Notice of Case Closure



DEPARTMENT OF FAIR EMPLOYMENT & HOUSING

Phyllis W. Cheng, Director

1055 WEST 7TH STREET, SUITE 1400, LOS ANGELES, CA 90017
(213) 439-6770
www.dfeh.ca.gov

March 17, 2011

CONWAY, PHYLLIS
2144 DUXBURY CIRCLE
LOS ANGELES, CA 90034

RE: E201011R7110-00
CONWAY/AT&T INC.

Dear CONWAY, PHYLLIS:

NOTICE OF CASE CLOSURE

This letter informs that the above-referenced complaint that was filed with the Department of Fair Employment and Housing (DFEH) has been closed effective March 17, 2011 because an immediate right-to-sue notice was requested. DFEH will take no further action on the complaint.

This letter is also the Right-To-Sue Notice. According to Government Code section 12965, subdivision (b), a civil action may be brought under the provisions of the Fair Employment and Housing Act against the person, employer, labor organization or employment agency named in the above-referenced complaint. The civil action must be filed within one year from the date of this letter.

If a federal notice of Right-To-Sue is wanted, the U.S. Equal Employment Opportunity Commission (EEOC) must be visited to file a complaint within 30 days of receipt of this DFEH *Notice of Case Closure* or within 300 days of the alleged discriminatory act, whichever is earlier.

• Notice of Case Closure
Page Two

DFEH does not retain case files beyond three years after a complaint is filed, unless the case is still open at the end of the three-year period.

Sincerely,

Tina Walker

Tina Walker
District Administrator

cc: Case File

ERICK ALVAREZ
RETAIL SALES MANAGER
AT & T, INC.
2333 S. SEPULVEDA BLVD.
LOS ANGELES, CA 90064

EXHIBIT A 24

DFEH-200-43 (06/06)

*** EMPLOYMENT ***

**COMPLAINT OF DISCRIMINATION UNDER
THE PROVISIONS OF THE CALIFORNIA
FAIR EMPLOYMENT AND HOUSING ACT**

DFEH # E201011R7110-01

DFEH USE ONLY

CALIFORNIA DEPARTMENT OF FAIR EMPLOYMENT AND HOUSING

YOUR NAME (Indicate Mr. or Ms.) CONWAY, PHYLLIS TELEPHONE NUMBER (INCLUDE AREA CODE) (310)984-8977

ADDRESS 2144 DUXBURY CIRCLE

CITY/STATE/ZIP LOS ANGELES, CA, 90034 COUNTY LOS ANGELES COUNTY CODE 037

NAMED IS THE EMPLOYER, PERSON, LABOR ORGANIZATION, EMPLOYMENT AGENCY, APPRENTICESHIP COMMITTEE, OR STATE OR LOCAL GOVERNMENT AGENCY WHO DISCRIMINATED AGAINST ME:

NAME ALVAREZ, ERICK TELEPHONE NUMBER (Include Area Code) (310)473-3648

ADDRESS 2333 S. SEPULVEDA BLVD. DFEH USE ONLY

CITY/STATE/ZIP LOS ANGELES, CA 90064 COUNTY COUNTY CODE

NO. OF EMPLOYEES/MEMBERS (if known) 150+ DATE MOST RECENT OR CONTINUING DISCRIMINATION TOOK PLACE (month, day, and year) 01/20/2011 RESPONDENT CODE 01

THE PARTICULARS ARE:

I allege that on about or before 01/20/2011, the following conduct occurred:

- | | | |
|--|--|--|
| <input checked="" type="checkbox"/> termination | <input type="checkbox"/> denial of employment | <input type="checkbox"/> denial of family or medical leave |
| <input type="checkbox"/> laid off | <input type="checkbox"/> denial of promotion | <input type="checkbox"/> denial of pregnancy leave |
| <input type="checkbox"/> demotion | <input type="checkbox"/> denial of transfer | <input type="checkbox"/> denial of equal pay |
| <input checked="" type="checkbox"/> harassment | <input type="checkbox"/> denial of accommodation | <input type="checkbox"/> denial of right to wear pants |
| <input type="checkbox"/> genetic characteristics testing | <input checked="" type="checkbox"/> failure to prevent discrimination or retaliation | <input type="checkbox"/> denial of pregnancy accommodation |
| <input type="checkbox"/> constructive discharge (forced to quit) | <input checked="" type="checkbox"/> retaliation | |
| <input type="checkbox"/> impermissible non-job-related inquiry | <input type="checkbox"/> other (specify) _____ | |

by ALVAREZ, ERICK **RETAIL SALES MANAGER**

because of:

<input type="checkbox"/> sex	<input type="checkbox"/> national origin/ancestry	<input checked="" type="checkbox"/> disability (physical or mental)	<input checked="" type="checkbox"/> retaliation for engaging in protected activity or requesting a protected leave or accommodation
<input checked="" type="checkbox"/> age	<input type="checkbox"/> marital status	<input type="checkbox"/> medical condition (cancer or genetic characteristics)	
<input type="checkbox"/> religion	<input type="checkbox"/> sexual orientation	<input type="checkbox"/> other (specify) _____	
<input type="checkbox"/> race/color	<input type="checkbox"/> association		

State of what you believe to be the reason(s) for discrimination: I WAS HARASSED, DISCRIMINATED AND WRONGFULLY TERMINATED ON THE BASIS OF MY AGE, PHYSICAL DISABILITY, AND IN RETALIATION FOR MY INVOLVEMENT IN A CLASS ACTION LAWSUIT AGAINST AT & T, INC.

I wish to pursue this matter in court. I hereby request that the Department of Fair Employment and Housing provide a right-to-sue. I understand that if I want a federal notice of right-to-sue, I must visit the U.S. Equal Employment Opportunity Commission (EEOC) to file a complaint within 30 days of receipt of the DFEH "Notice of Case Closure," or within 300 days of the alleged discriminatory act, whichever is earlier.

I have not been coerced into making this request, nor do I make it based on fear of retaliation if I do not do so. I understand it is the Department of Fair Employment and Housing's policy to not process or reopen a complaint once the complaint has been closed on the basis of "Complainant Elected Court Action."

By submitting this complaint I am declaring under penalty of perjury under the laws of the State of California that the foregoing is true and correct of my own knowledge except as to matters stated on my information and belief, and as to those matters I believe it to be true.

Dated 03/17/2011
At Los Angeles

DATE FILED: 03/17/2011



DEPARTMENT OF FAIR EMPLOYMENT & HOUSING

1055 WEST 7TH STREET, SUITE 1400, LOS ANGELES, CA 90017

(213) 439-6770

www.dfeh.ca.gov

Phyllis W. Chang, Director

March 17, 2011

RE: E201011R7110-01
CONWAY/ALVAREZ, ERICK, AS AN INDIVIDUAL

NOTICE TO COMPLAINANT'S ATTORNEY

Enclosed is a copy of your client's complaint of discrimination filed with the Department of Fair Employment and Housing (DFEH) pursuant to the California Fair Employment and Housing Act, Government Code section 12900 et seq. Also enclosed is a copy of your client's Notice of Case Closure, which constitutes your client's right-to-sue notice. Pursuant to Government Code section 12962, DFEH will not serve these documents on the employer.

Please refer to the enclosed Notice of Case Closure for information regarding filing a private lawsuit in the State of California.

Sincerely,

Tina Walker

Tina Walker
District Administrator

Enclosure: Complaint of Discrimination
Notice of Case Closure



DEPARTMENT OF FAIR EMPLOYMENT & HOUSING

1055 WEST 7TH STREET, SUITE 1400, LOS ANGELES, CA 90017
(213) 438-6770
www.dfeh.ca.gov

Phyllis W. Chang, Director

March 17, 2011

CONWAY, PHYLLIS
2144 DUXBURY CIRCLE
LOS ANGELES, CA, 90034

RE: E201011R7110-01
CONWAY/ALVAREZ, ERICK, AS AN INDIVIDUAL

Dear CONWAY, PHYLLIS:

NOTICE OF CASE CLOSURE

This letter informs that the above-referenced complaint that was filed with the Department of Fair Employment and Housing (DFEH) has been closed effective March 17, 2011 because an immediate right-to-sue notice was requested. DFEH will take no further action on the complaint.

This letter is also the Right-To-Sue Notice. According to Government Code section 12965, subdivision (b), a civil action may be brought under the provisions of the Fair Employment and Housing Act against the person, employer, labor organization or employment agency named in the above-referenced complaint. The civil action must be filed within one year from the date of this letter.

If a federal notice of Right-To-Sue is wanted, the U.S. Equal Employment Opportunity Commission (EEOC) must be visited to file a complaint within 30 days of receipt of this DFEH *Notice of Case Closure* or within 300 days of the alleged discriminatory act, whichever is earlier.

Notice of Case Closure
Page Two

DFEH does not retain case files beyond three years after a complaint is filed, unless the case is still open at the end of the three-year period.

Sincerely,

Tina Walker

Tina Walker
District Administrator

cc: Case File

ERICK ALVAREZ
RETAIL SALES MANAGER
AT & T, INC.
2333 S. SEPULVEDA BLVD.
LOS ANGELES, CA 90064

EXHIBIT A 28

**SUMMONS
(CITACION JUDICIAL)**

SUM-100

**NOTICE TO DEFENDANT: AT & T, Inc., a California
(AVISO AL DEMANDADO): Corporation; Erick Alvarez, an
individual; and Does 1 to 25, inclusive.**

FOR COURT USE ONLY
(SOLO PARA USO DE LA CORTE)

FILED
LOS ANGELES SUPERIOR COURT

MAR 23 2011

JOHN A. CLARKE, CLERK
BY J. Dentham DEPUTY

**YOU ARE BEING SUED BY PLAINTIFF: Phyllis Conway
(LO ESTÁ DEMANDANDO EL DEMANDANTE):**

NOTICE! You have been sued. The court may decide against you without your being heard unless you respond within 30 days. Read the information below.

You have 30 CALENDAR DAYS after this summons and legal papers are served on you to file a written response at this court and have a copy served on the plaintiff. A letter or phone call will not protect you. Your written response must be in proper legal form if you want the court to hear your case. There may be a court form that you can use for your response. You can find these court forms and more information at the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), your county law library, or the courthouse nearest you. If you cannot pay the filing fee, ask the court clerk for a fee waiver form. If you do not file your response on time, you may lose the case by default, and your wages, money, and property may be taken without further warning from the court.

There are other legal requirements. You may want to call an attorney right away. If you do not know an attorney, you may want to call an attorney referral service. If you cannot afford an attorney, you may be eligible for free legal services from a nonprofit legal services program. You can locate these nonprofit groups at the California Legal Services Web site (www.lawhelpcalifornia.org), the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), or by contacting your local court or county bar association. NOTE: The court has a statutory lien for waived fees and costs on any settlement or arbitration award of \$10,000 or more in a civil case. The court's lien must be paid before the court will dismiss the case. **¡AVISO!** Lo han demandado. Si no responde dentro de 30 días, la corte puede decidir en su contra sin escuchar su versión. Lea la información a continuación.

Tiene 30 DÍAS DE CALENDARIO después de que le entreguen esta citación y papeles legales para presentar una respuesta por escrito en esta corte y hacer que se entregue una copia al demandante. Una carta o una llamada telefónica no lo protegen. Su respuesta por escrito tiene que estar en formato legal correcto si desea que procesen su caso en la corte. Es posible que haya un formulario que usted pueda usar para su respuesta. Puede encontrar estos formularios de la corte y más información en el Centro de Ayuda de las Cortes de California (www.sucorte.ca.gov), en la biblioteca de leyes de su condado o en la corte que le quede más cerca. Si no puede pagar la cuota de presentación, pida al secretario de la corte que le dé un formulario de exención de pago de cuotas. Si no presenta su respuesta a tiempo, puede perder el caso por incumplimiento y la corte le podrá quitar su sueldo, dinero y bienes sin más advertencia.

Hay otros requisitos legales. Es recomendable que llame a un abogado inmediatamente. Si no conoce a un abogado, puede llamar a un servicio de remisión a abogados. Si no puede pagar a un abogado, es posible que cumpla con los requisitos para obtener servicios legales gratuitos de un programa de servicios legales sin fines de lucro. Puede encontrar estos grupos sin fines de lucro en el sitio web de California Legal Services (www.lawhelpcalifornia.org), en el Centro de Ayuda de las Cortes de California (www.sucorte.ca.gov) o poniéndose en contacto con la corte o el colegio de abogados locales. **AVISO:** Por ley, la corte tiene derecho a reclamar las cuotas y los costos exentos por imponer un gravamen sobre cualquier recuperación de \$10,000 ó más de valor recibida mediante un acuerdo o una concesión de arbitraje en un caso de derecho civil. Tiene que pagar el gravamen de la corte antes de que la corte pueda desear el caso.

The name and address of the court is:
(El nombre y dirección de la corte es):

Santa Monica Courthouse
1725 Main Street
1725 Main Street
Santa Monica, CA 90401

CASE NUMBER:
(Número del Caso):

SC111946

The name, address, and telephone number of plaintiff's attorney, or plaintiff without an attorney, is:

(El nombre, la dirección y el número de teléfono del abogado del demandante, o del demandante que no tiene abogado, es):

Andrew L. Treger, Esq., Bar No. 240637 310-226-7570 310-867-2721
WEBER & BAER
2029 Century Park East, Suite 1400
Los Angeles, CA 90067

DATE:
(Fecha) **MAR 23 2011**

JOHN A. CLARKE

Clerk, by
(Secretario)

J. Dentham

Deputy
(Adjunto)

(For proof of service of this summons, use Proof of Service of Summons (form POS-010).)
(Para prueba de entrega de esta citación use el formulario Proof of Service of Summons, (POS-010)).

NOTICE TO THE PERSON SERVED: You are served

1. as an individual defendant.
2. as the person sued under the fictitious name of (specify):
3. on behalf of (specify):

- under: CCP 416.10 (corporation) CCP 416.60 (minor)
 CCP 416.20 (defunct corporation) CCP 416.70 (conservatee)
 CCP 416.40 (association or partnership) CCP 416.90 (authorized person)
 other (specify):

4. by personal delivery on (date):



ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address):
 Andrew L. Treger, Esq., Bar No. 240637
 WEBER & BAER
 2029 Century Park East, Suite 1400
 2029 Century Park East, Suite 1400
 Los Angeles, CA 90067
 TELEPHONE NO: 310-226-7570 FAX NO: 310-867-2721

ATTORNEY FOR (Name): Phyllis Conway
 SUPERIOR COURT OF CALIFORNIA, COUNTY OF Los Angeles
 STREET ADDRESS: 1725 Main Street
 MAILING ADDRESS: 1725 Main Street
 CITY AND ZIP CODE: Santa Monica, CA 90401
 BRANCH NAME: West District

CASE NAME: Phyllis Conway v. AT & T, Inc., et al.

CIVIL CASE COVER SHEET
 Unlimited (Amount demanded exceeds \$25,000) Limited (Amount demanded is \$25,000 or less)

Complex Case Designation
 Counter Joinder
 Filed with first appearance by defendant (Cal. Rules of Court, rule 3.402)

FOR COURT USE ONLY
FILED
 LOS ANGELES SUPERIOR COURT
 MAR 23 2011
 JOHN A. CLARKE, CLERK
 BY Janis [Signature] DEPUTY

CASE NUMBER: **SC111946**
 JUDGE: Charles [Signature]
 DEPT: Charles [Signature]

Items 1-6 below must be completed (see instructions on page 2).

1. Check one box below for the case type that best describes this case:
- | | | |
|---|--|--|
| <p>Auto Tort</p> <input type="checkbox"/> Auto (22)
<input type="checkbox"/> Uninsured motorist (46)
<p>Other P/VPD/W/D (Personal Injury/Property Damage/Wrongful Death) Tort</p> <input type="checkbox"/> Asbestos (04)
<input type="checkbox"/> Product liability (24)
<input type="checkbox"/> Medical malpractice (46)
<input type="checkbox"/> Other P/VPD/W/D (23)
<p>Non-P/VPD/W/D (Other) Tort</p> <input type="checkbox"/> Business tort/unfair business practice (07)
<input type="checkbox"/> Civil rights (08)
<input type="checkbox"/> Defamation (13)
<input type="checkbox"/> Fraud (16)
<input type="checkbox"/> Intellectual property (19)
<input type="checkbox"/> Professional negligence (25)
<input type="checkbox"/> Other non-P/VPD/W/D tort (35)
<p>Employment</p> <input checked="" type="checkbox"/> Wrongful termination (36)
<input type="checkbox"/> Other employment (15) | <p>Contract</p> <input type="checkbox"/> Breach of contract/warranty (06)
<input type="checkbox"/> Rule 3.740 collections (09)
<input type="checkbox"/> Other collections (09)
<input type="checkbox"/> Insurance coverage (18)
<input type="checkbox"/> Other contract (37)
<p>Real Property</p> <input type="checkbox"/> Eminent domain/inverse condemnation (14)
<input type="checkbox"/> Wrongful eviction (33)
<input type="checkbox"/> Other real property (26)
<p>Unlawful Detainer</p> <input type="checkbox"/> Commercial (31)
<input type="checkbox"/> Residential (32)
<input type="checkbox"/> Drugs (38)
<p>Judicial Review</p> <input type="checkbox"/> Asset forfeiture (05)
<input type="checkbox"/> Petition re: arbitration award (11)
<input type="checkbox"/> Writ of mandate (02)
<input type="checkbox"/> Other judicial review (39) | <p>Provisionally Complex Civil Litigation (Cal. Rules of Court, rules 3.408-3.403)</p> <input type="checkbox"/> Antitrust/Trade regulation (03)
<input type="checkbox"/> Construction defect (10)
<input type="checkbox"/> Mass tort (40)
<input type="checkbox"/> Securities litigation (28)
<input type="checkbox"/> Environmental/Toxic tort (30)
<input type="checkbox"/> Insurance coverage claims arising from the above listed provisionally complex case types (41)
<p>Enforcement of Judgment</p> <input type="checkbox"/> Enforcement of judgment (20)
<p>Miscellaneous Civil Complaint</p> <input type="checkbox"/> RICO (27)
<input type="checkbox"/> Other complaint (not specified above) (42)
<p>Miscellaneous Civil Petition</p> <input type="checkbox"/> Partnership and corporate governance (21)
<input type="checkbox"/> Other petition (not specified above) (43) |
|---|--|--|

2. This case is is not complex under rule 3.400 of the California Rules of Court. If the case is complex, mark the factors requiring exceptional judicial management:
- | | |
|--|--|
| a. <input type="checkbox"/> Large number of separately represented parties | d. <input type="checkbox"/> Large number of witnesses |
| b. <input type="checkbox"/> Extensive motion practice raising difficult or novel issues that will be time-consuming to resolve | e. <input type="checkbox"/> Coordination with related actions pending in one or more courts in other counties, states, or countries, or in a federal court |
| c. <input type="checkbox"/> Substantial amount of documentary evidence | f. <input type="checkbox"/> Substantial postjudgment judicial supervision |
3. Remedies sought (check all that apply): a. monetary b. nonmonetary, declaratory or injunctive relief c. punitive
4. Number of causes of action (specify): Five (Wrongful Termination, Discrimination, Harassment, IIED, Retaliation)
5. This case is is not a class action suit.
6. If there are any known related cases, file and serve a notice of related case. (You may use form CM-015.)
- Date: March 18, 2011
 Andrew L. Treger, Esq., Bar No. 240637
 (TYPE OR PRINT NAME) (SIGNATURE OF PARTY OR ATTORNEY FOR PARTY)

NOTICE

- Plaintiff must file this cover sheet with the first paper filed in the action or proceeding (except small claims cases or cases filed under the Probate Code, Family Code, or Welfare and Institutions Code). (Cal. Rules of Court, rule 3.220.) Failure to file may result in sanctions.
- File this cover sheet in addition to any cover sheet required by local court rule.
- If this case is complex under rule 3.400 et seq. of the California Rules of Court, you must serve a copy of this cover sheet on all other parties to the action or proceeding.
- Unless this is a collections case under rule 3.740 or a complex case, this cover sheet will be used for statistical purposes only.

INSTRUCTIONS ON HOW TO COMPLETE THE COVER SHEET

CM-010

To Plaintiffs and Others Filing First Papers. If you are filing a first paper (for example, a complaint) in a civil case, you must complete and file, along with your first paper, the *Civil Case Cover Sheet* contained on page 1. This information will be used to compile statistics about the types and numbers of cases filed. You must complete items 1 through 6 on the sheet. In item 1, you must check one box for the case type that best describes the case. If the case fits both a general and a more specific type of case listed in item 1, check the more specific one. If the case has multiple causes of action, check the box that best indicates the primary cause of action. To assist you in completing the sheet, examples of the cases that belong under each case type in item 1 are provided below. A cover sheet must be filed only with your initial paper. Failure to file a cover sheet with the first paper filed in a civil case may subject a party, its counsel, or both to sanctions under rules 2.30 and 3.220 of the California Rules of Court.

To Parties in Rule 3.740 Collections Cases. A "collections case" under rule 3.740 is defined as an action for recovery of money owed in a sum stated to be certain that is not more than \$25,000, exclusive of interest and attorney's fees, arising from a transaction in which property, services, or money was acquired on credit. A collections case does not include an action seeking the following: (1) tort damages, (2) punitive damages, (3) recovery of real property, (4) recovery of personal property, or (5) a prejudgment writ of attachment. The identification of a case as a rule 3.740 collections case on this form means that it will be exempt from the general time-for-service requirements and case management rules, unless a defendant files a responsive pleading. A rule 3.740 collections case will be subject to the requirements for service and obtaining a judgment in rule 3.740.

To Parties in Complex Cases. In complex cases only, parties must also use the *Civil Case Cover Sheet* to designate whether the case is complex. If a plaintiff believes the case is complex under rule 3.400 of the California Rules of Court, this must be indicated by completing the appropriate boxes in items 1 and 2. If a plaintiff designates a case as complex, the cover sheet must be served with the complaint on all parties to the action. A defendant may file and serve no later than the time of its first appearance a joinder in the plaintiff's designation, a counter-designation that the case is not complex, or, if the plaintiff has made no designation, a designation that the case is complex.

CASE TYPES AND EXAMPLES

Auto Tort

- Auto (22)—Personal Injury/Property Damage/Wrongful Death
- Uninsured Motorist (46) *(If the case involves an uninsured motorist claim subject to arbitration, check this item instead of Auto)*

Other PVPD/WD (Personal Injury/Property Damage/Wrongful Death) Tort

- Asbestos (04)
 - Asbestos Property Damage
 - Asbestos Personal Injury/Wrongful Death
- Product Liability *(not asbestos or toxic/environmental)* (24)
- Medical Malpractice (48)
 - Medical Malpractice—Physicians & Surgeons
 - Other Professional Health Care Malpractice
- Other PVPD/WD (23)
 - Premises Liability (e.g., slip and fall)
 - Intentional Bodily Injury/PD/WD (e.g., assault, vandalism)
 - Intentional Infliction of Emotional Distress
 - Negligent Infliction of Emotional Distress
- Other PVPD/WD

Non-PVPD/WD (Other) Tort

- Business Tort/Unfair Business Practice (07)
 - Civil Rights (e.g., discrimination, false arrest) *(not civil harassment)* (08)
 - Defamation (e.g., slander, libel) (13)
 - Fraud (16)
 - Intellectual Property (19)
 - Professional Negligence (25)
 - Legal Malpractice
 - Other Professional Malpractice *(not medical or legal)*
 - Other Non-PVPD/WD Tort (35)
- Employment**
- Wrongful Termination (36)
 - Other Employment (15)

Contract

- Breach of Contract/Warranty (06)
 - Breach of Rental/Lease Contract *(not unlawful detainer or wrongful eviction)*
 - Contract/Warranty Breach—Seller Plaintiff *(not fraud or negligence)*
 - Negligent Breach of Contract/Warranty
 - Other Breach of Contract/Warranty
- Collections (e.g., money owed, open book accounts) (09)
- Collection Case—Seller Plaintiff
- Other Promissory Note/Collections Case
- Insurance Coverage *(not provisionally complex)* (18)
 - Auto Subrogation
 - Other Coverage
- Other Contract (37)
 - Contractual Fraud
 - Other Contract Dispute

Real Property

- Eminent Domain/Inverse Condemnation (14)
- Wrongful Eviction (33)
- Other Real Property (e.g., quiet title) (26)
 - Writ of Possession of Real Property
 - Mortgage Foreclosure
 - Quiet Title
 - Other Real Property *(not eminent domain, landlord/tenant, or foreclosure)*

Unlawful Detainer

- Commercial (31)
- Residential (32)
 - Drugs (38) *(If the case involves illegal drugs, check this item; otherwise, report as Commercial or Residential)*

Judicial Review

- Asset Forfeiture (05)
- Petition Re: Arbitration Award (11)
- Writ of Mandate (02)
 - Writ—Administrative Mandamus
 - Writ—Mandamus on Limited Court Case Matter
 - Writ—Other Limited Court Case Review
- Other Judicial Review (39)
 - Review of Health Officer Order
 - Notice of Appeal—Labor Commissioner Appeals

Provisionally Complex Civil Litigation (Cal. Rules of Court Rules 3.400–3.403)

- Antitrust/Trade Regulation (03)
- Construction Defect (10)
- Claims Involving Mass Tort (40)
- Securities Litigation (28)
- Environmental/Toxic Tort (30)
- Insurance Coverage Claims *(arising from provisionally complex case type listed above)* (41)

Enforcement of Judgment

- Enforcement of Judgment (20)
 - Abstract of Judgment (Out of County)
 - Confession of Judgment *(non-domestic relations)*
 - State State Judgment
 - Administrative Agency Award *(not unpaid taxes)*
 - Petition/Certification of Entry of Judgment on Unpaid Taxes
 - Other Enforcement of Judgment Case

Miscellaneous Civil Complaint

- RICO (27)
- Other Complaint *(not specified above)* (42)
 - Declaratory Relief Only
 - Injunctive Relief Only *(non-harassment)*
 - Mechanics Lien
 - Other Commercial Complaint Case *(non-tort/non-complex)*
 - Other Civil Complaint *(non-tort/non-complex)*

Miscellaneous Civil Petition

- Partnership and Corporate Governance (21)
- Other Petition *(not specified above)* (43)
 - Civil Harassment
 - Workplace Violence
 - Elder/Dependent Adult Abuse
 - Election Contest
 - Petition for Name Change
 - Petition for Relief from Late Claim
 - Other Civil Petition

SHORT TITLE: Phyllis Conway v. AT & T, Inc., et al.

CASE NUMBER

SC111946

**CIVIL CASE COVER SHEET ADDENDUM AND STATEMENT OF LOCATION
(CERTIFICATE OF GROUNDS FOR ASSIGNMENT TO COURTHOUSE LOCATION)**

This form is required pursuant to LASC Local Rule 2.0 in all new civil case filings in the Los Angeles Superior Court.

Item I. Check the types of hearing and fill in the estimated length of hearing expected for this case:

JURY TRIAL? YES CLASS ACTION? YES LIMITED CASE? YES TIME ESTIMATED FOR TRIAL 5 HOURS/ DAYS

Item II. Select the correct district and courthouse location (4 steps - If you checked "Limited Case", skip to Item III, Pg. 4):

Step 1: After first completing the Civil Case Cover Sheet Form, find the main civil case cover sheet heading for your case in the left margin below, and, to the right in Column A, the Civil Case Cover Sheet case type you selected.

Step 2: Check one Superior Court type of action in Column B below which best describes the nature of this case.

Step 3: In Column C, circle the reason for the court location choice that applies to the type of action you have checked.

For any exception to the court location, see Los Angeles Superior Court Local Rule 2.0.

Applicable Reasons for Choosing Courthouse Location (See Column C below)

1. Class Actions must be filed in the County Courthouse, Central District.
2. May be filed in Central (Other county, or no Bodily Injury/Property Damage).
3. Location where cause of action arose.
4. Location where bodily injury, death or damage occurred.
5. Location where performance required or defendant resides.
6. Location of property or permanently garaged vehicle.
7. Location where petitioner resides.
8. Location wherein defendant/respondent functions wholly.
9. Location where one or more of the parties reside.
10. Location of Labor Commissioner Office.

Step 4: Fill in the information requested on page 4 in Item III; complete Item IV. Sign the declaration.

	A Civil Case Cover Sheet Category No.	B Type of Action (Check only one)	C Applicable Reasons - See Step 3 Above
Auto Tort	Auto (22)	<input type="checkbox"/> A7100 Motor Vehicle - Personal Injury/Property Damage/Wrongful Death	1., 2., 4.
	Uninsured Motorist (46)	<input type="checkbox"/> A7110 Personal Injury/Property Damage/Wrongful Death - Uninsured Motorist	1., 2., 4.
Other Personal Injury/Property Damage/Wrongful Death Tort	Asbestos (04)	<input type="checkbox"/> A6070 Asbestos Property Damage	2.
		<input type="checkbox"/> A7221 Asbestos - Personal Injury/Wrongful Death	2.
	Product Liability (24)	<input type="checkbox"/> A7260 Product Liability (not asbestos or toxic/environmental)	1., 2., 3., 4., 8.
	Medical Malpractice (48)	<input type="checkbox"/> A7210 Medical Malpractice - Physicians & Surgeons	1., 2., 4.
<input type="checkbox"/> A7240 Other Professional Health Care Malpractice		1., 2., 4.	
Non-Personal Injury/Property Damage/Wrongful Death Tort	Other Personal Injury Property Damage Wrongful Death (23)	<input type="checkbox"/> A7260 Premises Liability (e.g., slip and fall)	1., 2., 4.
		<input type="checkbox"/> A7230 Intentional Bodily Injury/Property Damage/Wrongful Death (e.g., assault, vandalism, etc.)	1., 2., 4.
		<input type="checkbox"/> A7270 Intentional Infliction of Emotional Distress	1., 2., 3.
		<input type="checkbox"/> A7220 Other Personal Injury/Property Damage/Wrongful Death	1., 2., 4.
Business Tort (07)	<input type="checkbox"/> A6029 Other Commercial/Business Tort (not fraud/breach of contract)	1., 2., 3.	
Civil Rights (08)	<input type="checkbox"/> A6006 Civil Rights/Discrimination	1., 2., 3.	
Defamation (13)	<input type="checkbox"/> A6010 Defamation (slander/libel)	1., 2., 3.	
Fraud (16)	<input type="checkbox"/> A6013 Fraud (no contract)	1., 2., 3.	

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Non-Personal Injury/Property Damage/
 Wrongful Death Tort (Cont'd.)
 Employment
 Contract
 Real Property
 Unlawful Detainer
 Judicial Review

A Civil Case Cover Sheet Category No.	B Type of Action (Check only one)	C Applicable Reasons - See Step 3 Above
Professional Negligence (25)	<input type="checkbox"/> A6017 Legal Malpractice <input type="checkbox"/> A6050 Other Professional Malpractice (not medical or legal)	1., 2., 3.
Other (36)	<input type="checkbox"/> A6025 Other Non-Personal Injury/Property Damage tort	2., 3.
Wrongful Termination (36)	<input checked="" type="checkbox"/> A6037 Wrongful Termination	1., 2., 3.
Other Employment (15)	<input type="checkbox"/> A6024 Other Employment Complaint Case <input type="checkbox"/> A6109 Labor Commissioner Appeals	1., 2., 3. 10.
Breach of Contract/Warranty (06) (not insurance)	<input type="checkbox"/> A6004 Breach of Rental/Lease Contract (not Unlawful Detainer or wrongful eviction) <input type="checkbox"/> A6008 Contract/Warranty Breach - Seller Plaintiff (no fraud/negligence) <input type="checkbox"/> A6019 Negligent Breach of Contract/Warranty (no fraud) <input type="checkbox"/> A6026 Other Breach of Contract/Warranty (not fraud or negligence)	2., 5. 2., 5. 1., 2., 5. 1., 2., 5.
Collections (09)	<input type="checkbox"/> A6002 Collections Case - Seller Plaintiff <input type="checkbox"/> A6012 Other Promissory Note/Collections Case	2., 5., 6. 2., 5.
Insurance Coverage (18)	<input type="checkbox"/> A6015 Insurance Coverage (not complex)	1., 2., 5., 8.
Other Contract (37)	<input type="checkbox"/> A6009 Contractual Fraud <input type="checkbox"/> A6031 Tortious Interference <input type="checkbox"/> A6027 Other Contract Dispute (not breach/insurance/fraud/negligence)	1., 2., 3., 5. 1., 2., 3., 5. 1., 2., 3., 8.
Eminent Domain/Inverse Condemnation (14)	<input type="checkbox"/> A7300 Eminent Domain/Condemnation Number of parcels _____	2.
Wrongful Eviction (33)	<input type="checkbox"/> A6023 Wrongful Eviction Case	2., 6.
Other Real Property (26)	<input type="checkbox"/> A6018 Mortgage Foreclosure <input type="checkbox"/> A6032 Quiet Title <input type="checkbox"/> A6060 Other Real Property (not eminent domain, landlord/tenant, foreclosure)	2., 6. 2., 6. 2., 6.
Unlawful Detainer - Commercial (31)	<input type="checkbox"/> A6021 Unlawful Detainer-Commercial (not drugs or wrongful eviction)	2., 6.
Unlawful Detainer - Residential (32)	<input type="checkbox"/> A6020 Unlawful Detainer-Residential (not drugs or wrongful eviction)	2., 6.
Unlawful Detainer - Drugs (38)	<input type="checkbox"/> A6022 Unlawful Detainer-Drugs	2., 6.
Asset Forfeiture (05)	<input type="checkbox"/> A6108 Asset Forfeiture Case	2., 6.
Petition re Arbitration (11)	<input type="checkbox"/> A6115 Petition to Compel/Confirm/Vacate Arbitration	2., 5.

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	A Civil Case Cover Sheet Category No.	B Type of Action (Check only one)	C Applicable Reasons - See Step 3 Above
Judicial Review (Cont'd.)	Writ of Mandate (02)	<input type="checkbox"/> A8151 Writ - Administrative Mandamus <input type="checkbox"/> A8152 Writ - Mandamus on Limited Court Case Matter <input type="checkbox"/> A8153 Writ - Other Limited Court Case Review	2., 8. 2. 2.
	Other Judicial Review (39)	<input type="checkbox"/> A8150 Other Writ / Judicial Review	2., 8.
Provisionally Complex Litigation	Antitrust/Trade Regulation (03)	<input type="checkbox"/> A8003 Antitrust/Trade Regulation	1., 2., 8.
	Construction Defect (10)	<input type="checkbox"/> A8007 Construction defect	1., 2., 3.
	Claims Involving Mass Tort (40)	<input type="checkbox"/> A8008 Claims Involving Mass Tort	1., 2., 8.
	Securities Litigation (28)	<input type="checkbox"/> A8036 Securities Litigation Case	1., 2., 8.
	Toxic Tort Environmental (30)	<input type="checkbox"/> A8038 Toxic Tort/Environmental	1., 2., 3., 8.
	Insurance Coverage Claims from Complex Case (41)	<input type="checkbox"/> A8014 Insurance Coverage/Subrogation (complex case only)	1., 2., 5., 8.
	Enforcement of Judgment (20)	<input type="checkbox"/> A8141 Sister State Judgment <input type="checkbox"/> A8180 Abstract of Judgment <input type="checkbox"/> A8107 Confession of Judgment (non-domestic relations) <input type="checkbox"/> A8140 Administrative Agency Award (not unpaid taxes) <input type="checkbox"/> A8114 Petition/Certificate for Entry of Judgment on Unpaid Tax <input type="checkbox"/> A8112 Other Enforcement of Judgment Case	2., 9. 2., 8. 2., 9. 2., 8. 2., 8. 2., 8., 9.
Miscellaneous Civil Complaints	RICO (27)	<input type="checkbox"/> A8033 Racketeering (RICO) Case	1., 2., 8.
	Other Complaints (Not Specified Above) (42)	<input type="checkbox"/> A8030 Declaratory Relief Only <input type="checkbox"/> A8040 Injunctive Relief Only (not domestic/harassment) <input type="checkbox"/> A8011 Other Commercial Complaint Case (non-tort/non-complex) <input type="checkbox"/> A8000 Other Civil Complaint (non-tort/non-complex)	1., 2., 8. 2., 8. 1., 2., 8. 1., 2., 8.
	Partnership Corporation Governance (21)	<input type="checkbox"/> A8113 Partnership and Corporate Governance Case	2., 8.
Miscellaneous Civil Petitions	Other Petitions (Not Specified Above) (43)	<input type="checkbox"/> A8121 Civil Harassment <input type="checkbox"/> A8123 Workplace Harassment <input type="checkbox"/> A8124 Elder/Dependent Adult Abuse Case <input type="checkbox"/> A8190 Election Contest <input type="checkbox"/> A8110 Petition for Change of Name <input type="checkbox"/> A8170 Petition for Relief from Late Claim Law <input type="checkbox"/> A8100 Other Civil Petition	2., 3., 9. 2., 3., 9. 2., 3., 9. 2. 2., 7. 2., 3., 4., 8. 2., 9.

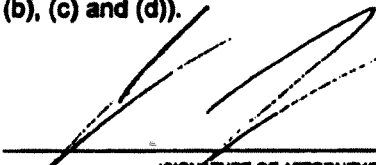
SHORT TITLE: <u>Phyllis Conway v. AT & T, Inc., et al.</u>	CASE NUMBER
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Item III. Statement of Location: Enter the address of the accident, party's residence or place of business, performance, or other circumstance indicated in Item II., Step 3 on Page 1, as the proper reason for filing in the court location you selected.

REASON: CHECK THE NUMBER UNDER COLUMN C WHICH APPLIES IN THIS CASE			ADDRESS:
<input type="checkbox"/> 1. <input type="checkbox"/> 2. <input checked="" type="checkbox"/> 3. <input type="checkbox"/> 4. <input type="checkbox"/> 5. <input type="checkbox"/> 6. <input type="checkbox"/> 7. <input type="checkbox"/> 8. <input type="checkbox"/> 9. <input type="checkbox"/> 10.	2333 S. Sepulveda Blvd.		
CITY: Los Angeles	STATE: CA	ZIP CODE: 90064	

Item IV. Declaration of Assignment: I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and that the above-entitled matter is properly filed for assignment to the Santa Monica Courthouse courthouse in the West District of the Los Angeles Superior Court (Code Civ. Proc., § 392 et seq., and LASC Local Rule 2.0, subds. (b), (c) and (d)).

Dated: March 18, 2011



 (SIGNATURE OF ATTORNEY/FILING PARTY)
 Andrew L. Treger

PLEASE HAVE THE FOLLOWING ITEMS COMPLETED AND READY TO BE FILED IN ORDER TO PROPERLY COMMENCE YOUR NEW COURT CASE:

1. Original Complaint or Petition.
2. If filing a Complaint, a completed Summons form for issuance by the Clerk.
3. Civil Case Cover Sheet form CM-010.
4. Complete Addendum to Civil Case Cover Sheet form LACIV 109 (Rev 01/07), LASC Approved 03-04.
5. Payment in full of the filing fee, unless fees have been waived.
6. Signed order appointing the Guardian ad Litem, JC form FL-935, if the plaintiff or petitioner is a minor under 18 years of age, or if required by Court.
7. Additional copies of documents to be conformed by the Clerk. Copies of the cover sheet and this addendum must be served along with the summons and complaint, or other initiating pleading in the case.

SC111946

CASE NO. _____

NOTICE OF CASE ASSIGNMENT TO INDIVIDUAL CALENDAR COURT

**TO PLAINTIFFS AND PLAINTIFFS' ATTORNEYS OF RECORD or PLAINTIFFS
IN PRO PER:**

IT IS HEREBY ORDERED AND YOU ARE HEREBY NOTIFIED that this action shall be assigned to a Judge for all purposes, including trial, as follows:

Donald Rosenburg, Judge

Department: K

Santa Monica Courthouse
1725 Main Street
Santa Monica, CA 90401

Judge Richard A. Stone
Beverly Hills Courthouse
Department WE-X
9355 Burton Way
Beverly Hills, CA 90210

IT IS FURTHER ORDERED THAT PLAINTIFF OR COUNSEL FOR PLAINTIFF SHALL GIVE NOTICE OF THIS ALL-PURPOSE CASE ASSIGNMENT by serving a copy of this Notice on all parties to this action at the time the Summons and Complaint are served, or, if not a served party, then when such party (including any cross-defendant or complainant-in-intervention) appears in the action.

CASE MANAGEMENT REVIEW AND CONFERENCE: Upon the filing of the Complaint, a Case Management Review and Conference will be calendared for hearing in the Court to which the case is assigned. The hearing date will be stamped upon the face of the Complaint. Plaintiff shall give notice of the Case Management Review and Conference to all named parties in conjunction with service of the Summons and Complaint and include any later appearing party such as a cross-defendant or complainant-in-intervention served within this time period. Proof of service must be brought to the hearing if not previously filed. Failure to timely file proof of service of Summons and Complaint within 60 days after filing the Complaint (CRC 3.110) may result in an Order to Show Cause re sanctions being issued. (CRC 3.110(f).)

If a case is assigned to Department X, located in the Beverly Hills Courthouse, all documents, pleadings, motions, and papers filed subsequent to the original Complaint shall be filed directly in the courtroom stamped upon the Complaint.

TIME STANDARDS: Cases will be subject to processing under the following time standards:

COMPLAINTS: All Complaints shall be served on all named defendants and proof of service filed within 60 days after the filing of the Complaint. The Court may set an OSC re failure to file proof of service of Summons and Complaint if not timely filed. (CRC 3.110(b).)

CROSS-COMPLAINTS: No Cross-Complaint may be filed by any party after its answer is filed without first obtaining leave of court. Cross-Complaints shall be served and proof of service filed within 30 days of the filing date, unless a party has appeared in the action. (CRC 3.110(c).)

APPLICABLE RULES: Counsel as well as self-represented parties are directed to familiarize themselves with the Local Rules for the County of Los Angeles, particularly Chapter 7 (Trial Court Delay Reduction), Chapter 8 (Civil Trial Procedure), Chapter 9 (Civil Law and Motion), and California Rules of Court relating to civil case management. These Rules apply to all general civil cases and shall have priority over all other Local Rules to the extent the others are inconsistent.

CHALLENGE TO ASSIGNED JUDGE: A challenge under Code of Civil Procedure Section 170.6 must be made within 15 days after notice of assignment of the Judge, or if a party has not yet appeared, within 15 days of the first appearance of that party. (Government Code Section 68616, subdivision (i); Local Rule 7.5.)

PREPARATION AND PROCEDURES FOR CASE MANAGEMENT REVIEW AND CONFERENCE: Pursuant to CRC 3.724, no later than 30 calendar days before the date set for the Case Management Conference, the parties must meet and confer, in person or by telephone, to consider each of the issues identified in Rule 3.727 and, in addition, to consider the following:

- (1) Resolving any discovery disputes and setting a discovery schedule;
- (2) Identifying and, if possible, informally resolving any anticipated motions;
- (3) Identifying the facts and issues in the case that are uncontested and may be the subject of stipulation;
- (4) Identifying the facts and issues in the case that are in dispute;
- (5) Determining whether the issues in the case can be narrowed by eliminating any claims or defenses by means of a motion or otherwise;
- (6) Determining whether settlement is possible;
- (7) Identifying the dates on which all parties and their attorneys are available or not available for trial, including the reasons for unavailability; and
- (8) Other relevant matters.

Pursuant to CRC 3.725, no later than 15 calendar days before the date set for the Case Management Conference or Review, each party must file a Case Management Statement and serve it on all other parties in the case. In lieu of each party's filing a separate Case Management Statement, any two or more parties may file a joint Statement.


The subjects to be considered at the Case Management Conference shall include the following (CRC Rule 3.727):

- (1) Whether there are any related cases;
- (2) Whether all parties named in the Complaint or Cross-Complaint have been served, have appeared, or have been dismissed;
- (3) Whether any additional parties may be added or the pleadings may be amended;
- (4) Whether, if the case is a limited civil case, the economic litigation procedures under Code of Civil Procedure Section 90 et seq. will apply to it or the party intends to bring a motion to exempt the case from these procedures;
- (5) Whether any other matters (e.g., the bankruptcy of a party) may affect the Court's jurisdiction or processing of the case;
- (6) Whether the parties have stipulated to, or the case should be referred to, judicial arbitration in courts having a judicial arbitration program or to any other form of alternative dispute resolution (ADR) process and, if so, the date by which the judicial arbitration or other ADR process must be completed;
- (7) Whether an early settlement conference should be scheduled and, if so, on what date;
- (8) Whether discovery has been completed and, if not, the date by which it will be completed;
- (9) What discovery issues are anticipated;
- (10) Whether the case should be bifurcated or a hearing should be set for a motion to bifurcate under Code of Civil Procedure Section 598;
- (11) Whether there are any Cross-Complaints that are not ready to be set for trial and, if so, whether they should be severed;
- (12) Whether the case is entitled to any statutory preference and, if so, the statute granting the preference;
- (13) Whether a jury trial is demanded and, if so, the identity of each party requesting a jury trial;

- (14) If the trial date has not been previously set, the date by which the case will be ready for trial and the available trial dates;
- (15) The estimated length of trial;
- (16) The nature of the injuries;
- (17) The amount of damages, including any special or punitive damages;
- (18) Any additional relief sought;
- (19) Whether there are any insurance coverage issues that may affect the resolution of the case; and
- (20) Any other matters that should be considered by the Court or addressed in its Case Management Order.

SANCTIONS: The Court has authority to impose appropriate sanctions for the failure or refusal to comply with provisions of the California Rules of Court and Local Rules governing time standards and case management conference requirements or deadlines. Such sanctions may be imposed upon counsel, a party, or both, as permitted by rule, statute, or law.

This is not a complete representation of the applicable Local Rules or California Rules of Court, and adherence only to the above provisions is therefore not a guarantee against the imposition of sanctions under the Trial Court Delay Reduction Rules. Careful reading and compliance with the Local Rules and California Rules of Court are absolutely imperative.



JOSEPH S. BIDERMAN, Supervising Judge
Los Angeles Superior Court, West District

NAME, ADDRESS, AND TELEPHONE NUMBER OF ATTORNEY FOR PARTY WITHOUT ATTORNEY: Andrew L. Treger, Esq. WEBER & BAER 2029 Century Park East, Suite 1400 2029 Century Park East, Suite 1400 Los Angeles, CA 90067 310-226-7570 ATTORNEY FOR (Name): Phyllis Conway	STATE BAR NUMBER 240637	Reserved for Clerk's File Stamp ORIGINAL FILED LOS ANGELES SUPERIOR COURT JOHN A. CLARKE, CLERK APR 28 2011 DEPUTY
SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES		
COURTHOUSE ADDRESS: 1725 Main Street Santa Monica, CA 90401		
PLAINTIFF: Phyllis Conway		
DEFENDANT: AT & T, Inc., a California Corporation; Erick Alvarez, an individual.		
AMENDMENT TO COMPLAINT (Fictitious / Incorrect Name)		CASE NUMBER: SC111946

FICTITIOUS NAME (No order required)

Upon the filing of the complaint, the plaintiff, being ignorant of the true name of the defendant and having designated the defendant in the complaint by the fictitious name of:

FICTITIOUS NAME
DOE 1

and having discovered the true name of the defendant to be:

TRUE NAME
AT & T Mobility Services, LLC

amends the complaint by substituting the true name for the fictitious name wherever it appears in the complaint.

DATE	TYPE OR PRINT NAME	SIGNATURE OF ATTORNEY
April 26, 2011	Andrew L. Treger, Esq.	

INCORRECT NAME (Order required)

The plaintiff, having designated a defendant in the complaint by the incorrect name of:

INCORRECT NAME

and having discovered the true name of the defendant to be:

TRUE NAME

amends the complaint by substituting the true name for the incorrect name wherever it appears in the complaint.

DATE	TYPE OR PRINT NAME	SIGNATURE OF ATTORNEY
	Andrew L. Treger, Esq.	

ORDER

THE COURT ORDERS the amendment approved and filed.

Dated

Judicial Officer

<p>ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): Andrew L. Treger, Esq., Bar No. 240637 WEBER & BAER 2029 Century Park East, Suite 1400 2029 Century Park East, Suite 1400 Los Angeles, CA 90067 TELEPHONE NO.: 310-226-7570 FAX NO. (Optional): 310-867-2721 E-MAIL ADDRESS (Optional): andrewltreger@gmail.com ATTORNEY FOR (Name): Phyllis Conway</p>	<p>FOR COURT USE ONLY</p>
<p>SUPERIOR COURT OF CALIFORNIA, COUNTY OF Los Angeles STREET ADDRESS: 1725 Main Street MAILING ADDRESS: 1725 Main Street CITY AND ZIP CODE: Santa Monica, CA 90401 BRANCH NAME: West District</p>	
<p>PLAINTIFF/PETITIONER: Phyllis Conway</p> <p>DEFENDANT/RESPONDENT: AT & T, Inc., a California Corporation; Erick Alvarez, an individual.</p>	
<p>NOTICE AND ACKNOWLEDGMENT OF RECEIPT—CIVIL</p>	<p>CASE NUMBER: SC111946</p>

TO (insert name of party being served): AT & T Mobility Services, LLC

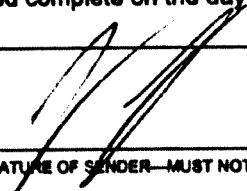
NOTICE

The summons and other documents identified below are being served pursuant to section 415.30 of the California Code of Civil Procedure. Your failure to complete this form and return it within 20 days from the date of mailing shown below may subject you (or the party on whose behalf you are being served) to liability for the payment of any expenses incurred in serving a summons on you in any other manner permitted by law.

If you are being served on behalf of a corporation, an unincorporated association (including a partnership), or other entity, this form must be signed by you in the name of such entity or by a person authorized to receive service of process on behalf of such entity. In all other cases, this form must be signed by you personally or by a person authorized by you to acknowledge receipt of summons. If you return this form to the sender, service of a summons is deemed complete on the day you sign the acknowledgment of receipt below.

Date of mailing: April 29, 2011

Andrew L. Treger
(TYPE OR PRINT NAME)


(SIGNATURE OF SENDER—MUST NOT BE A PARTY IN THIS CASE)

ACKNOWLEDGMENT OF RECEIPT


This acknowledges receipt of (to be completed by sender before mailing):

1. A copy of the summons and of the complaint.
2. Other: (specify): Amendment to Complaint

(To be completed by recipient):

Date this form is signed: May 12, 2011

(TYPE OR PRINT YOUR NAME AND NAME OF ENTITY, IF ANY, ON WHOSE BEHALF THIS FORM IS SIGNED)


(SIGNATURE OF PERSON ACKNOWLEDGING RECEIPT, WITH TITLE IF ACKNOWLEDGMENT IS MADE ON BEHALF OF ANOTHER PERSON OR ENTITY)

**DECLARATION OF
FRED SCHUTZ**

1 WILLIAM E. MATSUMURA (Bar No. 129106)
2 AT&T SERVICES LEGAL DEPARTMENT
3 1150 S. Olive Street, Suite 2850
4 Los Angeles, California 90015
5 Telephone: 213-743-6722
6 Facsimile: 213-748-1230

7 Attorneys for Defendants
8 AT&T MOBILITY LLC (erroneously sued as
9 AT&T, Inc.)
10

11 UNITED STATES DISTRICT COURT
12 CENTRAL DISTRICT OF CALIFORNIA
13

14 PHYLLIS CONWAY,

15 Plaintiff,

16 v.

17 AT&T, INC, a California
18 Corporation; ERICK ALVAREZ, an
19 individual; and DOES 1 TO 25,
20 inclusive.

21 Defendants.

CASE NO.

DECLARATION OF FRED SCHUTZ

IN SUPPORT OF REMOVAL TO THE
UNITED STATES DISTRICT COURT
FOR THE CENTRAL DISTRICT OF
CALIFORNIA PURSUANT TO 28
U.S.C. SECTIONS 1331 AND 1441(B)

[FEDERAL QUESTION: ERISA AND
LMRA]

22 DECLARATION OF FRED SCHUTZ
23

24 I, Fred Schutz, hereby declare under penalty of perjury that:
25

26 1. I have personal knowledge of the matters stated herein and if called to
27 testify would competently testify as stated below.

28 2. I am currently employed by AT&T Mobility LLC (Mobility) and am
an Employee Relations Manager II (ERM) based in Cerritos, California. I have
worked for Mobility for six years. My current duties include Human Resources
functions generally, and specifically: primary contact to investigate and resolve HR
inquiries directed from Los Angeles Retail Sales and Service clients, union

1 representatives and HR partners (e.g. Sr. HR Specialists, Sr. HRG's, Legal, Labor
 2 Relations, etc.). Responsible for providing advice and counsel, interpretation,
 3 direction, clarification, and guidance on a full range of HR policies, practices,
 4 programs and issues, along with labor agreement interpretation. Responsible for
 5 support, providing initial investigative guidance on low to moderate complex
 6 issues. Primary liaison for employees in resolving HR issues. Counsels managers
 7 on employee-related matters to ensure consistency across business units.

8 3. I became familiar with this matter in my role as the ERM for Mobility
 9 in Southern California.

10 4. At the time of her termination, the plaintiff in this matter, Ms. Phyllis
 11 Conway held the position titled "Retail Sales Consultant." The Retail Sales
 12 Consultant title is represented by the Communication Workers of America (CWA).

13 5. The CWA and Mobility have negotiated a collective bargaining
 14 agreement (CBA) whose terms govern the conditions of employment for those like
 15 the plaintiff who hold Union-represented titles such as Retail Sales Consultant. A
 16 true and correct copy of excerpts from the CBA that are relevant to this removal are
 17 attached hereto as Exhibit D.

18
 19
 20 I declare under the laws of the United States and under penalty of perjury that to my
 21 knowledge the foregoing is true and correct.

22
 23 Executed June 1, 2011

24
 25 
 26 _____
 27 FRED SCHUTZ
 28

**ARTICLE 7
GRIEVANCE PROCEDURE**

Section 1. All complaints and prospective grievances may be taken up informally by either the Company or the Union in advance of the formal grievance steps set forth below. Nothing in this Article shall be construed to deprive any employee or group of employees from presenting individually to the Company any complaint, and to have such complaints adjusted without the intervention of the Union, as long as the adjustment is not inconsistent with the terms of this Agreement, and provided further that a Union representative has been given opportunity to be present at such adjustment.

Section 2. The Company and the Union agree that grievances shall be confined to differences arising out of the interpretation or application of the terms or provisions of this agreement, or disciplinary action for just cause and shall be processed *according to the grievance procedure set forth in this Article*. It shall be the objective of both the Company and the Union to settle any grievance promptly and at the lowest step of the grievance procedure.

Grievances shall be reduced to writing, setting forth, if applicable, specifically the substance of the grievance and the provision or provisions of the Agreement allegedly violated, delivered by a Union representative to the designated Company representative in accordance with Section 3. following, within thirty (30) calendar days of the action complained of.

Section 3. The formal grievance procedure shall consist of (3) successive steps. Notice of grievance and appeals of decision shall be forwarded in accordance with the following:

STEP 1

The designated first level manager (supervisor) shall contact the Union representative within seven (7) workdays of receipt of written notice of the grievance for the purpose of setting a mutually agreeable meeting date and location. The designated first level manager (supervisor) will provide a decision in writing within ten (10) workdays after completion of the meeting(s) unless mutually agreed otherwise by the parties.

If the Company fails to offer a meeting date which is within fourteen (14) calendar days of receipt of the written notice of the grievance and no mutual agreement has been reached by the parties to extend the timeframe, the grievance may be advanced to the second step at the Union's option.

STEP 2

If the answer or decision of the Company at the conclusion of the Step 1 is unsatisfactory to the Union, the grievance may be appealed to the designated HR representative, in writing, within fifteen (15) workdays after a decision has been rendered at the first step. The designated HR representative shall contact the Union representative within seven (7) workdays of receipt of written notice of the grievance for the purpose of setting a mutually agreeable meeting date and location. Upon mutual agreement, the grievance may be conducted by telephone. The designated HR representative will provide a decision in writing within ten (10) workdays after completion of the meeting(s), unless mutually agreed otherwise by the parties.

If the Company fails to offer a meeting date which is within fourteen (14) calendar days of receipt of the written notice of the grievance and no mutual agreement has been reached by the parties to extend the timeframe, the grievance may be advanced to the third step at the Union's option.

STEP 3

If the answer or decision of the Company at the conclusion of the Step 2 is unsatisfactory to the Union, the grievance may be appealed to the designated Labor representative, in writing, within fifteen (15) workdays after a decision has been rendered at the second step. The designated Labor representative shall contact the Union representative within seven (7) workdays of receipt of written notice of the grievance for the purpose of setting a mutually agreeable meeting date and location. Upon mutual agreement, the grievance may be conducted by telephone. The designated Labor representative will provide a decision in writing within fifteen (15) workdays after completion of the meeting(s), unless mutually agreed otherwise by the parties.

If the Company fails to offer a meeting date which is within fourteen (14) calendar days of receipt of the appeal to the third step of the grievance process and no mutual agreement has been reached by the parties to extend the timeframe, the grievance may be advanced to the arbitration process. The option is only applicable to articles of the 2009 Labor Agreement or the provisions of such articles which are subject to the arbitration process as stated in the 2009 Labor Agreement.

Section 4. A decision at Step 3 of the formal grievance procedure, as set forth in Section 2 above shall be construed as full completion of the formal grievance procedure.

Section 5. After a notice, as set forth in Section 2 above, has been received by the Company neither the Company nor the Union will attempt to adjust the grievance with any employee or employees involved. Any proposed adjustment will be presented by the Company to the designated Union representative.

Section 6. The Company will keep the Union fully informed, in writing, on a current basis, of the designated Company representatives referenced in Sections 2. and 3. above.

Section 7. Formal grievance meetings shall be held at mutually agreeable times and locations. For the purpose of presenting a grievance, those employees of the Company including the aggrieved employee(s) and the employee representative(s) designated by the Union, who shall suffer no loss in pay for the time consumed in, and necessarily consumed in traveling to and from grievance meetings, shall not be more than two (2) at any level of the grievance procedure.

Section 8. Failure to submit or pursue a grievance under the conditions and within the time and manner stated in Section 2 above shall be construed to be a waiver by the employee and the Union of the formal grievance.

Section 9. Any provision in this Article to the contrary notwithstanding, no forms of discipline, including suspension and discharge, of employees with less than thirty (30) days of service with the Company shall be subject to the grievance procedure, provided, however, that the Company may extend said period for an additional thirty (30) days upon written request to the Union.

ARTICLE 8 MEDIATION

Section 1. At the conclusion of the formal grievance procedure either party may elect to submit the matter to mediation, with the consent of the other party. Such submission shall not extend the time periods permitted to process the grievance to arbitration. The party desiring the matter be so submitted shall submit a written statement of appeal within two (2) weeks after receipt of the position statement rendered by the Company in the final step of the grievance procedure.

Section 2. As to the mediation provided by this Article:

- a. The parties will select mediators by striking from a panel provided through the Federal Mediation and Conciliation Service or by using another mutually agreed upon service or procedure. Upon agreement of the parties, the mediation conference will be scheduled within fifteen (15) days of the Company's or Union's request for mediation. Such conference will be held on the earliest mutually available date offered by the chosen mediator. Should the availability of the mediator unnecessarily delay the processing of the grievance in the opinion of either the Company or the Union, either party may request the mediation be terminated and the grievance be scheduled for arbitration.
- b. Any written material presented to the mediator shall be returned to the party presenting that material at the termination of the mediation conference. The mediator may, however, retain one (1) copy of the written grievance, to be used solely for the purposes of statistical analysis.
- c. Proceedings before the mediator shall be informal in nature. Each party shall have one principal spokesperson at the mediation conference. The presentation of evidence is not limited to that presented in the grievance proceedings, the rules of evidence will not apply, and no records of the mediation conference shall be made.
- d. The mediator will have the authority to meet separately with any person or persons, but will not have the authority to compel the resolution of the grievance.
- e. If no settlement is reached during the mediation conference, the mediator shall provide the parties with an immediate oral advisory opinion, unless both parties direct that no opinion shall be provided, *provided however*, that said opinion, if issued, shall not be published or communicated to the public or to either parties' members or employees but shall be used internally by either party solely for the purpose of analysis and assessment. In no event shall such advisory opinion, if issued, be deemed binding on either party.
- f. If the mediator provides an opinion, he/she shall state the grounds on which it is based.

- g. The advisory opinion of the mediator, if accepted by both parties, shall not constitute a precedent, unless the parties otherwise agree.
- h. The mediator's fee and expenses will be divided equally between the parties.

Section 3. If no settlement is reached at mediation, the parties are free to arbitrate under the Arbitration Article.

Section 4. In the event that a grievance which has been mediated subsequently goes to arbitration no person serving as a mediator between these parties may serve as arbitrator. Nothing said or done by the mediator may be referred to an arbitrator. Nothing said or done by either party for the first time in the mediation conference may be used against it at the arbitration.

ARTICLE 9 ARBITRATION

Section 1. It is agreed by both parties that arbitration shall be confined to matters processed through all steps of the formal grievance procedure, and in such event, the following procedures shall be exclusive.

Section 2. If the answer or decision of the Company's representative at the conclusion of Step 3 of the formal grievance procedure, as described in Article 7, is unsatisfactory to the Union, the Union shall, in writing, to the designated Company representative, within sixty (60) calendar days thereafter, request arbitration, if such is desired.

Section 3. A panel of at least 8 but no more than 10 qualified arbitrators per district will be selected by the parties. This panel will be selected from a list provided by the American Arbitration Association (hereinafter "AAA") and in accordance with their rules. Each arbitrator will serve until the termination of this Agreement unless his/her services are terminated earlier by written notice from either party to the other. The arbitrator will be notified of his/her termination by a joint letter from the parties. The arbitrator will conclude his/her services by settling any grievance previously heard. A successor arbitrator will be selected by the parties from a list provided by AAA. Arbitrators will be assigned cases in rotating order designated by the parties.

The compensation and expenses of the arbitrator and the general expenses of the arbitration will be borne by the Company and the Union in equal parts. Each party will bear the expense of its representatives and witnesses. Any expenses incurred because of any cancellation or postponement of a hearing will be borne by the party requesting such cancellation or postponement.

Section 4. The arbitrator shall be confined to the subjects submitted for decision, and may in no event, as a part of any such decision, impose upon either party any obligation to arbitrate on any subjects which have not been herein agreed upon as subjects for arbitration. The arbitrator shall not have jurisdiction over the rights of Management not specifically restricted by this Agreement and shall not have the power to add to, subtract from, or vary the terms of this Agreement, or to substitute his/her discretion for that of Management, but shall be limited in power and jurisdiction to determine whether there has been a violation of this Agreement. The arbitrator's decision shall be final and binding upon both parties and any employees affected.

Section 5. Except where otherwise mutually agreed, failure to submit a matter to arbitration within the times above stated or failure to pursue subsequent steps within the time and in the manner above stated shall constitute a waiver by the employee and the Union of the right to arbitration.

Section 6. Upon the Union's providing the Company with a reasonable period of advance notice, the Company shall allow reasonable time off without pay for Grievant and/or Union witnesses to prepare for arbitration. For the purpose of presenting an arbitration, the Grievant and one Union representative need not clock out if the proceeding occurs during Grievant's and representative's regularly scheduled working hours, but other Union representatives who are employees of the Company and all other employees participating in the arbitration proceeding shall clock out for that purpose.

Section 7. Any provision in this Article to the contrary notwithstanding, no form of discipline, including suspension and discharge, of employees with less than twelve (12) months of service shall be subject to arbitration.

Retail Sales Consultant

Step	<u>Effective</u> 2/08/09	<u>Effective</u> 2/07/10	<u>Effective</u> 2/06/11	<u>Effective</u> 2/05/12
1	320.00	328.00	336.00	344.50
2	334.00	342.50	350.50	359.50
3	348.50	357.50	368.00	375.50
4	364.00	373.00	382.00	391.50
5	379.50	389.00	399.00	409.00
6	396.50	406.00	416.00	427.00
7	413.50	424.00	434.50	445.50
8	431.50	442.50	453.50	465.00
9	450.50	462.00	473.50	485.50
10	470.50	482.00	494.00	506.50
11	491.00	503.00	515.50	528.50
12	512.50	525.00	538.00	552.00
13	534.50	548.00	562.00	576.00
14	558.00	572.00	586.50	601.00
15	582.50	597.00	612.00	627.50

Sales Specialist

Step	<u>Effective</u> 2/08/09	<u>Effective</u> 2/07/10	<u>Effective</u> 2/06/11	<u>Effective</u> 2/05/12
1	468.00	479.50	491.50	504.00
2	488.00	500.00	512.50	525.50
3	509.00	521.50	534.50	548.00
4	530.50	543.50	557.50	571.50
5	553.50	567.00	581.00	596.00
6	577.00	591.00	606.00	621.50
7	601.50	616.50	632.00	648.00
8	627.50	643.00	659.00	675.50
9	654.00	670.50	687.00	704.50
10	682.00	699.00	716.50	734.50
11	711.50	729.00	747.00	766.00
12	741.50	760.00	779.00	798.50
13	773.50	792.50	812.50	833.00
14	806.50	826.50	847.50	868.50
15	841.00	862.00	883.50	905.50

Sales Support Representative

Step	<u>Effective</u> 2/08/09	<u>Effective</u> 2/07/10	<u>Effective</u> 2/06/11	<u>Effective</u> 2/05/12
1	457.50	469.00	480.50	492.50
2	475.00	486.50	498.50	511.00
3	492.50	505.00	517.50	530.50
4	511.50	524.00	537.00	550.50
5	530.50	544.00	557.00	571.00
6	550.50	564.50	578.00	592.50
7	571.50	585.50	600.00	615.00
8	593.00	607.50	622.50	638.00
9	615.50	630.50	646.00	662.50
10	638.50	654.50	670.50	687.00
11	662.50	679.00	696.00	713.00
12	687.50	704.50	722.00	740.00
13	713.50	731.50	749.50	768.00
14	740.50	759.00	777.50	797.00
15	768.50	787.50	807.00	827.00

Service Technician

Step	<u>Effective</u> 2/08/09	<u>Effective</u> 2/07/10	<u>Effective</u> 2/06/11	<u>Effective</u> 2/05/12
1	416.00	426.50	437.00	448.00
2	441.50	452.50	463.50	475.50
3	468.00	480.00	492.00	504.00
4	496.50	509.00	521.50	535.00
5	527.00	540.00	553.50	567.50
6	559.00	573.00	587.00	602.00
7	593.00	607.50	623.00	638.50
8	629.00	644.50	660.50	677.50
9	667.00	684.00	701.00	718.50
10	707.50	725.50	743.50	762.00
11	750.50	769.50	789.00	808.50
12	796.50	816.50	837.00	858.00
13	844.50	866.00	887.50	910.00
14	896.00	918.50	941.50	965.50
15	950.50	974.50	999.00	1,024.00

1 **PROOF OF SERVICE**

2 I am a resident of the State of California, over the age of eighteen years, and not
3 a party to the within action. My business address is 1150 S. Olive Street, Suite
4 2850, Los Angeles, California 90015. On June 2, 2011, I served the within
5 document: **NOTICE OF REMOVAL TO THE UNITED STATES DISTRICT
6 COURT FOR THE CENTRAL DISTRICT OF CALIFORNIA PURSUANT
7 TO 28 U.S.C. SECTIONS 1331 AND 1441(B) [FEDERAL QUESTION:
8 EMPLOYEE RETIREMENT INCOME SECURITY ACT]; DECLARATION
9 OF FRED SCHUTZ**

- 10
- 11 by transmitting via facsimile the document(s) listed above to the fax
12 number(s) set forth below, or as stated on the attached service list, on
13 this date before 5:00 p.m.
 - 14 by placing the document(s) listed above in a sealed envelope with
15 postage thereon fully prepaid, in the United States mail at Los
16 Angeles, California addressed as set forth.
 - 17 by personally delivering the document(s) listed above to the person(s)
18 at the address(es) set forth below.

19 I am readily familiar with the firm's practice of collection and processing
20 correspondence for mailing. Under that practice it would be deposited with U.S.
21 Postal Service on that same day with postage thereon fully prepaid in the ordinary
22 course of business. I am aware that on motion of the party served, service is
23 presumed invalid if postal cancellation date or postage meter date is more than one
24 day after date of deposit for mailing in affidavit.

- 25 (*State*) I declare under penalty of perjury under the laws of the State
26 of California that the above is true and correct.
- 27 (*Federal*) I declare that I am employed in the office of a member of
28 the bar of this court at whose direction the service was made. I
declare under penalty of perjury that the above is true and correct.

Executed on June 2, 2011 at Los Angeles, California.


SIDNEY KING

SERVICE LIST

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Jonathan S., Weber, Esq.
Andrew L. Treger, Esq.
WEBER & BAER
2029 Century Park East, Suite 1400
Los Angeles, CA 90067

ATTORNEYS FOR PLAINTIFF
Phyllis Conway

Tel.: (310) 226-7570
Fax: (310) 867-2721

**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

NOTICE OF ASSIGNMENT TO UNITED STATES MAGISTRATE JUDGE FOR DISCOVERY

This case has been assigned to District Judge John Kronstadt and the assigned discovery Magistrate Judge is Andrew J. Wistrich.

The case number on all documents filed with the Court should read as follows:

CV11- 4713 JAK (AJWx)

Pursuant to General Order 05-07 of the United States District Court for the Central District of California, the Magistrate Judge has been designated to hear discovery related motions.

All discovery related motions should be noticed on the calendar of the Magistrate Judge

NOTICE TO COUNSEL

A copy of this notice must be served with the summons and complaint on all defendants (if a removal action is filed, a copy of this notice must be served on all plaintiffs).

Subsequent documents must be filed at the following location:

Western Division
312 N. Spring St., Rm. G-8
Los Angeles, CA 90012

Southern Division
411 West Fourth St., Rm. 1-053
Santa Ana, CA 92701-4516

Eastern Division
3470 Twelfth St., Rm. 134
Riverside, CA 92501

Failure to file at the proper location will result in your documents being returned to you.

**UNITED STATES DISTRICT COURT, CENTRAL DISTRICT OF CALIFORNIA
CIVIL COVER SHEET**

COPY

I (a) PLAINTIFFS (Check box if you are representing yourself <input type="checkbox"/>) PHYLLIS CONWAY	DEFENDANTS AT&T MOBILITY LLC (erroneously sued as AT&T, Inc.)
(b) Attorneys (Firm Name, Address and Telephone Number. If you are representing yourself, provide same.) JONATHAN S. WEBER, ESQ, ANDREW L. TREGER, ESQ. WEBER & BAER 2029 Century Park East, Suite 1400 Los Angeles, CA 90067	Attorneys (If Known) WILLIAM E. MATSUMURA (Bar No. 129106) AT&T SERVICES, INC - LEGAL DEPARTMENT 1150 S. Olive St. Suite 2850 Los Angeles, CA 90015

II. BASIS OF JURISDICTION (Place an X in one box only.) <input type="checkbox"/> 1 U.S. Government Plaintiff <input checked="" type="checkbox"/> 3 Federal Question (U.S. Government Not a Party) <input type="checkbox"/> 2 U.S. Government Defendant <input type="checkbox"/> 4 Diversity (Indicate Citizenship of Parties in Item III)	III. CITIZENSHIP OF PRINCIPAL PARTIES - For Diversity Cases Only (Place an X in one box for plaintiff and one for defendant.) <table style="width:100%; border: none;"> <tr> <td style="width:33%;"></td> <td style="width:33%; text-align: center;">PTF</td> <td style="width:33%; text-align: center;">DEF</td> <td style="width:33%;"></td> <td style="width:33%; text-align: center;">PTF</td> <td style="width:33%; text-align: center;">DEF</td> </tr> <tr> <td>Citizen of This State</td> <td align="center"><input type="checkbox"/> 1</td> <td align="center"><input type="checkbox"/> 1</td> <td>Incorporated or Principal Place of Business in this State</td> <td align="center"><input type="checkbox"/> 4</td> <td align="center"><input type="checkbox"/> 4</td> </tr> <tr> <td>Citizen of Another State</td> <td align="center"><input type="checkbox"/> 2</td> <td align="center"><input type="checkbox"/> 2</td> <td>Incorporated and Principal Place of Business in Another State</td> <td align="center"><input type="checkbox"/> 5</td> <td align="center"><input type="checkbox"/> 5</td> </tr> <tr> <td>Citizen or Subject of a Foreign Country</td> <td align="center"><input type="checkbox"/> 3</td> <td align="center"><input type="checkbox"/> 3</td> <td>Foreign Nation</td> <td align="center"><input type="checkbox"/> 6</td> <td align="center"><input type="checkbox"/> 6</td> </tr> </table>		PTF	DEF		PTF	DEF	Citizen of This State	<input type="checkbox"/> 1	<input type="checkbox"/> 1	Incorporated or Principal Place of Business in this State	<input type="checkbox"/> 4	<input type="checkbox"/> 4	Citizen of Another State	<input type="checkbox"/> 2	<input type="checkbox"/> 2	Incorporated and Principal Place of Business in Another State	<input type="checkbox"/> 5	<input type="checkbox"/> 5	Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6
	PTF	DEF		PTF	DEF																				
Citizen of This State	<input type="checkbox"/> 1	<input type="checkbox"/> 1	Incorporated or Principal Place of Business in this State	<input type="checkbox"/> 4	<input type="checkbox"/> 4																				
Citizen of Another State	<input type="checkbox"/> 2	<input type="checkbox"/> 2	Incorporated and Principal Place of Business in Another State	<input type="checkbox"/> 5	<input type="checkbox"/> 5																				
Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6																				
IV. ORIGIN (Place an X in one box only.) <input type="checkbox"/> 1 Original Proceeding <input checked="" type="checkbox"/> 2 Removed from State Court <input type="checkbox"/> 3 Remanded from Appellate Court <input type="checkbox"/> 4 Reinstated or Reopened <input type="checkbox"/> 5 Transferred from another district (specify): <input type="checkbox"/> 6 Multi-District Litigation <input type="checkbox"/> 7 Appeal to District Judge from Magistrate Judge																									

V. REQUESTED IN COMPLAINT: JURY DEMAND: Yes No (Check 'Yes' only if demanded in complaint.)

CLASS ACTION under F.R.C.P. 23: Yes No **MONEY DEMANDED IN COMPLAINT: \$** _____

VI. CAUSE OF ACTION (Cite the U.S. Civil Statute under which you are filing and write a brief statement of cause. Do not cite jurisdictional statutes unless diversity.)

VII. NATURE OF SUIT (Place an X in one box only.)

OTHER STATUTES <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce/ICC Rates/etc. <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Act <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Info. Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes	CONTRACT <input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loan (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	TORTS PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Fed. Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury-Med Malpractice <input type="checkbox"/> 365 Personal Injury-Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 463 Habeas Corpus-Alien Detainee <input type="checkbox"/> 465 Other Immigration Actions	TORTS PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability BANKRUPTCY <input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 CIVIL RIGHTS <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 445 American with Disabilities - Employment <input type="checkbox"/> 446 American with Disabilities - Other <input type="checkbox"/> 440 Other Civil Rights	PRISONER PETITIONS <input type="checkbox"/> 510 Motions to Vacate Sentence Habeas Corpus <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus/Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition FORFEITURE/PENALTY <input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other	LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input checked="" type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS - Third Party 26 USC 7609
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