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21 **AT&T PENSION BENEFIT PLAN –**  
22 **NONBARGAINED PROGRAM**  
23 [*Additional counsel listed on next page*]

24 **UNITED STATES DISTRICT COURT**

25 **NORTHERN DISTRICT OF CALIFORNIA**

26 **QUILLER BARNES,**

27 Plaintiff,

28 vs.

29 **AT&T PENSION BENEFIT PLAN –**  
30 **NONBARGAINED PROGRAM,**

31 Defendant.

CASE NO. 08-04058 EMC

**STIPULATION ON PLAINTIFF’S  
MOTION FOR AWARD OF  
ATTORNEYS’ FEES AND NON-  
TAXABLE COSTS; [PROPOSED]  
ORDER**

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17 **AT&T PENSION BENEFIT PLAN –**  
**NONBARGAINED PROGRAM**

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1 WHEREAS, on April 30, 2013, Plaintiff filed a Motion for Award of Attorneys' Fees and  
2 Non-Taxable Costs ("Fee Motion"), seeking, among other relief, an award of non-taxable costs in the  
3 amount of \$75,867.85, which Plaintiff incurred in the litigation through August 31, 2011 (D.E.  
4 #355);

5 WHEREAS, on July 26, 2013, the Court issued an Order Granting Plaintiff's Motion for  
6 Attorney's Fees, awarding Plaintiff \$75,867.85 in non-taxable costs and ordering the Parties to  
7 provide supplemental briefing regarding the amount of attorneys' fees to be awarded (D.E. #386);

8 WHEREAS, on August 21, 2013, Defendant filed a Motion for Leave to File Motion for  
9 Reconsideration regarding the Court's award of non-taxable expenses (D.E. #392);

10 WHEREAS, on August 26, 2013, the Parties filed supplemental briefs so the Court could  
11 determine the exact amount of fees and costs to award (D.E. #s 393, 396);

12 WHEREAS, on October 10, 2013, the Court issued an order disposing of the motions at  
13 Docket Nos. 392, 398, and 405 (D.E. #406) and awarding Plaintiff fees in the amount of  
14 \$208,651.58;

15 WHEREAS, the Court encouraged the Parties to meet and confer to see if they could reach  
16 agreement on non-taxable expenses given the Court's rulings in the Order on fees; and

17 WHEREAS, counsel for the Parties have met and conferred in good faith, and, as a result,  
18 the Parties have reached a compromise and resolution on Plaintiff's award of non-taxable expenses  
19 and other matters;

20 IT IS HEREBY STIPULATED BY AND BETWEEN Plaintiff Quiller Barnes and  
21 Defendant AT&T Pension Benefit Plan – Nonbargained Program (collectively referred to as the  
22 "Parties"), acting through their respective counsel of record, as follows:

23 1. Defendant shall pay \$24,690.84 for the following expenses:

24 (a) The full amount of the taxable costs ordered by the Court, totaling \$824.05  
25 (D.E. #374);

26 (b) \$5,000 that Plaintiff Barnes expended out-of-pocket before April 2009  
27 (D.E. #360);  
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1 (c) \$12,000, which includes certain expenses Plaintiff incurred from January 21,  
2 2011 through August 31, 2011;

3 (d) \$6,382.35, which includes certain expenses related to Plaintiff's taking of the  
4 Fed. R. Civ. P. 30(b)(6) deposition of the Plan on October 29 and November 9, 2010,  
5 including the costs of travel for Plaintiff's counsel, Michelle L. Roberts, to attend one day of  
6 the deposition and the costs for the court reporter and transcript for both days of the  
7 deposition; and

8 (e) \$484.44, which includes certain expenses incurred in connection with the  
9 filing of Plaintiff's motion for fees (D.E. #355) and subsequent related filings with the  
10 exception of the travel costs for Plaintiff's counsel R. Joseph Barton to attend the hearing on  
11 the Fee Motion;

12 2. Within 30 days of the entry of this Order, Defendant will deliver the sums of  
13 \$24,690.84 and \$208,651.58 either by a check or checks made payable to Cohen, Milstein,  
14 Sellers & Toll, P.L.L.C. (Attn: R. Joseph Barton) or by wire transfer to an account designated  
15 by Cohen Milstein Sellers & Toll, P.L.L.C.

16 3. Neither Party will appeal or seek further reconsideration any of the Court's Orders  
17 related to the Fee Motion (D.E. #s 386, 406), or seek any other award of attorneys' fees and  
18 expenses related to this litigation, except that nothing in this stipulation will prevent Plaintiff  
19 from seeking any attorneys' fees, costs or expenses in excess of the amount paid pursuant to  
20 this Stipulation based on subsequent success on the merits in this action in the Ninth Circuit  
21 Court of Appeals or prevent Defendant from seeking an award of costs from the Ninth  
22 Circuit in connection with the pending appeal in this action.

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