

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 INTERLATA AND  
INTRALATA CLASSES UNOPPOSED  
MOTION 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

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

1. I am one of the attorneys representing plaintiffs and the classes.

The facts stated in this declaration are based on my personal knowledge.

2. I have been the attorney primarily responsible for this case from the time it was filed 12½ years ago. This is been a hard-fought case by all parties. Discovery has been extensive, involving thousands of documents, highly technical depositions taken across the country, and expert witnesses including professors in computer science, statisticians, damages experts, and even an expert in human

1 memory. This matter has been before the Washington Supreme Court twice (once  
2 where review was accepted), before Division I of Washington Court of Appeals twice,  
3 and before two administrative law judges and the full commission of the Washington  
4 Utilities and Transportation Commission. An appeal by AT&T from the WUTC's final  
5 order was affirmed by the Thurston County Superior Court and is pending in Division  
6 II of the Washington Court of Appeals. Defendants twice sought discretionary review  
7 from the Washington Court of Appeals during the past year. In this Court there have  
8 been numerous motions for summary judgment on a variety of issues.

9 3. The net result of these orders and opinions is that AT&T was  
10 found liable under the Washington Consumer Protection Act for failing to make proper  
11 disclosure of rates for collect calls from 15 Washington Department of Corrections  
12 facilities from June 20, 1996 to December 31, 2000. The sole remaining issue to be tried  
13 was the amount damages to be paid to the class members.

14 4. This case was not easily resolved. The parties complied with the  
15 court ordered mediation last August using nationally recognized mediator Professor  
16 Eric Green, who was one of the founders of JAMS. The parties engaged in a full day  
17 mediation in Boston but left the session substantially apart. After the Court ruled on  
18 pending summary judgment motions, the parties engaged in direct settlement  
19 discussions, but had very different views of how the case should be resolved.

20 5. As trial approached, both parties agreed to a second mediation  
21 session, this time with former U. S. Magistrate Judge Edward Infante, a California  
22 mediator both parties' counsel had previously used. That session failed to produce a  
23 settlement, but Judge Infante (ret.) continued to press and positioned the parties such  
24 that he issued a mediator's proposal to settle the case. That proposal was for a cash  
25 payment of \$45 million, which both parties accepted the day before trial began. The CR  
26 2A agreement confirming the settlement was signed the following day.

1           6.       The settlement is an exceptional result for the Class. As with the  
2 settlement reached with T-Netix, AT&T class members who submit claims will likely  
3 receive 100 percent of the damages they would have received had the class received  
4 everything requested at the damages trial, even after deduction for attorney fees, costs  
5 and expenses. It is also likely there will be a substantial residual amount available to  
6 distribute to the Legal Foundation of Washington and other organizations eligible  
7 under CR 23(f).

8           7.       AT&T claimed that the maximum amount that could be awarded  
9 was \$33 million. The Class intended to argue that the estimated damages should be  
10 approximately \$57 million. The Class's damages were based in large part on estimating  
11 the number of class members who could not be identified but who would each be  
12 eligible to receive a statutory damages award of \$200. The Class located approximately  
13 65,000 names or addresses of potential class members. For approximately 90,000  
14 telephone numbers, however, the Class could not locate names or addresses through  
15 data services or reverse directories. The Class's experts estimated the number of class  
16 members by extrapolating from information available from known class members.  
17 Although the Class believes its methodology was sound, any estimation is subject to  
18 attack on the grounds that it is speculative. Further, AT&T argued that at least 17% of  
19 the charges for the collect calls were not paid by the class members and should be  
20 excluded from damages. The Class included no deduction for alleged "bad debt" in its  
21 calculations. There was room for debate on several damages issues and the jury could  
22 have determined a damages amount anywhere between the figures offered by the  
23 parties.

24           8.       A major factor in our recommendation to settle for the amount  
25 proposed by the mediator is the length of the case. The case has been pending for more  
26 than a decade, and if we proceeded to trial there was little doubt that the parties would  
appeal various decisions, delaying resolution for another 2 to 3 years. Some class



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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:

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DATED: February 1, 2013, at Seattle, Washington.

/s/ Chris R. Youtz

Chris R. Youtz (WSBA #7786)