

1 ELECTRONIC FRONTIER FOUNDATION
 2 CINDY COHN (145997)
 3 cindy@eff.org
 4 LEE TIEN (148216)
 5 tien@eff.org
 6 KURT OPSAHL (191303)
 7 kurt@eff.org
 8 KEVIN S. BANKSTON (217026)
 9 bankston@eff.org
 10 CORYNNE MCSHERRY (221504)
 11 corynne@eff.org
 12 JAMES S. TYRE (083117)
 13 jstyre@eff.org
 14 454 Shotwell Street
 15 San Francisco, CA 94110
 16 Telephone: 415/436-9333
 17 415/436-9993 (fax)

TRABER & VOORHEES
 BERT VOORHEES (137623)
 bv@tvlegal.com
 THERESA M. TRABER (116305)
 tmt@tvlegal.com
 128 North Fair Oaks Avenue, Suite 204
 Pasadena, CA 91103
 Telephone: 626/585-9611
 626/ 577-7079 (fax)

10 Attorneys for Plaintiffs

11 UNITED STATES DISTRICT COURT
 12 NORTHERN DISTRICT OF CALIFORNIA

13 TASH HEPTING, GREGORY HICKS,)
 14 CAROLYN JEWEL and ERIK KNUTZEN, on)
 15 Behalf of Themselves and All Others Similarly)
 16 Situated,)
 17 Plaintiffs,)
 18 vs.)
 19 AT&T CORP., et al.)
 20 Defendants.)

No. C-06-00672-VRW
CLASS ACTION
 DECLARATION OF JAMES S. TYRE IN
 SUPPORT OF PLAINTIFFS' OPPOSITION
 TO AT&T INC.'S MOTION TO DISMISS
 AMENDED COMPLAINT
 DATE: June 23, 2006
 TIME: 9:30 a.m.
 COURTROOM: Hon. Vaughn Walker

20
21
22
23
24
25
26
27
28

1 I, JAMES S. TYRE, hereby declare:

2 1. I am an attorney at law licensed to practice before all California courts and am a
3 member of the bar of this Court. I am one of the attorneys of record for plaintiffs in this action. I
4 state all facts herein of my own first hand personal knowledge, and if called as a witness, I could and
5 would competently testify thereto.

6 2. Cal-Access, located at <http://cal-access.ss.ca.gov/>, is a web site maintained by the
7 California Secretary of State. Among other things, one can research California lobbying
8 expenditures at the site, and access documents filed by those spending lobbying money in California.
9 Attached hereto as Exhibit A and incorporated herein by reference is a true and correct copy of the
10 Cal-Access report of lobbying activity (as of May 19, 2006) of “AT&T Inc. and its Affiliates,” for
11 the first five quarters of the 2005 – 2006 California Legislative Session (January 1, 2005 through
12 March 31, 2006).

13 3. Apparently, one cannot link permanently to Cal-Access search results. To get to the
14 page represented by Exhibit A, start at <http://cal-access.ss.ca.gov/>. On the left side, click on
15 “Lobbying Activity,” then “Lobbyist Employers.” Scroll down to “AT&T Inc. and its Affiliates,”
16 click on that link. Towards the top of the page that will be displayed it says “View.” Tick the
17 “Financial Activity/Filing History” button. The page that will be displayed will be that represented
18 by Exhibit A (subject to new information, if any, that may have been added subsequent to when I
19 printed Exhibit A).

20 4. The first section of Exhibit A, “Lobbying Payments Made,” is a summary of lobbying
21 expenditures by the lobbyist employer, based on reports by the lobbyist employer required by the
22 California Government Code. The second section, “Bills and Agencies Lobbied,” shows where the
23 lobbyist employer directed its efforts, again based on the lobbyist employer reports. The third
24 section, “Electronic Filings,” lists and provides active hyperlinks to the reports filed by the lobbyist
25 employer.

26 5. Attached hereto as Exhibit B and incorporated here by reference is a true and correct
27 copy of AT&T’s amended “Lobbyist Employer Registration Statement,” filed May 17, 2006. As of
28 May 19, 2006 that is the top listed document in the “Electronic Filings” section of Exhibit A, and the

1 document was accessed by clicking on the hyperlink to the document on the Secretary of State's web
2 page. Attached hereto as Exhibit C and incorporated here by reference is a true and correct copy of
3 AT&T's "Lobbying Firm Activity Authorization," filed May 9, 2006. As of May 19, 2006 that is
4 the second listed document in the "Electronic Filings" section of Exhibit A, and the document was
5 accessed by clicking on the hyperlink to the document on the Secretary of State's web page.
6 Attached hereto as Exhibit D and incorporated here by reference is a true and correct copy of
7 AT&T's "Report of Lobbyist Employer," filed May 1, 2006 for the reporting period January 1, 2006
8 through March 31, 2006. As of May 19, 2006 that is the third listed document in the "Electronic
9 Filings" section of Exhibit A, and the document was accessed by clicking on the hyperlink to the
10 document on the Secretary of State's web page. Attached hereto as Exhibit E and incorporated here
11 by reference is a true and correct copy of AT&T's "Report of Lobbyist Employer," filed January 31,
12 2006 for the reporting period October 1, 2005 through December 31, 2005. As of May 19, 2006 that
13 is the fourth listed document in the "Electronic Filings" section of Exhibit A, and the document was
14 accessed by clicking on the hyperlink to the document on the Secretary of State's web page.

15 6. AT&T makes available on its web site, www.att.com (which redirects to
16 <http://att.sbc.com/gen/landing-pages?pid=3308>), its current and historical (to the beginning of 1996)
17 news releases. All of the news releases referenced below were obtained from AT&T's website at the
18 specified web page addresses.

19 7. Though one cannot link permanently to the web page represented by Exhibit A
20 hereto, the expenditures listed therein are derived from AT&T's five most recent quarterly reports.
21 Exhibits D and E hereto are the two most recent. Each of the other three is accessible from and
22 linked to the web page represented by Exhibit A.

23 8. Attached hereto as Exhibit F is a true and correct copy of an AT&T news release
24 dated January 5, 2006, titled *Ken Mcneely Appointed President-External Affairs for AT&T*
25 *California*, at <http://att.sbc.com/gen/press-room?pid=4800&cdvn=news&newsarticleid=22019>.

26 9. Attached hereto as Exhibit G is a true and correct copy of an AT&T news release
27 dated March 6, 2006, titled *Angels Fans: What's Your Excuse? AT&T Opening Day of Program*

28

1 *Provides Fans with a Chance to Win Game Tickets and Prizes*, at [http://att.sbc.com/gen/press-](http://att.sbc.com/gen/press-room?pid=4800&cdvn=news&newsarticleid=22143)
2 [room?pid=4800&cdvn=news&newsarticleid=22143](http://att.sbc.com/gen/press-room?pid=4800&cdvn=news&newsarticleid=22143).

3 10. Attached hereto as Exhibit H is a true and correct copy of an AT&T news release
4 dated March 9, 2006, titled *AT&T Announces New Data Services Contract with the City of Folsom*,
5 at <http://att.sbc.com/gen/press-room?pid=4800&cdvn=news&newsarticleid=22156>.

6 11. Attached hereto as Exhibit I is a true and correct copy of an AT&T news release
7 dated March 15, 2006, titled *AT&T Announces New Contract with the Daughters of Charity Health*
8 *System*, at <http://att.sbc.com/gen/press-room?pid=4800&cdvn=news&newsarticleid=22168>.

9 12. Attached hereto as Exhibit J is a true and correct copy of an AT&T news release
10 dated April 3, 2006, titled *AT&T Secures New Seven-Year Contract with Irvine Unified School*
11 *District*, at <http://att.sbc.com/gen/press-room?pid=4800&cdvn=news&newsarticleid=22193>.

12 13. Attached hereto as Exhibit K is a true and correct copy of an AT&T news release
13 dated April 10, 2006, titled *AT&T Introduces In-Home Tech Support to Help Consumers with*
14 *Virtually All Home PC and Networking Needs*, at [http://att.sbc.com/gen/press-](http://att.sbc.com/gen/press-room?pid=4800&cdvn=news&newsarticleid=22210)
15 [room?pid=4800&cdvn=news&newsarticleid=22210](http://att.sbc.com/gen/press-room?pid=4800&cdvn=news&newsarticleid=22210).

16 14. Attached hereto as Exhibit L is a true and correct copy of an AT&T news release
17 dated April 12, 2006, titled *AT&T Announces New Contract with Pajaro Valley Unified School*
18 *District*, at <http://att.sbc.com/gen/press-room?pid=4800&cdvn=news&newsarticleid=22212>.

19 15. Attached hereto as Exhibit M is a true and correct copy of an AT&T news release
20 dated April 21, 2006, titled *AT&T Announces Addition of Optical Networking Services to Los*
21 *Angeles County*, at [http://att.sbc.com/gen/press-room?pid=4800&cdvn=news&newsarticleid=](http://att.sbc.com/gen/press-room?pid=4800&cdvn=news&newsarticleid=22236)
22 [22236](http://att.sbc.com/gen/press-room?pid=4800&cdvn=news&newsarticleid=22236).

23 16. Attached hereto as Exhibit N is a true and correct copy of an AT&T news release
24 dated April 26, 2006, titled *AT&T Introduces Faster-Speed Tier for Consumers at Market-Leading*
25 *Price*, at <http://att.sbc.com/gen/press-room?pid=4800&cdvn=news&newsarticleid=22243>.

26 17. Attached hereto as Exhibit O is a true and correct copy of an AT&T news release
27 dated April 28, 2006, titled *AT&T Secures Deal with East West Bank*, at [http://att.sbc.com/gen/press-](http://att.sbc.com/gen/press-room?pid=4800&cdvn=news&newsarticleid=22250)
28 [room?pid=4800&cdvn=news&newsarticleid=22250](http://att.sbc.com/gen/press-room?pid=4800&cdvn=news&newsarticleid=22250).

1 18. Attached hereto as Exhibit P is a true and correct copy of an AT&T news release
2 dated January 26, 2006, titled *AT&T Foundation Awards \$5,000 to Casa of El Dorado for*
3 *Technology Projects*, at [http://att.sbc.com/gen/press-room?pid=4800&cdvn=news&newsarticleid=](http://att.sbc.com/gen/press-room?pid=4800&cdvn=news&newsarticleid=22061)
4 [22061](http://att.sbc.com/gen/press-room?pid=4800&cdvn=news&newsarticleid=22061).

5 19. Attached hereto as Exhibit Q is a true and correct copy of an AT&T news release
6 dated March 14, 2006, titled *Statement of AT&T Indiana Regarding HB 1279 Being Signed into*
7 *Law*, at <http://att.sbc.com/gen/press-room?pid=4800&cdvn=news&newsarticleid=22167>.

8 20. Attached hereto as Exhibit R is a true and correct copy of an AT&T news release
9 dated March 29, 2006, titled *AT&T Ready to Bring Choice and Competition to Cable Subscribers in*
10 *California*, at <http://att.sbc.com/gen/press-room?pid=4800&cdvn=news&newsarticleid=22187>.

11 21. Attached hereto as Exhibit S is a true and correct copy of an AT&T news release
12 dated April 12, 2006, titled *AT&T Texas, Nortel and Tandberg Team Up with “Extreme Makeover:*
13 *Home Edition” to Install State-Of-The-Art Communications Systems at Firehouse Damaged by*
14 *Hurricane Rita*, at [http://att.sbc.com/gen/press-room?pid=4800&cdvn=news&newsarticleid](http://att.sbc.com/gen/press-room?pid=4800&cdvn=news&newsarticleid=22221)
15 [=22221](http://att.sbc.com/gen/press-room?pid=4800&cdvn=news&newsarticleid=22221).

16 22. Attached hereto as Exhibit T is a true and correct copy of an AT&T news release
17 dated April 18, 2006, titled *AT&T Government Solutions Wins \$4.8 Million Contract for LAN*
18 *Upgrade for Army and Air Force Exchange Services*, at [http://att.sbc.com/gen/press-](http://att.sbc.com/gen/press-room?pid=4800&cdvn=news&newsarticleid=22239)
19 [room?pid=4800&cdvn=news&newsarticleid=22239](http://att.sbc.com/gen/press-room?pid=4800&cdvn=news&newsarticleid=22239).

20 23. Attached hereto as Exhibit U is a true and correct copy of the AT&T Fact Sheet, last
21 viewed May 21, 2006, at <http://att.sbc.com/gen/investor-relations?pid=5711>.

22 24. Attached hereto as Exhibit V is a true and correct copy of the AT&T Diversity and
23 Inclusion web page, last viewed May 21, 2006, at [http://att.sbc.com/gen/corporate-](http://att.sbc.com/gen/corporate-citizenship?pid=7752)
24 [citizenship?pid=7752](http://att.sbc.com/gen/corporate-citizenship?pid=7752).

25 25. Attached hereto as Exhibit W is a true and correct copy of the AT&T Careers web
26 page, last viewed May 21, 2006, at <http://att.sbc.com/gen/careers?pid=1>.

27 26. Attached hereto as Exhibit X is a true and correct copy of the AT&T Career
28 Locations web page, last viewed May 21, 2006, at <http://att.sbc.com/gen/careers?pid=20>.

1 27. Attached hereto as Exhibit Y is a true and correct copy of the AT&T Management
2 Opportunities web page, last viewed May 21, 2006, at <http://sbc.recruitmax.com/candidate/default.cfm?szWorkgroupID=1>.

4 28. Attached hereto as Exhibit Z is the web page displayed as a result of a search on May
5 21, 2006 for AT&T management opportunities in San Francisco. A persistent link to the search
6 results page cannot be maintained. The search was done at the web page listed in the preceding
7 paragraph, by searching for all AT&T management opportunities in San Francisco.

8 29. Filed concurrently are the respective Declarations of Daniel O'Brien and Adam L.
9 Rubinger. With exhibits – printouts of pages from their respective web sessions – they demonstrate
10 how one can use the AT&T web site to sign up for AT&T local and long distance telephone services
11 (O'Brien) and Internet services (Rubinger). During the sign-up process, each had to input personal
12 information to the web site, such as credit card numbers, social security numbers and home
13 addresses. Under my direction, that personal information has been redacted from the exhibits that
14 will be served and filed. The unredacted exhibits are in the possession of the Electronic Frontier
15 Foundation, and will be made available to the Court or defense counsel on request.

16 I declare under penalty of perjury under the laws of the United States of America that the
17 foregoing is true and correct. Executed this 5th day of June, 2006, at Culver City, California.

18
19
20
21
22
23
24
25
26
27
28

/s/
JAMES S. TYRE

W:\AT&T Privacy\DEC00031557_Tyre.doc

1 CERTIFICATE OF SERVICE

2 I hereby certify that on June 6, 2006, I electronically filed the foregoing with the Clerk of the
3 Court using the CM/ECF system which will send notification of such filing to the e-mail addresses
4 denoted on the attached Electronic Mail Notice List, and I hereby certify that I have mailed the
5 foregoing document or paper via the United States Postal Service to the non-CM/ECF participants
6 indicated on the attached Manual Notice List.

7 /s/

8

MARIA V. MORRIS

9 LERACH COUGHLIN STOIA GELLER
10 RUDMAN & ROBBINS LLP
11 100 Pine Street, Suite 2600
12 San Francisco, CA 94111
13 Telephone: 415/288-4545
14 415/288-4534 (fax)
15 E-mail: mariam@lerachlaw.com

16 I, Maria V. Morris, am the ECF User whose ID and password are being used to file this
17 DECLARATION OF JAMES S. TYRE IN SUPPORT OF PLAINTIFFS' OPPOSITION TO AT&T
18 INC.'S MOTION TO DISMISS AMENDED COMPLAINT. In compliance with General Order 45,
19 X.B., I hereby attest that James S. Tyre has concurred in this filing.

20 DATE: June 6, 2006

21 /s/

22

MARIA V. MORRIS

23 W:\AT&T Privacy\DEC00031557_Tyre.doc
24
25
26
27
28

Mailing Information for a Case 3:06-cv-00672-VRW

Electronic Mail Notice List

The following are those who are currently on the list to receive e-mail notices for this case.

- **Timothy L. Alger**
timalger@quinnemanuel.com albertvillamil@quinnemanuel.com
- **Kevin Stuart Bankston**
bankston@eff.org
- **Bradford Allan Berenson**
bberenson@sidley.com vshort@sidley.com
- **James J. Brosnahan**
jbroshahan@mofo.com bkeaton@mofo.com
- **Cindy Ann Cohn**
cindy@eff.org wendy@eff.org;barak@eff.org
- **Anthony Joseph Coppolino**
tony.coppolino@usdoj.gov
- **Bruce A. Ericson**
bruce.ericson@pillsburylaw.com
- **Jeff D Friedman**
JFriedman@lerachlaw.com RebeccaG@lerachlaw.com
- **Barry R. Himmelstein**
bhimmelstein@lchb.com
- **Eric A. Isaacson**
erici@lerachlaw.com
- **Reed R. Kathrein**
reedk@lerachlaw.com e_file_sd@lerachlaw.com;e_file_sf@lerachlaw.com
- **Michael M. Markman**
mmarkman@hewm.com
- **Brian Martinez**
brianmartinez@mofo.com
- **Edward Robert McNicholas**
emcnicholas@sidley.com vshort@sidley.com
- **Corynne McSherry**
corynne@eff.org
- **Maria V. Morris**
mariam@lerachlaw.com e_file_sf@lerachlaw.com
- **Karl Olson**
ko@lrolaw.com amw@lrolaw.com,slighthill@gmail.com

- **Kurt Opsahl**
kurt@eff.org
- **Renee Sharon Orleans**
renee.orleans@usdoj.gov
- **Shana Eve Scarlett**
shanas@lerachlaw.com e_file_sd@lerachlaw.com;e_file_sf@lerachlaw.com
- **Jacob R. Sorensen**
jake.sorensen@pillsburylaw.com
- **Andrew H Tannenbaum**
andrew.tannenbaum@usdoj.gov
- **Tze Lee Tien**
tien@eff.org aram@eff.org
- **Theresa M. Traber, Esq**
tmt@tvlegal.com
- **James Samuel Tyre**
jstyre@jstyre.com jstyre@eff.org
- **Marc Van Der Hout**
ndca@vblaw.com
- **Bert Voorhees**
bv@tvlegal.com
- **Richard Roy Wiebe**
wiebe@pacbell.net

Manual Notice List

The following is the list of attorneys who are **not** on the list to receive e-mail notices for this case (who therefore require manual noticing). You may wish to use your mouse to select and copy this list into your word processing program in order to create notices or labels for these recipients.

David W. Carpenter

Sidley Austin Brown & Wood LLP
Bank One Plaza
10 South Dearborn Street
Chicago, IL 60600

David L. Lawson

Sidley Austin Brown & Wood
172 Eye Street, N.W.
Washington, DC 20006