

HON. BETH ANDRUS  
Hearing Date: April 12, 2013 @ 9:00 a.m.  
With Oral Argument

IN THE SUPERIOR COURT OF WASHINGTON  
FOR KING COUNTY

SANDY JUDD, TARA HERIVEL, and  
COLUMBIA LEGAL SERVICES, for  
themselves, and on behalf of all similarly  
situated persons,

Plaintiffs,

v.

AMERICAN TELEPHONE AND  
TELEGRAPH COMPANY and  
T-NETIX, INC.,

Defendants.

NO. 00-2-17565-5 SEA  
CLASS ACTION

DECLARATION OF CHRIS R. YOUTZ  
IN SUPPORT OF CLASS COUNSEL'S  
MOTION FOR COMPENSATION,  
COSTS AND INCENTIVE AWARD RE:  
T-NETIX SETTLEMENT

Chris R. Youtz declares under penalty of perjury as follows:

1. I am one of the attorneys representing plaintiffs and the class in this matter. The facts stated in this declaration are based on my personal knowledge.

2. I have been the attorney primarily responsible for this case. We became involved in this case when we were approached by Sandy Judd and her husband Paul Wright because of their expensive phone bills for collect calls from Washington DOC facilities. They had discussions with another Seattle firm for about a year regarding this matter, but that firm declined to take the case. After substantial review, we decided to take the case and make the argument that the defendants had

1 failed to properly disclose rates. I had handled pro bono cases on behalf of prisoners  
2 and had litigated with telecommunications companies in the past so I knew that the  
3 case would be risky and hard-fought by the defendants.

4 3. We filed this case in June, 2000. This case has a substantial history.  
5 Within a few months of filing, the court dismissed portions of the lawsuit that we  
6 appealed. The issues on appeal were first ruled upon by the Court of Appeals then  
7 addressed by the Washington Supreme Court. Following those rulings, two defendants  
8 remained in the action: AT&T and T-Netix.

9 4. The court also ruled that two issues should be referred to the  
10 Washington Utilities and Transportation Commission: 1) whether AT&T and T-Netix  
11 were operator service providers, and 2) whether the rate disclosure regulations were  
12 violated. Once proceedings began with the WUTC, AT&T and T-Netix immediately  
13 filed motions for summary determination with the Commission. Several other motions  
14 were filed and substantial discovery began. One of the motions asserted that plaintiffs  
15 lacked standing to bring claims against AT&T and T Netix. That motion was denied by  
16 the administrative law judge, and AT&T and T-Netix appealed the decision to the full  
17 commission. The Commission affirmed that decision. The motion was then brought in  
18 this court as a motion for summary judgment. That motion was granted by Judge  
19 Ramsdell, who ruled the plaintiffs lacked standing. That decision also resulted in the  
20 WUTC terminating its proceedings in October, 2005.

21 5. Plaintiffs appealed the summary judgment order to Division I of  
22 the Court of Appeals. The order was reversed and the defendants sought review by the  
23 Washington Supreme Court. Review was denied. In March, 2008 an order was issued  
24 reinstating the referral to the WUTC.

25 6. AT&T and T-Netix renewed their motions for summary  
26 determination in the WUTC proceedings. Substantial discovery followed before the  
motions were fully briefed and submitted. Additional bench requests were issued by

1 the administrative law judge who filed an initial order (Order 23) on April 21, 2010.  
2 That order was appealed by AT&T to the full commission. The Commission also  
3 sought additional information through bench requests and the parties raised numerous  
4 motions to strike in connection with the review by the Commission. During this time  
5 AT&T also sought to recuse the judge in charge of the administrative law division from  
6 participating in the case. The Commission denied that motion.

7 7. On March 31, 2011 the Commission issued Final Order 25.

8 8. Final Order 25 responded to the referral questions from this Court.  
9 Because the order resulted from an administrative proceeding, T-Netix and AT&T filed  
10 petitions for judicial review in Thurston County Superior Court. Thus began rounds of  
11 briefing and hearings in that court.

12 9. In April 2011 the case was reactivated in King County Superior  
13 Court. Plaintiffs immediately sought leave to amend the complaint to add Columbia  
14 Legal Services as a class representative. We also filed our motion for class certification.  
15 The Court allowed the amended complaint but stayed the class certification motion  
16 and other activity pending a ruling on the judicial review of the Commission's Order  
17 25 from the Thurston County Superior Court.

18 10. Ultimately, the Thurston County Superior Court affirmed the  
19 rulings made by the Commission regarding determination of the operator services  
20 providers, but remanded the issue of whether the regulations were violated for the  
21 Commission to receive additional evidence. This Court then granted AT&T's motion to  
22 withdrawal the referral from the WUTC so that this Court would decide all liability  
23 issues. The issue of the identity of the operator service provider, however, was  
24 appealed to Division II of the Court of Appeals where oral argument is set for April 8.

25 11. This Court then allowed the plaintiffs to proceed with obtaining  
26 class certification and discovery. As his Court well knows, from February 2012 through  
the end of the year, there were numerous motions seeking to reconsider class

1 certification and limit the issues in the case as well as several motions for summary  
2 judgment. Defendants twice sought discretionary review in Division I of the Court of  
3 Appeals.

4 12. Discovery was extensive, and occurred throughout the country. In  
5 large part, the case turned on highly technical issues both related to equipment and  
6 software. Plaintiffs had to fight for every piece of technical information they could  
7 obtain from defendants. Ultimately, many of the answers were provided through data  
8 tapes obtained from T-Netix that not only contained call detail records for the calls  
9 made from the prisons, but also program files and data. It took hundreds of hours of  
10 review time of program code, data files, and call records to fully understand how the  
11 T-Netix system worked and why proper rate quoting was not being provided. In  
12 addition, there were extensive telecommunications issues that required us to review  
13 several dockets at the Federal Communications Commission and the WUTC to  
14 understand and analyze the history of rate quoting and other issues. Among the other  
15 issues we had to address was the designation of calls as interLATA, intraLATA, or  
16 local. This was necessary for determining both liability and damages.

17 13. While the Court did not see much of the technical analysis that  
18 was undertaken in this case, it was presented with a substantial amount of legal  
19 analysis from issues raised by the defendants regarding class certification issues, the  
20 applicability of the Consumer Protection Act, statutory damages, and the interplay of  
21 federal and state law related to rate quoting. There is no doubt that the defendants  
22 raised every possible defense and argument available in this case, often more than  
23 once. These arguments even extended to attempts to narrow the class on the grounds  
24 that Columbia Legal Services should not be a class representative because as a provider  
25 of services to the poor it could have received money from The Law Foundation from  
26 any residual funds remaining after class members were paid.

1           14. By the time that much of the discovery was done, the parties  
2 attempted to settle the case. With respect to T-Netix, settlement discussions first began  
3 in late August, 2012 mediator Eric Green. Those efforts were unsuccessful. Shortly after  
4 the mediation, the court considered several motions for summary judgment, including  
5 liability motions brought by the plaintiffs. Following the decisions on those motions,  
6 we negotiated directly with T-Netix's general counsel and settled the claims against T  
7 Netix for approximately \$1.4 million.

8           15. The Court ruled that damages for violations of the rate disclosure  
9 regulations under the Washington Consumer Protection Act should be based on a  
10 payment of \$200 per consumer plus the cost of the collect calls accepted by the  
11 consumer. Under this formula, the approximate amount of the maximum damages that  
12 the Local Call Class could obtain was \$1,241,480. This is approximately \$171,000 less  
13 than the amount paid by T-Netix under the settlement agreement. This assumes that  
14 each unique telephone number represented a unique consumer who would receive  
15 \$200. As shown by the damages analysis prepared for the claim against AT&T, it is  
16 likely that class members had more than one number that they received calls on. We  
17 expect that the actual amount that would be paid out to claimants will be substantially  
18 less. The claims received to date indicate that the amount of money paid for submitted  
19 claims will be less than \$200,000 of the \$1.4 million settlement.

20           16. There are many class actions where settlements often return only  
21 pennies on the dollar to class members. Here, even after the payment of fees, expenses,  
22 and the case contribution award to Columbia Legal Services, it is probable that class  
23 members submitting claims will receive the maximum amount of their entitlement.

24           17. We have personally contributed more than \$500,000 to pay for  
25 expert witness fees, depositions, travel expenses, providing notice and claims  
26 administration for class members, trial graphics and other expenses. There was no  
guaranty that we would receive back any of these funds if the case was not successful.



1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26

**CERTIFICATE OF SERVICE**

I certify, under penalty of perjury and in accordance with the laws of the State of Washington, that on March 25, 2013, I caused a copy of the foregoing document to be served on all counsel of record in the manner shown and at the addresses listed below:

Bradford Axel  
STOKES LAWRENCE, P.S.  
1420 Fifth Avenue, Suite 3000  
Seattle, WA 98101

Attorneys for AT&T  
By Email:  
[bradford.axel@stokeslaw.com](mailto:bradford.axel@stokeslaw.com)  
[deborah.messer@stokeslaw.com](mailto:deborah.messer@stokeslaw.com)

Charles H.R. Peters  
David C. Scott  
Brian L. Josias  
SCHIFF HARDIN LLP  
233 S. Wacker Drive, Suite 6600  
Chicago, IL 60606

Attorneys for AT&T  
By Email:  
[cpeters@schiffhardin.com](mailto:cpeters@schiffhardin.com)  
[dscott@schiffhardin.com](mailto:dscott@schiffhardin.com)  
[bjosias@schiffhardin.com](mailto:bjosias@schiffhardin.com)

Charles W. Douglas  
David W. Carpenter  
SIDLEY AUSTIN LLP  
One South Dearborn  
Chicago, IL 60603

Attorneys for AT&T  
By Email:  
[cdouglas@sidley.com](mailto:cdouglas@sidley.com)  
[dcarpenter@sidley.com](mailto:dcarpenter@sidley.com)

Don Paul Badgley  
Donald H. Mullins  
Duncan C. Turner  
BADGLEY-MULLINS LAW GROUP PLLC  
701 Fifth Avenue, Suite 4750  
Seattle, WA 98104

Attorneys for T-Netix  
By Email:  
[donbadgley@badgley-mullins.com](mailto:donbadgley@badgley-mullins.com)  
[donmullins@badgley-mullins.com](mailto:donmullins@badgley-mullins.com)  
[duncanturner@badgley-mullins.com](mailto:duncanturner@badgley-mullins.com)  
[climon@badgley-mullins.com](mailto:climon@badgley-mullins.com)

Stephanie A. Joyce  
ARENT FOX LLP  
1717 K Street, NW  
Washington, DC 20036

Attorneys for T-Netix  
By Email:  
[joyce.stephanie@arentfox.com](mailto:joyce.stephanie@arentfox.com)

DATED: March 25, 2013, at Seattle, Washington.

/s/ Richard E. Spoonemore  
Richard E. Spoonemore (WSBA #21833)