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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

UNOPPOSED MOTION OF THE
INTERLATA CLASS AND
INTRALATA CLASS FOR:

- (1) PRELIMINARY APPROVAL OF SETTLEMENT AGREEMENT;
- (2) PRELIMINARY APPROVAL OF PLAN OF ALLOCATION;
- (3) DIRECTIVE TO SEND NOTICE; AND
- (4) ESTABLISHMENT OF FINAL APPROVAL HEARING

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I. RELIEF REQUESTED

The InterLATA Call Recipients Class and the IntraLATA Call Recipients Class (collectively, the “AT&T Call Classes”), as defined by this Court’s Order dated February 25, 2012, have settled their claims against AT&T, Inc. Under the CR 2A Settlement Agreement (“Agreement”) AT&T will pay \$45,000,000 to release the claims of the AT&T Call Classes. With AT&T’s experts finding damages at \$33 million, and the Classes’ experts arriving at \$57 million, the settlement figure is at the midpoint between these figures.¹

A copy of the signed Agreement is in *Appendix 1* to this memorandum. The proposed Plan of Allocation is in *Appendix 2*, the proposed Class Notice is attached as *Appendix 3*, and the proposed Publication Notice is attached as *Appendix 4*. Under CR 23(e), Plaintiffs Sandy Judd, Tara Herivel and Columbia Legal Services move the Court to:

- (a) preliminarily approve the Agreement;
- (b) preliminarily approve the Plan of Allocation;
- (c) authorize the mailing of notice to Class Members; and
- (d) establish a final settlement approval hearing and process.

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II. EVIDENCE RELIEF UPON

The Class relies upon the Declarations of Chris R. Youtz and Richard E. Spoonemore.

¹ The parties had previously entered into a partial agreement with respect to the “overlap” period of time when AT&T may have been correcting quoting rates because its intrastate and interstate rates were the same. *See* IntraLATA and InterLATA Classes’ Unopposed Motion for Preliminary Approval of Limited Settlement Agreement with AT&T (11/7/12). It called for a deduction of \$425,000 from any jury verdict. *Id.* The present agreement renders the prior agreement moot. The \$45,000,000 figure reflects the total amount AT&T will pay; *i.e.*, that sum is *not* subject to a \$425,000 reduction.

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III. FACTS

A. Overview of the Claims of the AT&T Call Classes.

The AT&T Call Classes allege that AT&T violated Washington’s telephone rate disclosure laws. See RCW 80.36.510², 80.36.520³, WAC 480-120-141 (1991) and WAC 480-120-141 (1999). Under those statutes and regulations, a telecommunications company operating as an “operator service provider” must provide consumers with accurate verbal rate disclosures for collect calls. Failure to comply is a *per se* violation of Washington’s Consumer Protection Act.⁴

Under orders entered last fall, the Classes prevailed on summary judgments regarding AT&T’s liability. See e.g. Order Granting in Part and Denying in Part

² This statute provides that:

The legislature finds that a growing number of companies provide, in a nonresidential setting, telecommunications services necessary to long distance service without disclosing the services provided or the rate, charge or fee. The legislature finds that provision of these services without disclosure to consumers is a deceptive trade practice.

RCW 80.36.510.

³ This statute directs the Washington Utilities and Transportation Commission to promulgate specific disclosure regulations:

The utilities and transportation commission shall by rule require, at a minimum, that any telecommunications company, operating as or contracting with an alternate operator services company, assure appropriate disclosure to consumers of the provision and the rate, charge or fee of services provided by an alternate operator services company.

RCW 80.36.520. Those regulations are set forth in WAC 480-120-141.

⁴ The statute specifically provides:

In addition to the penalties provided in this title, a violation of RCW 80.36.510, RCW 80.36.520, or RCW 80.36.524 constitutes an unfair or deceptive act in trade or commerce in violation of chapter 19.86 RCW, the consumer protection act. Acts in violation of RCW 80.36.510, RCW 80.36.520, or RCW 80.36.524 are not reasonable in relation to the development and preservation of business, and constitute matters vitally affecting the public interest for the purpose of applying the consumer protection act, chapter 19.86 RCW. It shall be presumed that damages to the consumer are equal to the cost of the service provided plus two hundred dollars. Additional damages must be proved.

RCW 80.36.530.

1 Plaintiffs' Motion for Partial Summary Judgment that AT&T and T-T-Netix Violated
2 WUTC Regulations (9/21/12); Order on AT&T's Motion for Clarification (10/9/12).
3 Trial was scheduled to begin on January 22, 2013 to determine the damages that AT&T
4 should pay.

5 **B. Overview of Settlement Agreement.**

6 AT&T and Class Counsel began settlement discussions in a mediation in Boston
7 with Professor Eric D. Green, one of the founders of JAMS, on August 29, 2012. With
8 several dispositive motions pending at that point, the parties were far apart and the
9 mediation failed. In December of 2012, after the summary judgment motions had been
10 decided, Plaintiffs offered to re-engage in settlement discussions. AT&T's counsel and
11 Class Counsel discussed approaches to settlement after this Court's January 4, 2013
12 hearing. The parties attempted to resolve the case through direct discussions. Those
13 efforts stalled the following week. Judge Edward Infante (ret.), a mediator in
14 California with a nationwide reputation for resolving difficult disputes, had a last-
15 minute cancellation and the parties met in Los Angeles for a mediation on January 14,
16 2013. Although that mediation failed as well, some progress was made. Judge Infante
17 re-engaged the parties on January 18, 2013 with no success. Finally, on January 21 - the
18 day before trial - Judge Infante made a mediator's proposal at \$45,000,000. It was
19 accepted by both parties late in the day on January 21. Trial was pushed back a day
20 while the parties discussed the other terms. A CR 2A agreement was signed on January
21 22 and provided to the Court.

22 **1. AT&T's Payment of \$45,000,000.**

23 Under the Agreement, AT&T will pay \$45,000,000 to resolve the claims brought
24 by the AT&T Call Classes. Agreement, ¶1.
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2. Mutual Releases.

In return, the AT&T Call Classes will provide “a full release of all claims that either class has, had, or may have in the future against AT&T relating to or arising out of the facts alleged in this lawsuit.” Agreement, ¶2.

3. Attorney Fees, Costs and Costs of Administration.

The Settlement Amount is also used to pay for attorney fees, litigation costs, notice costs and costs of administration. Agreement, ¶¶1, 3, 6. All such payments must be approved and authorized by the Court. *Id.*

4. Case Contribution Awards.

The Agreement calls for a case contribution awards not to exceed \$50,000, also subject to approval by the Court. Agreement, ¶6.

5. Notice

Counsel for the Class is solely responsible for drafting a notice to be sent to the class members and submitting the notice for Court approval. Agreement, ¶3.

6. The Plan of Allocation

Counsel for the Class is responsible for preparing a plan for distribution of settlement funds to class members for approval by the Court. Agreement, ¶3. The proposed Plan of Allocation mirrors the distribution plan preliminarily approved by this Court for the T-Netix settlement, and is designed to provide an easy mechanism for members of the AT&T classes to receive distributions. Agreement, ¶3.

a. Submitting Claims

The Plan of Allocation provides four ways for a class member to receive a distribution.

(i) *Presumptive Awards*

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“Presumptive awards” are made to AT&T Call Class Members identified through a reverse phone look-up. These individuals will receive claim forms that have been pre-filled out using the CDR data, which includes the maximum amount that the member can receive. The individual receiving the form need only verify the information (to the best of their ability to do so), sign and return the form. Alternatively, these individuals can claim their presumptive awards through a web-based claim process. Plan of Allocation, ¶2.a.

(ii) *Minimal Proof Award*

Individuals not entitled to a presumptive award may seek a “minimal proof award” by providing a telephone number and signing a declaration supplied to them they were assigned that number, or accepted calls at that number, during the Class Period. Based on this information, the award will be based on the cost of the calls as reflected in the CDR data associated with that number, plus two hundred dollars. Plan of Allocation, ¶2.b.

(iii) *Proof Award*

If an AT&T Call Class Member cannot recall the phone number he or she may have used to receive collect calls, then that individual can still receive a “proof award.” This award, totaling two hundred dollars, will be made if an individual (1) declares he or she accepted a call, or a call was accepted on the person’s account, (2) can identify the facility from which the call originated, and (3) can identify the address where the call was received. (If this information permits the identification of the telephone number through Class Counsel’s database, then the claimant might then be entitled to a minimal proof award.) Plan of Allocation, ¶2.c.

(iv) *“Catch-All” Proof*

1 Finally, the plan has a “catch-all” provision which permits the claims
2 administrator to pay claims based on other reasonable evidence or data sufficient to
3 establish, on a more likely basis, that the AT&T Call Class Member is entitled to an
4 award. Plan of Allocation, ¶2.d.

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6 **b. *Claims Arbitrator***

7 Any disputes or questions regarding any aspect of the claims process is subject
8 to binding adjudication by a Claims Arbitrator, identified as the Hon. George Finkle
9 (ret.). Plan of Allocation, ¶6.

10 **c. *Excess or Insufficient Funds***

11 Class Counsel anticipates all class members filing claims will receive 100% of
12 what they are owed and that a significant residual fund will remain after those
13 payments and attorney fees, contribution payments, and all expenses are paid. Subject
14 to Court approval, the parties agreed that: (1) twenty-five percent of the residual fund
15 would be distributed to the Legal Foundation of Washington as provided in
16 CR 23(f)(2); (2) AT&T may recommend recipients to the Court to receive no more than
17 twenty-five percent of the residual fund, subject to certain parameters and restrictions;⁵
18 and (3) Class Counsel will make recommendations to the Court for distributing the
19 remaining money (at least fifty percent of the residual fund). Agreement, ¶4. AT&T
20 and Class Counsel have the right to object to each other’s recommendations for “good
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22 ⁵ Under the Agreement, AT&T’s recommendation to the Court must (1) comply with CR 23(f) and,
23 (2) be designated to an entity which provides, directly or indirectly, educational, financial, or other
24 assistance to (i) prisoners or former prisoners in Washington State, (ii) the family members of prisoners
25 or former prisoners in Washington State, or (iii) any legal aid or services origination (or their umbrella
26 organizations, including the Legal Foundation of Washington) operating exclusively or nearly
exclusively in Washington State which provides educational, financial, or other services for prisoners or
former prisoners in Washington State, or the family members of prisoners or former prisoners.”
Agreement, ¶4.

1 cause.” *Id.*, ¶4. The Court, however, retains “the ultimate authority with respect to the
2 distribution” of all the residual funds. *Id.*

3 In the highly unlikely event that insufficient funds are available to pay all claims
4 after the payment of fees, costs, cost of administration and an incentive award, then
5 class members will receive a *pro rata* share of their original claim amount. Plan of
6 Allocation, ¶1.

7 IV. LAW AND ARGUMENT

8 A. The Court Should Preliminarily Approve the Agreement.

9 1. Legal Standards for Approval.

10 Civil Rule 23(e) provides that “[a] class action shall not be dismissed or
11 compromised without the approval of the court, and notice of the proposed dismissal
12 or compromise shall be given to all members of the class in such manner as the court
13 directs.” CP 23(e). The standard is reasonableness, and protecting absent class
14 members. *Pickett v. Holland America Line-Westours, Inc.*, 145 Wn.2d 178, 188, 35 P.3d 351
15 (2001). These are evaluated under the following criteria: “the likelihood of success by
16 plaintiffs; the amount of discovery or evidence, the settlement terms and conditions,
17 recommendation and experience of counsel; future expense and likely duration of
18 litigation, recommendation of neutral parties, if any; number of objectors and nature of
19 objections; and the presence of good faith and the absence of collusion.” *Id.* at 188-89.

20 The review ensures class members are treated fairly and equitably:

21 The above list is not exhaustive, nor will each factor be
22 relevant in every case. *Officers for Justice*, 688 F.2d at 625.
23 “The relative degree of importance to be attached to any
24 particular factor will depend upon and be dictated by the
25 nature of the claim(s) advanced, the type(s) of relief sought,
26 and the unique facts and circumstances presented by each
individual case.” *Id.* This is a delicate, albeit largely
unintrusive inquiry by the trial court.

1 [T]he court's intrusion upon what is otherwise
2 a private consensual agreement negotiated
3 between the parties to a lawsuit must be
4 limited to the extent necessary to reach a
5 reasoned judgment that the agreement is not
6 the product of fraud or overreaching by, or
7 collusion between, the negotiating parties, and
8 that the settlement, taken as a whole, is fair,
9 reasonable and adequate to all concerned.

10 *Id.* It is not the trial court's duty, nor place, to make sure that
11 every party is content with the settlement. Indeed, this
12 would contravene the very nature of consensual settlements.
13 Rather, the trial court should look to the possibility of
14 inequitable treatment between class members.

15 *Id.* at 189.

16 Judicial review of a proposed class settlement requires two steps: a preliminary
17 approval review and a final fairness hearing. Preliminary approval is not a
18 commitment to approve the final settlement; rather, it is a determination that "there are
19 no obvious deficiencies and the settlement falls within the range of reason." *Smith v.*
20 *Professional Billing & Management Services, Inc.*, 2007 WL 4191749, *1 (D.N.J. 2007) (citing
21 *In re Nasdaq Market-Makers Antitrust Litig.*, 176 F.R.D. 99, 102 (S.D. N.Y. 1997)). See also
22 MANUAL FOR COMPLEX LITIGATION, Fourth (2004), § 21.632 at 320. If an agreement is
23 preliminarily approved, then notice of the proposed settlement and the fairness
24 hearing is provided to class members. At the fairness hearing, class members may
25 object to the proposed settlement. The Court then decides whether final approval is
26 appropriate.

2. The Likelihood of Success.

27 The Class prevailed on the liability issues in this case before the WUTC and this
28 Court. All that remained to be tried was damages. AT&T's exposure ranged from \$33
29 million (AT&T's experts) to \$57 million (the Classes' experts). The Settlement Amount

1 falls squarely within this range. The damages trial involved issues of statistics
2 complicated by AT&T claims of bad debt and the fact that the results depended on
3 incomplete information from more than a decade ago. There was room for debate on
4 several damages issues and the jury could have determined a damages amount
5 anywhere between the figures offered by the parties. Youtz Decl. ¶ 7.

6 **3. The Settlement Terms and Conditions.**

7 The Agreement is a straightforward “payment for release” settlement. Attorney
8 fees, costs, expenses and case contribution award payments are all subject to review
9 and approval by the Court, with no distributions being made until authorized.

10 **4. Future Expense and Duration of Litigation.**

11 This matter has been before the Washington Supreme Court twice (once where
12 review was accepted), before Division I of Washington Court of Appeals twice, and
13 before two administrative law judges and the full commission of the Washington
14 Utilities and Transportation Commission. An appeal by AT&T from the WUTC’s final
15 order was affirmed by the Thurston County Superior Court and is pending in Division
16 II of the Washington Court of Appeals. Defendants twice sought discretionary review
17 from the Washington Court of Appeals during the past year. In this Court there have
18 been numerous motions for summary judgment on a variety of issues. Youtz Decl., ¶ 2.

19 Had this case progressed through trial, AT&T undoubtedly would have
20 appealed the numerous rulings made by the Court on liability. Without this Settlement,
21 the liability issues could delay resolution of this litigation for several more years. The
22 Settlement puts to rest all potential or actual appeals by AT&T.⁶

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⁶ AT&T preserved its right to continue the Division II appeal to argue that T-Netix should be the
26 operator service provider. That appeal will not affect the Settlement. Agreement, ¶7.

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5. The Settlement resulted from Arms-Length Negotiations.

Negotiations with AT&T commenced with the assistance of Professor Eric Green, a Boston-based professor/mediator and one of the founders of JAMS. See www.resolutionsllc.com/principals.htm. When that was unsuccessful, the parties attempted direct discussions. Those failed as well. To resolve the case prior to trial, the parties traveled to Los Angeles to mediate with Judge Edward Infante (ret.) at JAMS. See www.jamsadr.com. It was only with the assistance of Judge Infante (ret.) who, after a full day of mediation and two follow-up attempts, finally made a mediator's proposal of \$45,000,000 on the day before trial. Participation of an independent mediator in settlement negotiations "virtually insures that the negotiations were conducted at arm's length and without collusion between the parties." *Bert v. AK Steel Corp.*, 2008 WL 4693747, *2 (S.D. Ohio, Oct. 23, 2008). See also *In re Toys R Us Antitrust Lit.*, 191 F.R.D. 347, 352 (E.D. N.Y. 2000). This case was the poster child for an "arms-length negotiation." See Youtz Decl. Re: Preliminary Approval, ¶¶4-5.

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6. There was Sufficient Discovery.

As the Court is aware, this case settled on the eve of trial only after a mountain of motions. In the twelve-plus years leading up to the settlement, extensive discovery occurred. Tens of thousands of documents were produced, and depositions of both fact and expert witnesses took place over the country. The depth of discovery was evident in material filed to support the cross-motions for summary judgment. Discovery was more than "sufficient" - it was exhaustive.

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7. The Proponents of the Settlement are Experienced in Similar Litigation and Recommend Settlement.

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Class counsel is highly experienced in class action litigation, is intimately familiar with all aspects, and strongly recommends that that Agreement be approved.

1 Youtz Decl. Re: Preliminary Approval, ¶9; Spoonemore Decl. Re: Preliminary
2 Approval, ¶4.

3 **B. The Proposed Notice, Opportunity to Submit Objections and**
4 **Fairness Hearing safeguard the Interests of Class Members.**

5 The Court should also approve the proposed notice, and direct it be mailed to
6 each class member. *See Appendix 3.* This proposed notice adequately summarizes the
7 Agreement, informs AT&T Call Class Members where they can get further
8 information, explains how they can file objections, and informs them of the date and
9 time of the settlement approval hearing. *See Appendix 3.* Any interested AT&T Call
10 Class Member will consult with Class Counsel or an attorney of his or her own
11 choosing. Those who wish can get more information about the Agreement by calling
12 Class Counsel, looking at the website www.ratedisclosure.com, or calling a toll-free
13 number. As shown by *Appendix 4*, notice of the settlement shall be published in several
14 newspapers across the state, including the major newspapers for Seattle, Tacoma,
15 Spokane, and Everett, as well as legal and prison-related publications.

16 **C. A Final Approval Hearing Should Be Set.**

17 AT&T Call Class Members with comments, concerns, or objections to any aspect
18 of the Agreement will be provided with an opportunity to submit written material for
19 the Court's consideration. AT&T Call Class Members who wish to appear in person to
20 address the Court with any comments, concerns or objections should also be provided
21 with an opportunity to appear at a hearing before the Court decides whether to finally
22 approve the Agreement.

23
24 AT&T Call Class Members who wish to appear in person should notify the
25 Court and the parties of their desire to be heard, with a statement of the issue or issues
26 they would like to address. The proposed notice and proposed order submitted with

1 this motion requires such notice be given, so the Court and the parties can consider and
2 address the specific issues that class members wish to raise at the hearing. Finally, the
3 Court should set a hearing date to consider objections and/or comments and to decide
4 whether the Agreement should be finally approved.

5 **D. Proposed Scheduling Order.**

6 The AT&T Call Class proposes that the Court issue a scheduling order with
7 preliminary approval of the Settlement Agreement. The proposed Order includes a
8 proposed schedule which includes deadlines for (1) notice to be sent; (2) Class Counsel
9 to file for attorneys' fees and costs; (3) comments and objections from AT&T Call Class
10 Members to be filed; and (4) the motion for final approval of the Settlement.
11

12 **V. CONCLUSION**

13 The Agreement and Plan of Allocation should be preliminarily approved, with
14 notices sent to AT&T Call Class Members and a final hearing scheduled. A proposed
15 Order is submitted with this motion.

16 DATED: February 1, 2013.

17 SIRIANNI YOUTZ SPOONEMORE

18 /s/ Chris R. Youtz

19 Chris R. Youtz (WSBA #7786)

20 Richard E. Spoonemore (WSBA #21833)

21 Attorneys for Plaintiffs Judd, Herivel,

22 Columbia and the AT&T Call Classes
23
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CERTIFICATE OF SERVICE

I certify, under penalty of perjury and in accordance with the laws of the State of Washington, that on February 1, 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 [x] By Email
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DATED: February 1, 2013, at Seattle, Washington.

/s/ Chris R. Youtz
Chris R. Youtz (WSBA #7786)

Appendix 1



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FOUNDED 1866

January 22, 2013

Via Email Only

Chris R. Youtz
Sirianni Youtz Spoonemore
999 Third Avenue, Suite 3650
Seattle, Washington 98104

Re: *Judd, et al. v. AT&T, et al.*
King County Superior Court No. 00-2-17565-5 SEA

Dear Chris:

This CR 2A letter confirms the settlement that has been reached between AT&T and the two classes certified by the Court on February 23, 2012, the "InterLATA Call Recipients Class" and the "IntraLATA Call Recipients Class." The terms, which are fully enforceable, are as follows:

1. Payment by AT&T of \$45,000,000, inclusive of fees, costs, cost of administration, costs of notice and incentive payments. This is an "all in" net figure. AT&T will bear no responsibility to the classes or class counsel beyond this figure. The money will be wired to an escrow account established by class counsel by the close of business on Thursday, March 21, 2013. This money will be held pending final approval of the settlement. Any interest generated on this account will belong to the beneficiaries of the settlement.
2. Mutual releases, including a full release of all claims that either class has, had, or may have in the future against AT&T relating to or arising out of the facts alleged in this lawsuit.
3. The procedure for distributing funds to class members shall be determined by class counsel with approval by the Court. Class counsel intends to use a method similar to the method approved by the Court with respect to the T-Netix

settlement. Class counsel will draft and distribute notice to the class, after approval by the Court.


4. Any residual funds, as defined in CR 23(f)(1), shall be distributed as follows:
 1. As provided in CR 23(f)(2), twenty-five percent of the residual funds shall be distributed to the Legal Foundation of Washington.
 2. AT&T shall be permitted to recommend to the Court the designation of up to twenty-five percent of the residual funds, subject to each of the following:
 - a. The recommendation must comply with CR 23(f).
 - b. The funds must be designated to an entity which provides, directly or indirectly, educational, financial, or other assistance to (i) prisoners or former prisoners in Washington State, (ii) the family members of prisoners or former prisoners in Washington State, or (iii) any legal aid or services organizations (or their umbrella organizations, including the Legal Foundation of Washington) operating exclusively or nearly exclusively in Washington State which provides educational, financial, or other services for prisoners or former prisoners in Washington State, or the family members of prisoners or former prisoners.
 - c. Class counsel shall be permitted to object to AT&T's recommendation for good cause.
 - d. The Court shall retain ultimate authority with respect to the distribution of these residual funds.
 3. Class counsel shall be permitted to recommend the distribution of the remaining residual funds (which shall not be less than fifty percent of the total residual funds) consistent with the requirements of CR 23(f). AT&T shall be permitted to object to class counsel's recommendation for good cause. Any designation shall be subject to approval by the Court, who shall retain ultimate authority with respect to the distribution of these residual funds.

Chris R. Youtz
January 22, 2013
Page 3

5. The settlement and allocation plan will be subject to approval by the Court after notice is given to the class. Class counsel will file a motion seeking preliminary approval of the settlement.
6. Class counsel will seek an award of attorney fees of up to thirty-five percent of the gross settlement amount under the common fund doctrine. Class counsel will seek reimbursement of its litigation costs actually incurred. Class counsel will seek incentive awards for the class representatives in the sum of \$50,000 each. AT&T will not oppose counsel's request for fees, costs or incentive awards that do not exceed these amounts. Attorney fees, costs and incentive awards must be approved by the Court.
7. Nothing in this agreement shall be construed to prevent AT&T from continuing to prosecute its appeal from the WUTC's Order 25 or its claim for indemnification against T-Netix.
8. The parties will execute a fuller, formal settlement agreement that is not inconsistent with the terms of this agreement. Any dispute over the terms, interpretation and/or performance of this CR 2A letter or the long form agreement is subject to final and binding arbitration before Hon. Edward Infante (Ret.).

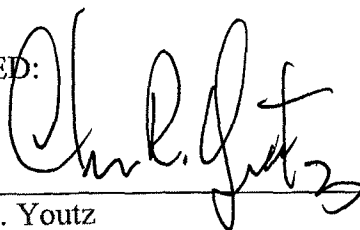
Please sign below indicating your acceptance of these terms and return a copy to me. Thank you for your efforts to resolve this matter.

Very truly yours,



Charles W. Douglas

AGREED:



Chris R. Youtz

cc: Hon. Edward A. Infante (Ret.)

Appendix 2

PLAN OF ALLOCATION: AT&T CALL CLASS CLAIMS

Judd, Herivel and Columbia v. AT&T, T-Netix, Inc, No. 00-2-17565-5 SEA,
Superior Court of Washington, for King County

1. *AT&T Call Class Award.* Each AT&T Call Class Member's maximum award shall be equal to (a) the aggregate cost of all intraLATA collect calls from the Former PTI Facilities accepted by the AT&T Call Class Member during the Class Period, plus (b) the aggregate cost of all interLATA collect calls from the AT&T DOC Facilities accepted by the AT&T Call Class Member during the Class Period, plus (c) two hundred dollars. If the claimed maximum awards of all AT&T Call Class Members exceed the Net Settlement Amount, then each AT&T Call Class Member's maximum award shall be reduced *pro rata* with all other AT&T Call Class Members' claims. If the claimed maximum awards of all AT&T Call Class Members are less than the Net Settlement Amount, then any residual funds shall be distributed as set forth in the Settlement Agreement, Section 7.

2. *Methods of Proof of Claim*

a. *Presumptive Awards.* AT&T Call Class members identified or matched, by name and address, through a reverse phone look-up for accepted calls shall be presumed to have a valid claim. A notice shall be sent to each of these members indicating the amount of the presumed award. A claim form, pre-filled out, will also be in the mailing. An AT&T Call Class Member need only verify, sign and return the form to be entitled to an AT&T Call Class Award. Alternatively, the individual may claim his or her AT&T Call Class Award electronically through a web-based claim process.

b. *Minimal Proof Awards.* AT&T Call Class members not entitled to a presumptive award, but who can provide the claims administrator with a telephone number that received either (a) an intraLATA collect call from a Former PTI Facility during the Class Period and/or (b) an interLATA collect call from a AT&T DOC Facility during the Class Period is entitled to a minimal proof award if that individual does either of the following:

- i. declares or affirms the telephone number was assigned to them during the Class Period, or
- ii. declares or affirms they personally accepted the collect calls during the Class Period made to that number.

Upon receipt of the telephone number and declaration or affirmation, the claims administrator shall determine the amount of the claim by reference to the call detail data associated with the identified telephone number(s).

c. *Proof Awards.* AT&T Call Class Members not entitled to a presumptive award and cannot recall the telephone number which would have

received collect call from the Former PTI Facilities or AT&T DOC Facilities during the Class Period shall be entitled to a AT&T Call Class Award equal to two hundred dollars provided the member (1) declares or affirms that the member accepted a call, or a call was accepted on the members' account during the Class Period, (2) can identify the facility and inmate from whom the call originated and the identified facility is a Former PTI Facility or AT&T DOC Facility, and (3) can identify the address where the call was received and the address indicates that the call would have been intraLATA call from a Former PTI Facility or an interLATA call from an AT&T DOC Facility.

- d. "Catch-all" proof.* The claims administrator may pay claims based on other reasonable evidence or data sufficient to establish, on a more likely than not basis, that the AT&T Call Class Member accepted a collect intraLATA call from a Former PTI Facilities, or an interLATA call from an AT&T DOC Facility, during the Class Period. Upon such a showing, the AT&T Call Class Member is entitled to an AT&T Call Class Award equal to two hundred dollars.
- 3. Duplicate Claims.** If multiple claimants for the same award occurs, any presumptive award shall take precedence. If there is no presumptive award claimant, then the dispute over the proper recipients shall be determined by the arbitrator, as set forth in Section 6, *below*.
- 4. Timing of Claims Submittal.** Individuals will have no less than 21 days from mailing the notice to claim an AT&T Call Class Award.
- 5. Fraud Investigation Authorized.** The claims administrator may investigate any claim where fraud or misrepresentation is suspected. The claims administrator may refuse to pay any claim for any facially valid reason, referring any such claims with an explanation of the issues implicated in the claim to the claims arbitrator for final and binding adjudication.
- 6. Dispute Resolution/Claims Arbitrator.** Hon. George Finkle (ret.) at JDR, LLC, shall be appointed as the claims arbitrator. If he is unwilling or unable to serve, then the Court shall appoint a claims arbitrator. The claims arbitrator shall have the power to decide any and all disputed claims, and resolve any issues arising out of the claims process. The arbitrator shall have as much discretion as permitted by law to adjudicate issues and determine fair and just awards. The claims arbitrator's discretion includes, but is not limited to, issues of procedure such as whether issues will be decided on written submission, telephone hearing, in person hearing, etc. Any decision of the claims arbitrator shall be final and binding.

7. *Definitions*

- a. *AT&T Call Class Member* shall mean an individual in one or both of the two classes represented by Named Plaintiffs Sandy Judd, Tara Herivel and Columbia Legal Services certified by the Court in its Order dated February 25, 2012 (including the Class Representatives) but excluding individuals who have opted-out.
- b. *AT&T DOC Facilities* shall refer to Washington State Reformatory (Monroe), Twin Rivers Corrections Center, Indian Ridge Corrections Center (Arlington), Special Offender Center (Monroe), Clallam Bay Corrections Center, Washington Correction Center for Women (Purdy), Olympic Corrections Center, Pine Lodge Pre-Release, Coyote Ridge, Washington Corrections Center (Shelton), McNeil Island Penitentiary, Washington State Penitentiary (Walla Walla), Airway Heights and Tacoma Pre-Release.
- c. *Class Period* is the time period of June 20, 1996 through December 31, 2000.
- d. *Former PTI Facilities* shall refer to Clallam Bay, Washington Correction Center for Women (Purdy), Coyote Ridge Corrections Center, and Pine Lodge Work Pre-Release/Correction Center.
- e. *Net Settlement Amount* is a value equal to \$45,000,000.00 minus court-awarded attorney fees, costs, expenses, case contribution award, costs of administration and any other expenses or deductions approved by the Court.

Appendix 3

NOTICE OF SETTLEMENT TO:
RECIPIENTS OF LONG DISTANCE INTRASTATE TELEPHONE CALLS
FROM INMATES AT CERTAIN WASHINGTON STATE PRISONS
BETWEEN JUNE 20, 1996 AND DECEMBER 31, 2000

SETTLEMENT OF A CLASS ACTION LAWSUIT MAY AFFECT YOUR RIGHTS

A court authorized this notice. This is not a solicitation from a lawyer.

- Recipients of intrastate collect phone calls - calls within Washington - from inmates at certain Washington Department of Corrections Institutions have sued AT&T alleging it violated the Washington State Consumer Protection Act by failing to provide rate information for collect calls originating from inmates between June 20, 1996 and December 31, 2000.
- The court has certified those claims as a class action. You have been identified as a potential class member because records indicate you may have accepted a collect call from an inmate in a Washington State Department of Corrections Facility between June 20, 1996 and December 31, 2000.
- The Class and AT&T have reached a \$45,000,000 settlement, subject to approval by the Court, to resolve all claims against AT&T. This notice summarizes the terms of that agreement, and informs you of your rights.
- The Court has granted preliminary approval of the settlement agreement to notify Class Members of the proposed settlement and scheduling a hearing to determine whether the settlement is fair, adequate and reasonable.

YOUR LEGAL RIGHTS AND OPTIONS	
YOU MAY COMMENT ON THE PROPOSED SETTLEMENT AGREEMENT	<p>You have the right to comment on the proposed Settlement Agreement.</p> <p>You may object to any aspect of the proposed Settlement Agreement.</p> <p>You may also support the proposed Settlement Agreement.</p> <p>The Court will decide whether to approve or reject the proposed Settlement Agreement at a hearing to be held on _____ at _____ in Courtroom ____, at the King County Superior Court, 516 3rd Ave., Seattle, WA 98104.</p> <p>You may submit written objections or comments for the Court to consider by _____. This notice explains how and where you can submit these written objections or comments. Even if you comment or object, you <u>MUST</u> also make a claim in order to receive your share of the settlement.</p>
YOU MAY MAKE A CLAIM FOR YOUR SHARE OF THE SETTLEMENT, IF APPROVED BY THE COURT	<p>If you wish to claim your share of the settlement, then you <u>MUST</u> either (1) review and return the claim form included with this mailing, or (2) go to www.ratedisclosure.com to claim your share.</p> <p>If the settlement is approved by the Court, then your share of the settlement will be mailed to you. This process may take several months.</p>
YOU WILL RECEIVE NO PAYMENT IF YOU DO NOTHING	<p>If you do nothing, then you will not be entitled to receive any payment. If you wish to receive a payment, you <u>MUST</u> make a claim.</p>

FREQUENTLY ASKED QUESTIONS

1. Why did I get this notice?

Records indicate that between June 20, 1996 and December 31, 2000, one or more collect calls carried by AT&T were accepted by a telephone number registered in your name or registered to this address from one or more of the following facilities: Washington State Reformatory (Monroe), Twin Rivers Corrections Center, Indian Ridge Corrections Center (Arlington), Special Offender Center (Monroe), Clallam Bay Corrections Center, Washington Correction Center for Women (Purdy), Olympic Corrections Center, Pine Lodge Pre-Release/Correction Center, Coyote Ridge, Washington Corrections Center (Shelton), McNeil Island Penitentiary, Washington State Penitentiary (Walla Walla), Airway Heights, and Tacoma Pre-Release. These will be the “Covered DOC Facilities.”

A class action was certified regarding claims made in connection with these calls. The Court is now considering whether to approve a settlement of these claims, and this notice describes how you may object, support or otherwise comment on the settlement and how you may file a claim for a share of the settlement if it is approved by the Court.

2. What does the proposed Settlement Agreement provide?

A copy of the settlement agreement may be found at www.ratedisclosure.com. The key provisions are summarized below:

- **Settlement Payment of \$45,000,000**

AT&T will pay \$45,000,000 into a settlement account distributed to class members after the payment of court-approved attorney fees, litigation costs, administrative expenses, and case contribution award.

- **Amount of Award and Plan of Allocation**

A class member’s recovery is based on the cost of all qualified collect calls accepted during the Class Period from the Covered DOC Facilities, plus two hundred dollars. Distributions to class members will be made under an allocation plan enclosed with this notice. For example, if a class member accepted ten collect calls and was charged \$51.45 for those calls, then the class member would have a claim for \$251.45 – the cost of all the calls plus \$200.00.

Class counsel anticipates, but cannot guarantee, that sufficient funds will remain after the payment of fees, costs, expenses, and a case contribution award to fully pay all class members’ claims. If, however, insufficient funds remain to fully pay all claims then each claim will be subject to a *pro rata* deduction. Any excess funds will be distributed to the Legal Foundation of Washington and other organization approved by the Court under Washington Civil Rule 23(f).

- **Attorney Fees, Costs and Expenses**

Under the proposed settlement, attorneys’ fees, costs and expenses shall be paid out of the settlement fund in an amount to be determined by the Court.

Class counsel is asking to be paid up to 35% of the gross settlement amount as attorneys’ fees and approximately \$500,000 for litigation costs and expenses. Any award of attorney fees, costs, and expenses must be approved by the Court. Class counsel will file a motion with the Court for

**QUESTIONS? CALL 1-800-000-0000 TOLL FREE, OR VISIT WWW.RATEDISCLOSURE.COM
PARA UNA NOTIFICACIÓN EN ESPAÑOL, LLAMAR O VISITAR NUESTRO WEBSITE**

approval of their request for fees, costs and expenses. You may request a copy of the request be provided to you when filed with the Court. Expenses incurred in the claims process will also be paid out of the settlement funds prior to allocating awards to class members.

- **Case Contribution Award**

Named plaintiffs Sandy Judd, Tara Herivel and Columbia Legal Services will also each request a case contribution payment for \$50,000 out of the Settlement fund to represent the time, effort, and risk it undertook in pursuing these class claims. The award will only be paid if approved by the Court.

- **Release**

The Agreement provides for a release of AT&T from all obligations and liabilities arising for collect calls from the Covered DOC Facilities during the Class Period.

3. How may I respond to the proposed Settlement Agreement?

If you wish to object to, comment on, or support the Settlement Agreement or the request for payment of attorney's fees, costs, expenses or case contribution awards, you must submit your written comments by _____ to:

Attn: The Clerk of the Court
Re: *Judd v. AT&T, T-Netix*, Cause No. 00-2-17565-5SEA
KING COUNTY SUPERIOR COURT
516 3rd Ave.
Seattle, WA 98104

You must also send copies to:

Chris R. Youtz, Class Counsel
Richard E. Spoonemore, Class Counsel
SIRIANNI YOUTZ SPOONEMORE
999 Third Avenue, Suite 3650
Seattle, WA 98104

Charles W. Douglas, AT&T's Counsel
SIDLEY AUSTIN PLLC
One South Dearborn Street
Chicago, IL 80603

You or your own lawyer may attend the Settlement Approval Hearing at your own expense. You are not required to attend the hearing.

4. What is a class action and who is involved?

In a class action lawsuit, one or more people or entities called "Class Representatives" sue on behalf of other people who have a similar claim. The people together are a "Class" or "Class Members." AT&T is called the "Defendant." In a class action, one court resolves the issues for everyone in the class - except for those people who exclude themselves from the class. The definition of the classes can be found at www.ratedisclosure.com.

The case is *Judd, et al. v. American Telephone and Telegraph Co., et al.*, Civil Action No. 00-2-17565-5SEA, pending in King County Superior Court.

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5. What is this lawsuit about?

This lawsuit claims that AT&T failed to provide certain legally required rate information on collect calls placed by inmates from Washington Department of Corrections facilities. It alleges that AT&T must pay statutory damages to persons who accepted or paid for those calls, which the Court has defined as \$200 per person plus the cost of the collect calls accepted. This settlement resolves a portion of those claims: certain collect calls received in Washington from inmates at Covered DOC Facilities during the time period of June 20, 1996 through December 31, 2000.

6. Is there any money available now?

No money is available now because the Court has not yet decided whether to approve the Settlement Agreement. *However, if the Settlement Agreement is approved then you will be entitled to an award.* To receive your award, you **MUST** return a claim form (included with this mailing) or make a claim by going to [www._____](http://www.ratedisclosure.com) and following the instructions on how to make a claim. *Your claim must be submitted by: _____.* If the Court does not approve the Settlement Agreement, then the case will return to litigation which may, or may not, result in a recovery.

7. Do I have to come to the Final Approval Hearing?

You need not attend the final approval hearing. You and/or your own lawyer may attend at your own expense. If you wish to object to any aspect of the settlement, you may do so at the final hearing provided you sent in your written objection by _____. If you did not file a written objection to the settlement, you may not object at the hearing.

8. Are more details available?

Visit the website, www.ratedisclosure.com, where you will find important information and documents, including the Settlement Agreement, the court's Order Certifying the Class, the Complaint, AT&T Answer to the Complaint, and information on filing claims. You may also obtain more information by calling (800) 000-0000 or by writing to:

_____.

[CLASS MEMBER CLAIM DATA, VERIFICATION AND SUBMISSION DETAILS APPEAR HERE]

**QUESTIONS? CALL [1-800-000-0000](tel:1-800-000-0000) TOLL FREE, OR VISIT WWW.RATEDISCLOSURE.COM
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Appendix 4

LEGAL NOTICE

If you received a collect telephone call from an inmate at a Washington Department of Corrections Facility between June 20, 1996 and December 31, 2000, your rights may be affected by a class action settlement.

A \$45,000,000 settlement has been reached in a class action lawsuit against AT&T. The Court previously certified the lawsuit as a class action and is now considering whether to approve the settlement. This notice summarizes the settlement, your rights, and how to file a claim for a share of the settlement if it is approved by the Court.

Who's included?

You may be a member of the class if you accepted an intrastate collect call carried by AT&T from Washington State Reformatory (Monroe), Twin Rivers Corrections Center, Indian Ridge Corrections Center (Arlington), Special Offender Center (Monroe), Clallam Bay Corrections Center, Washington Correction Center for Women (Purdy), Olympic Corrections Center, Pine Lodge Pre-Release/Correction Center, Coyote Ridge, Washington Corrections Center (Shelton), McNeil Island Penitentiary, Washington State Penitentiary (Walla Walla), Airway Heights, and Tacoma Pre-Release between June 20, 1996 and December 31, 2000.

What's this about?

This lawsuit claims that AT&T failed to provide required rate information on collect calls from Washington Department of Corrections facilities. The suit seeks statutory damages for persons who accepted or paid for those calls, which the Court has defined as \$200 per person plus the cost of the collect calls accepted.

What does the settlement provide?

The settlement provides: (1) payment of \$45,000,000, which will be distributed to class members after the payment of court-approved attorneys' fees, litigation costs, administrative expenses, and case contribution award; (2) attorneys' fees of up to 35% of the gross settlement amount and approximately \$500,000 for litigation costs and expenses; (3) \$50,000 case contribution awards to the Named Plaintiffs, Sandy Judd, Tara Herivel and Columbia Legal Services; and (4) release of AT&T from all liability arising from the calls at issue in this litigation. The Settlement Agreement may be viewed at www.ratedisclosure.com.

How do you get an award and how much will it be?

Using a QR app on a smart-phone, scan the QR code below. This will take you directly to the claim page of the website. Enter the information requested to complete your claim and submit it. You may also use a computer to submit a claim online at www.ratedisclosure.com. Your claim must be submitted by [MONTH 00, 0000]. A class member's payments will be based on the cost of all qualified collect calls accepted during the Class Period, plus \$200. If, after the payment of fees, costs, expenses and a case contribution award, insufficient funds remain to fully pay all claims then each claim will be subject to a *pro rata* deduction. If the Court does not approve the Settlement Agreement, then the case will return to litigation which may, or may not, result in a recovery.

What are your rights?

If you are a member of the class, you have the right to object to, comment on, or support the Settlement Agreement or the request for payment of attorneys' fees, costs, expenses or case contribution award. You must submit your written comments by [MONTH 00, 0000] to: (1) the Clerk of the Court, Re: *Judd v. AT&T, T-Netix*, Cause No. 00-2-17565-5SEA, KING COUNTY SUPERIOR COURT, 516 3rd Ave., Seattle, WA 98104; (2) Chris R. Youtz and Richard E. Spoonemore, Class Counsel, SIRIANNI YOUTZ SPOONEMORE, 999 Third Avenue, Suite 3650, Seattle, WA 98104; and (3) Charles W. Douglas, AT&T's Counsel, SIDLEY AUSTIN PLLC, One South Dearborn Street, Chicago, IL 80603.

You or your own lawyer may also attend the Settlement Approval Hearing at your own expense, but you are not required to.

How can I get more information?

You may receive more information at www.ratedisclosure.com, or by calling 1-888-623-6176.

The case is *Judd, et al. v. American Telephone and Telegraph Co., et al.*, King County Cause No. 00-2-17565-5 SEA.

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