

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

SHERI THOMPSON

(b) County of Residence of First Listed Plaintiff Montgomery (EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number) Daniel S. Orlow Console Mattiacci Laww 1525 Locust Street, 9th Fl Philadelphia, PA 19102

DEFENDANTS

AT&T MOBILITY SERVICES, LLC

County of Residence of First Listed Defendant Dekalb (IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- 1 U.S. Government Plaintiff, 2 U.S. Government Defendant, 3 Federal Question (U.S. Government Not a Party), 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

Table with columns for Plaintiff (PTF) and Defendant (DEF) citizenship and incorporation status. Includes options for Citizen of This State, Citizen of Another State, and Citizen or Subject of a Foreign Country.

IV. NATURE OF SUIT (Place an "X" in One Box Only)

Click here for: Nature of Suit Code Descriptions.

Large table with columns: CONTRACT, REAL PROPERTY, CIVIL RIGHTS, TORTS, PRISONER PETITIONS, FORFEITURE/PENALTY, LABOR, IMMIGRATION, BANKRUPTCY, SOCIAL SECURITY, FEDERAL TAX SUITS, OTHER STATUTES. Contains various legal categories and codes.

V. ORIGIN (Place an "X" in One Box Only)

- 1 Original Proceeding, 2 Removed from State Court, 3 Remanded from Appellate Court, 4 Reinstated or Reopened, 5 Transferred from Another District, 6 Multidistrict Litigation - Transfer, 8 Multidistrict Litigation - Direct File

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity): 29 U.S.C. § 621, et seq. as amended. Brief description of cause: Plaintiff was discriminated against because of her age.

VII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P. DEMAND \$ in excess of \$75,000. CHECK YES only if demanded in complaint: JURY DEMAND: [X] Yes [] No

VIII. RELATED CASE(S) IF ANY

(See instructions): JUDGE DOCKET NUMBER

DATE 10/30/2020 SIGNATURE OF ATTORNEY OF RECORD

FOR OFFICE USE ONLY

RECEIPT # AMOUNT APPLYING IFP JUDGE MAG. JUDGE

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

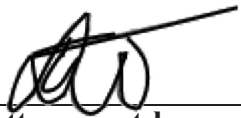
CASE MANAGEMENT TRACK DESIGNATION FORM

SHERI THOMPSON	:	CIVIL ACTION
	:	
v.	:	
	:	
AT&T MOBILITY SERVICES, LLC.	:	NO.

In accordance with the Civil Justice Expense and Delay Reduction Plan of this court, counsel for plaintiff shall complete a Case Management Track Designation Form in all civil cases at the time of filing the complaint and serve a copy on all defendants. (See § 1:03 of the plan set forth on the reverse side of this form.) In the event that a defendant does not agree with the plaintiff regarding said designation, that defendant shall, with its first appearance, submit to the clerk of court and serve on the plaintiff and all other parties, a Case Management Track Designation Form specifying the track to which that defendant believes the case should be assigned.

SELECT ONE OF THE FOLLOWING CASE MANAGEMENT TRACKS:

- (a) Habeas Corpus – Cases brought under 28 U.S.C. § 2241 through § 2255. ()
- (b) Social Security – Cases requesting review of a decision of the Secretary of Health and Human Services denying plaintiff Social Security Benefits. ()
- (c) Arbitration – Cases required to be designated for arbitration under Local Civil Rule 53.2. ()
- (d) Asbestos – Cases involving claims for personal injury or property damage from exposure to asbestos. ()
- (e) Special Management – Cases that do not fall into tracks (a) through (d) that are commonly referred to as complex and that need special or intense management by the court. (See reverse side of this form for a detailed explanation of special management cases.) ()
- (f) Standard Management – Cases that do not fall into any one of the other tracks. (X)

10/30/2020		Plaintiff, Sheri Thompson
<hr/>	<hr/>	<hr/>
Date	Attorney-at-law	Attorney for
215-545-7676	215-689-2110	orlow@consolelaw.com
<hr/>	<hr/>	<hr/>
Telephone	FAX Number	E-Mail Address

terminated after sixteen years of service, all while being falsely told by AT&T that she could not sue the company under the ADEA, when in fact she could.

To the extent that location was in fact a consideration in Plaintiff's designation for surplus, a workforce may intentionally be made *younger* through a reduction in force that considered location if, for example and without limitation, the areas in which a greater number of young employees were "located" (physically or simply by "assignment") were designated as the favored locations and/or exempt from reduction, the employees were assigned a location with the intent to discriminate based on age, a location was determined for purposes of the reduction because of age, or location was a factor in the selection process used as a pretext for age discrimination.

AT&T's "location-based" workforce reductions were part of its long-term scheme and pattern or practice to replace older employees with younger ones. They were designed to, and did, discriminatorily remove older employees from AT&T's workforce, and then intentionally deceive them into falsely believing that, in exchange for a severance benefit, they had released their right to sue the company for age discrimination. AT&T knowingly presented to the older workers terminated as part of these workforce reductions a "General Release and Waiver" that was materially identical to AT&T's General Release and Waiver that the Honorable Timothy J. Rice of the United States District Court for the Eastern District of Pennsylvania had already determined to be in violation of the Age Discrimination in Employment Act ("ADEA").

The ADEA requires an employer seeking to obtain a release of age discrimination claims from a worker terminated as part of a group layoff to provide certain data and information regarding the group layoff to allow the terminated worker to make an informed choice whether or not to sign a waiver agreement. AT&T knew when they offered the terminated older employees severance in exchange for the execution of their "General Release and Waiver" that the release

was in violation of the ADEA, that it was not knowing and voluntary as a matter of law, and that, contrary to what the release stated, it was not a release of their right to sue the company for age discrimination under the ADEA.

Plaintiff, Sheri Thompson, a highly qualified and dedicated employee of A&T for sixteen years who worked in AT&T's Channel Marketing and Data Analytics organization, a part of the broader Channel Marketing and Operations organization, was notified of her selection for surplus on January 28, 2019 and terminated from employment at age 48 on March 29, 2019. Contrary to representations made by AT&T to the EEOC, Plaintiff's physical location had no bearing on the performance of her job duties. The work for which Plaintiff was responsible did not need to be performed in a hub location, and there was very little collaboration required for her position. AT&T selected her for surplus and terminated her employment because of her age, and then obtained from her a General Release and Waiver in violation of the ADEA.

Plaintiff seeks injunctive and declarative relief, damages, including compensatory and liquidated damages, and all other relief under the ADEA and any other relief that this Court deems appropriate.

II. PARTIES

1. Plaintiff, Sheri Thompson, is an individual and current resident of the Commonwealth of Pennsylvania, residing therein in Collegeville, PA.

2. At the time of the age discrimination that is the subject of this action, Plaintiff lived in, and worked for Defendant out of Pennsylvania.

3. Plaintiff was born in 1970, and is currently 50 years of age. She was 48 at the time of the termination of her employment.

4. Defendant AT&T Mobility Services, LLC is a Delaware limited liability company duly registered to transact business in the Commonwealth of Pennsylvania as a foreign corporation, with a registered agent in Pennsylvania for service of legal process.

5. Defendant is subject to the personal jurisdiction of this Court because, *inter alia*, the case arises out of or relates to the contacts of Defendant with the Commonwealth of Pennsylvania, the contacts of Defendant are continuous and systematic such that Defendant is at home here, and/or Defendant has consented to personal jurisdiction by personal service within the Commonwealth via an authorized agent of the corporation.

6. At all times material hereto, Defendant employed more than twenty (20) people.

7. At all times material hereto, Defendant acted by and through its authorized agents, servants, workmen, and/or employees within the course and scope of their employment with Defendant and in furtherance of Defendant's business.

III. JURISDICTION AND VENUE

8. The causes of action set forth in this complaint arise under the ADEA, as amended, 29 U.S.C. § 621, *et seq.*

9. The District Court has subject matter jurisdiction over this matter pursuant to 29 U.S.C. § 626(c) and 28 U.S.C. § 1331.

10. Venue is proper under 28 U.S.C. § 1391(b).

11. On or about July 12, 2019, Plaintiff filed a Charge of Discrimination with the Equal Employment Opportunity Commission ("EEOC"), complaining of the acts of discrimination alleged herein. Attached hereto, incorporated herein, and marked as Exhibit "1" is a true and correct copy of the EEOC Charge of Discrimination (with minor redactions for purposes of electronic filing of confidential/identifying information).

12. On or about August 3, 2020 the EEOC issued to Plaintiff a Dismissal and Notice of Right to Sue for Plaintiff's EEOC Charge. Attached hereto and marked as Exhibit "2" is a true and correct copy of that Notice (with minor redactions for purposes of electronic filing of confidential/identifying information).

13. More than 60 days have passed since Plaintiff filed her EEOC charge with the EEOC.

14. Plaintiff has fully complied with all administrative prerequisites for the commencement of this action.

IV. FACTUAL ALLEGATIONS

15. AT&T has engaged in systemic age discrimination against its employees age 40 or over ("older workers" or "older employees"), including Plaintiff.

16. AT&T, by its actions set forth herein, has intentionally discriminated against its older workers, including Plaintiff.

17. AT&T, by its actions set forth herein, has maintained a pattern or practice of age discrimination against its older workers, including Plaintiff.

18. In the alternative, to the extent that AT&T has not intentionally discriminated against its older employees, AT&T's use of one or more of each facially neutral policy or practice identified herein had a disparate impact on older employees, including Plaintiff.

AT&T's Expressed Intention of Transforming Its Aging Workforce And Its January 2019 Workforce Reduction In Furtherance Thereof

19. AT&T has undertaken a massive effort to "transform" and rebrand itself from yesterday's Ma Bell to a nimble, internet and cloud-based company with "workers of the future."

20. AT&T at the highest levels has publicly discussed its displeasure at having an aging workforce, its intention to transform the company for the “future,” and its desire and expectation that older workers will leave its workforce.

21. AT&T’s former Chief Executive Officer, Randall Stephenson, has publicly discussed that AT&T has an aging workforce and a need to reinvent the company. *See Gearing Up for the Cloud, AT&T Tells Its Workers: Adapt or Else*, <http://www.nytimes.com>, February 13, 2016.

22. AT&T has touted its “Technology Transformation,” including “building a workforce for the future,” and boasted that the future AT&T workforce will differ greatly from today’s workforce in many ways.

23. AT&T has for years been saying that it needs to be “leaner, faster and more agile” and would be a different company by 2020.

24. Toward that end, AT&T has engaged in a series of efforts to eliminate older employees from its workforce and replace them with younger ones.

25. AT&T has exhibited a corporate culture of age bias. Among other things, and without limitation:

- a. AT&T publicly flouts the ADEA by continuing to use a General Release and Waiver that has been held to violate the ADEA.
- b. Former CEO Stephenson has publicly expressed his expectation that many older workers will exit the AT&T workforce by 2020, which he considered to be a positive thing for the company.
- c. AT&T’s leader of its Communications business segment, John Donovan, has publicly discussed AT&T’s “sprint to reinvent itself,” and has publicly noted that “AT&T employs about 280,000 people, most of whom got their education and foundational job training in a different era” and that the average tenure at the company is 22 years and that most of AT&T’s employees were educated and trained “in a different era.” In these same comments, Mr. Donovan noted that

AT&T redesigned its “practice” by, among other things, redesigning compensation so that it “de-emphasized seniority.”

- d. Mr. Donovan expressed that the company was “using innovative solutions to widen, develop and diversify the talent pipeline to address the shortage of current and future technology experts” through such things as “AT&T Aspire.” “AT&T Aspire” is a program aimed at developing *students* as the “next generation of creative thinkers.”
 - e. As part of its plan to reinvent its aging workforce, AT&T has publicly expressed age-based stereotypes and has acknowledged that those age-based stereotypes are considered in workplace decisions. *See, e.g., AT&T Prepares for a New World of Work: The Changing Work Force (Part 2)*(dividing its workforce by age, characterizing “Baby Boomers” as the workforce of “Yesterday,” expressing without stated basis what is important to “Baby Boomers” as distinct from “Gen X” and “Gen Y” workers, explicitly stating that AT&T is taking these age-based stereotypical “factors into account when planning for our workplace of the future,” and stating that by 2015, 90% of new hires will be from Gen X and Gen Y.
 - f. AT&T has described its “Workplace 2020: Transformation for the Future” as a “Next-Gen Workplace Experience.”
 - g. AT&T promotes age-defined Employee Resources Groups (“ERGs”). In 2011, AT&T founded an ERG entitled “OxyGEN, Young Professionals of AT&T,” whose stated mission is “[t]o attract, develop and retain future leaders of AT&T.” In 2014, AT&T launched an ERG entitled “50 & Forward AT&T Professionals Over 50,” whose stated mission included “...to support a generation of young leaders at AT&T...”. Among the group’s publicized initiatives was “‘Workforce 2020’: ‘Better Together’ initiative for preparing younger managers to lead an aging workforce.”
 - h. AT&T has openly expressed its desire to hire and retain young employees, and considers age in hiring decisions. For example, and without limitation, its “Leadership and Development Programs,” “Technology Development Program” and “Flex Force” are programs intended to recruit young employees into leadership roles.
26. AT&T has offered incentives to older employees to voluntarily leave its workforce.
27. AT&T has for several years conducted vast involuntary terminations with the intent

of eliminating older workers from its workforce. Without limitation:

- a. AT&T at the highest levels has contemplated the overall replacement of its older workforce with a younger one, and set up its forced surplus reduction programs so

as to stagger the terminations over time and different areas in order to conceal from its older employees the overall impact of its “transformation” efforts.

- b. Crucial to AT&T’s age discriminatory plan to replace its older workforce with a younger one are: a) concealing the age discrimination from the terminated older employees, while at the same time b) obtaining from them a release of their right to sue the company for age discrimination in violation of the ADEA. The involuntary terminations have involved a three-step notification of “surplus” status, a period during which “surplussed” employees remain employed and try to secure alternative positions with AT&T, and the presentation of a fraudulent General Release and Waiver. By staggering the surplus notifications from the actual terminations, AT&T keeps its employees in the dark as to who is actually going to lose their job. By offering vulnerable older employees severance in exchange for a General Release at the time of surplus notification and providing unintelligible surplus selection data – not termination data – AT&T fraudulently obtains a release of an employee’s claim that he or she was terminated because of age.
- c. AT&T is currently subject to several age discrimination lawsuits arising from its workforce surplus reductions. It has been alleged, among other things and without limitation, that AT&T managers “target” employees for selection of surplus and/or termination; that AT&T has excluded younger employees from consideration for surplus and they are thus exempt from possible termination; and that AT&T managers have asked their older employees if they plan to retire.
- d. A jury found that former AT&T employee John Gerundo proved that his age was the determining factor in the decision to surplus his employment in connection with a reduction in force. *Gerundo v. AT&T Servs.*, 2016 U.S. Dist. LEXIS 177583 (E.D. Pa. Dec. 21, 2016)(denying AT&T’s post-trial motion for judgment as a matter of law, and upholding the jury’s verdict).
- e. AT&T has, since *Gerundo*, continued to follow the same Surplus Guidelines in effect since 2011.
- f. On January 11, 2019, the Honorable Timothy J. Rice of the United States District Court for the Eastern District of Pennsylvania, found that the General Release and Waiver Agreement presented to employees who had been surplused then involuntarily terminated violated the ADEA, as amended by the Older Workers Benefits Protection Act, and was not an enforceable waiver under the ADEA. *Allison Ray v. AT&T Mobility Services, LLC*, Civil Action No. 2:18-cv-03303 – TR (E.D. Pa. Jan. 11, 2019).
- g. AT&T, since the Court’s decision in *Ray*, has continued to use the same General Release accompanied by the same legally deficient OWBPA disclosures.

28. AT&T has engaged in a pattern or practice of discrimination against its older employees, including Plaintiff. Without limitation:

- a. It is AT&T's standard operating procedure to violate the ADEA. AT&T has continued to present to its terminated older employees a purported General Release that a United States District Court has determined to be in violation of the ADEA.
- b. It is AT&T's standard operating procedure to make affirmative misrepresentations to its surplus employees regarding the data it is providing to them when considering whether to release their federal age claims.
- c. It is AT&T's standard operating procedure to intentionally discriminate against older employees by conditioning the receipt of a benefit, severance, upon the execution of an unlawful General Release and Waiver. Terminated employees age younger than 40 are not required to sign an unlawful release in order to receive the same benefit.
- d. AT&T has communicated its age-biased personnel goals throughout the entirety of AT&T, including throughout its Channel Marketing and Operations organization.
- e. AT&T executives at the highest level openly express that older employees leaving the AT&T workforce would be a positive thing for the company.
- f. AT&T publicly expresses its desire to develop and retain younger employees to be its leaders of tomorrow.
- g. AT&T has offered programs to incentivize older employees to leave the company.

29. In 2018, AT&T offered incentives to older employees to voluntarily terminate their employment, including a manager voluntary resignation offer and a one-time limited offer to retire by a certain date and take a lump sum pension benefit calculated based on interest rates that would yield a greater lump sum.

30. In January 2019, in furtherance of its centrally planned scheme to terminate and defraud older workers, AT&T implemented a group termination and reduction in force identified as Business Case 18-491. Business Case 18-491 resulted in eleven employees from the Channel Marketing and Operations organization being selected for surplus, including Plaintiff.

31. Contemporaneous with the implementation of Business Case 18-491, AT&T implemented a wave of group terminations across various other business units, including its Technology and Operations (“ATO”) division on January 4, 2019.

32. In a January 4, 2019 message, Jeff McElfresh, President of ATO, sent an e-mail message to ATO employees announcing upcoming reductions to occur in the ATO organization, and others across the company, which were to begin later in January and take place over several months. Mr. McElfresh expressed that the company since 2014 has been saying that the organization needed to get “leaner, faster and more agile” and would be a “different type of company by 2020,” and suggested that because the company must “keep getting faster, leaner and more agile,” there would be surplus reductions based on a geographic rationale.

33. AT&T’s decision to implement Business Case 18-491, along with the several other group terminations announced in January 2019, purportedly considered location in identifying employees to be selected for surplus.

34. In fact, the purported consideration of location was a pretext for age discrimination.

35. In the alternative, and upon information and belief, the consideration of location in the workforce reductions, including Business Case 18-491, had a statistically significant negative impact on the selection for surplus of older employees, including Plaintiff.

36. AT&T made the determination as to which geographic locations would be favored in and/or exempt from the workforce reductions with the intent to discriminate against older employees.

37. AT&T made the decision as to which job titles within the Channel Marketing and Operations organization would be subject to the purported policy of eliminating positions located outside of “hub” locations with the intent to discriminate against older employees.

38. AT&T made the decision as to which individuals within the Channel Marketing and Operations organizations would be subject to the purported policy of eliminating positions located outside of “hub” location with the intent to discriminate against older employees

39. In the alternative, and upon information and belief, the determination as to which geographic locations would be favored in and/or exempt from the workforce reductions had a statistically significant negative impact on the selection for surplus of older employees, including Plaintiff.

40. AT&T made the determination of an employee’s location with the intent to discriminate against older employees.

41. In the alternative, and upon information and belief, the determination as to an employee’s location - for purposes of surplus selection - had a statistically significant negative impact on the selection for surplus of older employees, including Plaintiff.

42. The Chanel Marketing and Operations organization in which Business Case 18-491 (the Business Case that resulted in Plaintiff’s surplus selection) was to occur was a pre-existing organizational entity. However, the workforce reduction did not impact the entirety of the organization. Instead, AT&T determined which employees in the Channel Marketing and Operations organization would be subject to possible surplus selection and how to group them for purposes of making the selection surplus decisions and/or providing the OWBPA data to older employees.

43. AT&T determined which employees in Channel Marketing and Operations would be subject to possible surplus selection and how to group them for purposes of making the surplus selection decisions and/or providing the OWBPA data to older employees with the intent of discriminating against older employees.

44. AT&T formulated “business cases” for purposes of selecting employees for surplus via the various workforce reductions referenced herein.

45. AT&T’s determination of the scope and population of the “business case” identified as Business Case 18-491 was intended to discriminate against older employees, including Plaintiff.

46. On January 28, 2019, AT&T notified those employees in Channel Marketing and Operations who were selected for “surplus” of their selection for the same, including Plaintiff.

47. Each surplussed employee received the standard surplus packet of materials that AT&T has used for years.

48. Each surplussed employee received the same standard form letter, stating the exact same reason for his or her surplus selection: “Throughout the past several weeks we have been evaluating certain business units within the AT&T family of companies. After a thorough and careful review, we have determined that the position which you currently hold will be eliminated. This is due to a reduction in positions within your level and organization. As a result of this decision, you will be placed on surplus ...”

49. The Surplus Notification letter did not indicate that location was used as a consideration in the reduction process.

50. Following her selection for “surplus,” AT&T presented to Plaintiff a standard form General Release and Waiver form.

51. A materially identical General Release and Waiver had already been determined by the United States District Court for the Eastern District of Pennsylvania to be in violation of the ADEA.

52. Defendant is estopped from asserting the validity or enforceability of the General Release and Waiver.

53. Defendant knew when it presented the General Release and Waiver to Plaintiff that it was in violation of the ADEA.

54. Defendant intentionally violated the ADEA by presenting the General Release and Waiver to its older employees, including Plaintiff.

55. The General Release and Waiver presented to Plaintiff is invalid and unenforceable as to rights and claims under the ADEA. It contains material misstatements of fact, is misleading, is not knowing and voluntary, and fails to comply with the strict informational disclosure requirements of the OWBPA.

56. The General Release and Waiver was presented to Plaintiff along with an “ADEA Listing” containing the ages and job titles of those employees selected for surplus status, not those employees who were actually terminated.

57. Without limitation: the General Release and Waiver offered to Plaintiff is fraudulent and unenforceable for the following reasons, without limitation:

- a. The General Release and Waiver and accompanying ADEA Listing do not sufficiently identify the “Decisional Unit” in a manner calculated to be understood by the average worker. See Ray v. AT&T Mobility Services, LLC, ECF Nos. 28 & 29.
- b. The General Release and Waiver provides none of the disclosures required for a knowing and voluntary waiver of claims under the ADEA, including the right to bring an age discrimination lawsuit.
- c. The General Release and Waiver provides no information to terminated workers as to who is actually being terminated and who is being retained.
- d. The General Release and Waiver provides no meaningful information, in a manner calculated to be understood by the average individual, regarding the criteria used for placing certain employees on surplus status.
- e. The General Release and Waiver provides no meaningful information, in a manner calculated to be understood by the average individual, regarding the “organization” to which an employee is assigned in the accompanying ADEA Listing.

- f. The ADEA Listings purports to describe but in fact does not provide meaningful information as to the “AWG” category, the basis for employees receiving different AWG numbers, or why those with different AWGs are grouped together for purposes of the ADEA Listing.
- g. Employees are not informed as to which AWG they are assigned.
- h. The ADEA Listing did not include the job titles and ages of all individuals in the Channel Marketing and Operations subject to AT&T’s purported policy of elimination positions located outside of “hub” locations.

58. In the General Release, AT&T affirmatively and falsely represented to Plaintiff that, at the time of her selection for surplus, it had provided the ages and job titles of those “designated to participate in the [AT&T, Inc. Severance Pay Plan].” Defendant knew this to be false. The AT&T, Inc. Severance Pay Plan requires, as a condition of eligibility, that its participants had to have actually been terminated from employment.

59. Accordingly, the General Release and ADEA Listing provided to Plaintiff falsely represented to her that, at the time of her termination, it had provided to her the ages and job titles of other employees who had been placed on surplus status *and* terminated.

60. However, as of January 28, 2019, the date of the General Release and ADEA Listing presented to Plaintiff, no one identified on the ADEA Listing was actually eligible for participation in the Severance Plan because none of those employees had yet been terminated. In fact, some employees who had been placed on surplus status along with Plaintiff were able to find other positions at AT&T within the sixty (60) day period.

61. Thus, contrary to the affirmative and false representation contained in the General Release, AT&T *did not*, and *could not have*, informed Plaintiff which employees were eligible for participation in the Plan.

62. AT&T purposefully concealed from Plaintiff the demographic data as to actual

terminations resulting from Business Case 18-491 because, upon information and belief, the termination data would reveal age discrimination.

63. AT&T knowingly presented to Plaintiff a “General Release and Waiver” that the company knew was not a knowing and voluntary waiver as a matter of law.

64. AT&T knowingly, intentionally and falsely told older terminated employees that they had released their right to sue the company for age discrimination under the ADEA, when, in fact, they did not.

Plaintiff Sheri Thompson

65. Plaintiff was employed by AT&T from February 21, 2003 until the date of her unlawful termination of employment effective March 29, 2019.

66. At the time of her termination, Plaintiff held the position of Senior Marketing Manager. Plaintiff last reported to Sunshine Pegues, Associate Director of Marketing Management (55¹).

67. Plaintiff began reporting to Pegues in or about April 2018. Prior to reporting to Pegues, Plaintiff had reported to William Brock, Associate Director (45). Pegues reported to Cynthia Jackson, Vice President.

68. Plaintiff was the oldest employee reporting to Pegues and was the only employee reporting to Pegues who was selected for surplus and terminated.

69. At the time of her surplus notification and termination, Plaintiff was age forty-eight (48) with approximately (16) years of service at AT&T.

70. Plaintiff was a highly qualified and dedicated employee for AT&T for sixteen (16) years. Her extensive knowledge, skills, experience, and record of achievement as a successful

¹ All ages in this Complaint are approximations as of the date of her termination.

Senior Marketing Manager were recognized by AT&T. Among other things, Plaintiff received annual merit increases and performance-based bonuses, and her annual performance reviews were positive.

71. Plaintiff was apparently assigned to AWG 7 in Business Case 18-491 and was never told by AT&T the basis of her or others' assignment to a particular AWG.

72. Per the ADEA Listing, Plaintiff was the only employee assigned to "AWG 7."

73. Based on, *inter alia*, her knowledge, skills, and positive track record with AT&T, including in particular as a Senior Marketing Manager, Plaintiff was at least as, or better, qualified than the other Senior Marketing Manager employees in her organization, including the substantially younger employees who were not listed on the ADEA Listing and not selected for surplus.

74. Per the ADEA Listing, there were eleven (11) employees in the Channel Marketing and Operations organization that were selected for surplus. No other employees in the Channel Marketing and Operations organization, including substantially younger employees, reporting to Pegues were included on the ADEA Listing. All the other employees, including substantially younger employees, reporting to Pegues were not selected for surplus and were retained by AT&T.

75. On March 29, 2019, AT&T terminated Plaintiff's employment.

76. AT&T retained several younger Senior Marketing Manager employees reporting to Pegues. Based on, *inter alia*, her knowledge, skills, and positive track record with AT&T, including in particular her ten (10) years as a Senior Marketing Manager employee, Plaintiff was better qualified than these younger individuals who were retained.

77. Without limitation, when Plaintiff was terminated, AT&T retained the following substantially younger employees, without limitation, in the Senior Marketing Manager position,

reporting to Pegues: Sherrese Kines (35); Jami Walker (39); Paul Velasco (40).

78. AT&T terminated numerous older employees when Plaintiff was terminated. Without limitation: When Plaintiff was terminated, AT&T terminated the following older employees: George Noga (55), Senior Information Technology Manager; Deborah Piwowarski (55), Senior Marketing Manager; Mike McQuaid (55), Market Area Coordinator; DJ Dammann (55), Senior Marketing Manager; Lisa Meitzer (50), Senior Product Marketing Manager; Cyndi Weinstein (48), Senior Business Analyst; Cindy Meyer (48), Principal Technical Business Analyst; Paul Wood (48), Senior Products Marketing Manager; Susan Young (48), Lead Marketing Manager; Rosemary Kahn (48), Information Technology Business Manager; and Christopher Byrne (48), Supply Chain and Logistics.

79. The Surplus Notice letter provided to Plaintiff on January 28, 2019 stated: “Throughout the past several weeks we have been evaluating certain business units within the AT&T family of companies. After a thorough and careful review, we have determined that the position which you currently hold will be eliminated. This is due to a reduction in positions within your level and organization. As a result of this decision, you will be placed on surplus ...”

80. AT&T’s statement that Plaintiff was selected for “surplus” because her position was eliminated is false and a pretext for discrimination.

81. In connection with its investigation of Plaintiff’s Charge, AT&T has represented to the EEOC that Plaintiff was not located in a geographically favored “hub” location.

82. AT&T did not select for surplus all individuals who were outside of preferred geographic “hub” locations.

83. AT&T presented to Plaintiff the standard form General Release and Waiver, which was accompanied by a standard form AT&T “ADEA Notice” and “ADEA Listing,” which indicate

dates “as of Jan. 28, 2019.”

84. AT&T presented to Plaintiff the same General Release and Waiver with accompanying disclosures that were materially identical to those a United States District Court had previously determined in the *Ray* case to be in violation of the ADEA.

85. The General Release and Waiver signed by Plaintiff is invalid and unenforceable as to Plaintiff’s ADEA claims.

86. AT&T did not offer Plaintiff a position following her selection for surplus and her employment was terminated effective March 29, 2019.

87. AT&T’s consideration of Plaintiff’s location was a pretext for discrimination.

88. AT&T selected Plaintiff for surplus because of her age.

89. AT&T terminated Plaintiff’s employment because of her age.

90. AT&T presented an invalid and unenforceable General Release and Waiver, including collective action waiver, to Plaintiff because of her age.

91. In the alternative, AT&T’s consideration of location (actual or assigned) in connection with surplus selection decisions and/or consideration of a surplus applicant’s location (actual or assigned) had a statistically significant negative impact on the surplus selection and/or termination rates of older employees, including Plaintiff.

92. As a direct result of AT&T’s discriminatory conduct, Plaintiff has in the past incurred, and will in the future incur, economic losses, a loss of earnings and/or earnings capacity, loss of benefits, and other injuries, the full extent of which is not known at this time.

**COUNT I
VIOLATION OF THE ADEA
(Disparate Treatment)**

93. Plaintiff incorporates by reference the foregoing paragraphs of this Complaint, as if fully set forth herein.

94. AT&T intentionally discriminated against Plaintiff because of her age.

95. By committing the foregoing acts of discrimination AT&T has violated the ADEA.

96. As a direct result of AT&T's violation of the ADEA, Plaintiff has in the past incurred, and will in the future incur, a loss of earnings and/or earnings capacity, loss of benefits, and other injuries, the full extent of which is not known at this time.

97. AT&T's acts of discrimination in violation of the ADEA were intentional and willful under the circumstances and warrant the imposition of liquidated damages.

98. As a direct and proximate result of AT&T's violation of the ADEA, Plaintiff has sustained the injuries, damages, and losses set forth herein.

99. Plaintiff is now suffering and will continue to suffer irreparable injury and monetary damages as a result of AT&T's discriminatory and unlawful acts unless and until the Court grants the relief requested herein.

100. No previous application has been made for the relief requested herein.

COUNT II
VIOLATION OF THE ADEA
(Disparate Impact)

101. To the extent that AT&T's facially neutral employment policies and practices have not been used by AT&T to discriminate intentionally against older employees, AT&T's use of one or more of each has resulted in a disparate impact against employees age 40 or over, including Plaintiff, as follows:

- a. Upon information and belief, AT&T's policy to consider location in the various workforce reductions implemented in or around January 2019,

including Business Case 18-491, has resulted in a statistically significant disparity in the selection for surplus and/or termination rates of its older employees.

- b. Upon information and belief, AT&T's policy as to which locations would be favored in and/or exempt from surplus in the various workforce reductions implemented in or around January 2019, including Business Case 18-49, has resulted in a statistically significant disparity in the selection for surplus and/or termination rates of its older employees.
- c. Upon information and belief, the determination of an employee's location in the various workforce reductions implemented in or around January 2019, including Business Case 18-49, has resulted in a statistically significant disparity in the selection for surplus and/or termination rates of its older employees.
- d. Upon information and belief, AT&T's use of the Surplus Guidelines to determine which employees in Channel Marketing and Operations would be subject to possible termination and how to group them for purposes of making the surplus selection decisions in connection with its various workforce reductions implemented in/or around January 2019, has resulted in a statistically significant disparity in the selection for surplus and/or termination rates of its older employees.
- e. Upon information and belief, AT&T's consideration of geographic location (actual or assigned) in connection with surplus selection decisions and/or consideration of a surplussed applicant's geographic location (actual or

assigned work location) in connection with the various workforce reductions implemented in or around January 2019, including Business Case 18-49 has resulted in a statistically significant disparity in the termination rates of older employees.

102. AT&T, by the policies and/or practices set forth herein, has violated the ADEA.

103. As a direct result of AT&T's violation of the ADEA, Plaintiff has in the past incurred, and will in the future incur, a loss of earnings and/or earnings capacity, loss of benefits, and other injuries, the full extent of which is not known at this time.

104. As a direct and proximate result of AT&T's violation of the ADEA, Plaintiff has sustained the injuries, damages, and losses set forth herein.

105. Plaintiff is now suffering and will continue to suffer irreparable injury and monetary damages as a result of AT&T's discriminatory and unlawful acts unless and until the Court grants the relief requested herein.

106. No previous application has been made for the relief requested herein.

COUNT III
VIOLATION OF THE ADEA – FAILURE TO COMPLY WITH THE OWBPA

107. Plaintiff incorporates herein by reference the foregoing paragraphs of this Complaint as though set forth in their entirety.

108. Plaintiff asserts claims against Defendant for violations of the OWBPA, as set forth herein.

109. Defendant, by its above-described improper and discriminatory acts, has violated the ADEA, as amended by the OWBPA.

110. Plaintiff was never given an OWBPA-compliant release; therefore, she never released her claims under the ADEA.

111. The General Release and Waiver given to Plaintiff did not constitute a valid release of claims or rights under the ADEA, including the right to bring and/or participate in a class, collective, or representative action.

112. As a direct and proximate result of Defendant's failure to comply with OWBPA waiver requirements and violations of the ADEA, Plaintiff has been misled regarding her rights under federal law and/or harmed in the prosecution of her claims under the ADEA.

113. In addition to all other damages, Plaintiff is entitled to declaratory relief, declaring the General Releases and Waiver invalid as to all claims and rights under the ADEA.

114. As a direct and proximate result of Defendant's failure to comply with OWBPA waiver requirements and violation of the ADEA, Plaintiff has sustained the injuries set forth herein.

115. Plaintiff is now suffering and will continue to suffer irreparable injury as a result of Defendant's discriminatory acts unless and until this Court grants the equitable relief requested herein.

116. In addition to all other damages, Plaintiff is entitled to equitable relief, including an injunction against Defendant from further using the non-OWBPA compliant release and notifying those who signed it of its invalidity.

RELIEF

WHEREFORE, Plaintiff respectfully requests that this Court enter judgment in her favor and against Defendant:

- a) declaring the acts and practices complained of herein to be in violation of the ADEA;
- b) declaring the acts and practices complained of herein to be in violation of the

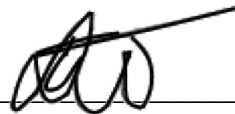
OWBPA;

- c) declaring the General Release and Waiver signed by Plaintiff to be invalid and unenforceable as to claims brought under the ADEA;
- d) enjoining and restraining permanently the violations alleged herein;
- e) enjoining and restraining Defendant from raising the General Release as a defense to Plaintiff's claims in this matter;
- f) awarding compensatory damages to Plaintiff to make her whole for all past and future lost earnings, benefits, and earnings capacity which they have suffered and will continue to suffer as a result of Defendant's discriminatory conduct;
- g) awarding liquidated damages to Plaintiff pursuant to the ADEA;
- h) awarding Plaintiff the costs of this action, together with reasonable attorney's fees;
- i) awarding Plaintiff such other damages as are appropriate under the ADEA, OWBPA, and federal and state law; and
- j) granting such other and further relief as this Court deems appropriate.

CONSOLE MATTIACCI LAW, LLC


Dated: October 30, 2020

BY: _____



Daniel S. Orlow, Esq.
Susan Saint-Antoine, Esq.
Stephen G. Console, Esq.
1525 Locust Street, 9th Floor
Philadelphia, PA 19102
(215) 545-7676
Attorneys for Plaintiff, Sheri Thompson

Exhibit “1”

CHARGE OF DISCRIMINATION		AGENCY <input type="checkbox"/> FEPA <input checked="" type="checkbox"/> EEOC	CHARGE NUMBER
This form is affected by the Privacy Act of 1974; See privacy statement before consolidating this form.			
STATE OR LOCAL AGENCY: <u>Pennsylvania Human Relations Commission</u>			
NAME (Indicate Mr., Ms., Mrs.) Sheri Thompson		HOME TELEPHONE NUMBER (Include Area Code) redacted	
STREET ADDRESS redacted		CITY, STATE AND ZIP Collegeville, PA 19426	DATE OF BIRTH redacted
NAMED IS THE EMPLOYER, LABOR ORGANIZATION, EMPLOYMENT AGENCY, APPRENTICESHIP, COMMITTEE, STATE OF LOCAL GOVERNMENT WHO DISCRIMINATED AGAINST ME (If more than one than list below)			
NAME AT&T, Inc. AT&T Mobility Services LLC		NUMBER OF EMPLOYEES, MEMBERS >200,000	TELEPHONE (Include Area Code) (210) 821-4105
STREET ADDRESS Charging Party's Work Location 847 Mountain Top Drive AT&T Corporate Headquarters 208 S. Akard Street		CITY, STATE AND ZIP Collegeville, PA 19426 Dallas, TX 75202	COUNTY Montgomery, PA Dallas, TX
CAUSE OF DISCRIMINATION (Check appropriate box(es)) <input type="checkbox"/> Race <input type="checkbox"/> Color <input type="checkbox"/> Sex <input type="checkbox"/> Religion <input type="checkbox"/> National Origin <input type="checkbox"/> Retaliation <input checked="" type="checkbox"/> Age <input type="checkbox"/> Disability <input type="checkbox"/> Other (Specify)		DATE DISCRIMINATION TOOK PLACE Earliest _____ Latest _____ 03-29-19 (ongoing)	
The Particulars Are:			
A. 1. Relevant Work History			
I was employed by AT&T, Inc. and its controlled subsidiary/payroll company, AT&T Services, Inc. (together, "AT&T"), from February 21, 2003 until the date of my unlawful termination of employment effective March 29, 2019.			
At the time of my termination, I held the position of Senior Marketing Manager. I last reported to Sunshine Pegues, Associate Director of Marketing Management (55 ¹). I began reporting to Pegues in or about April 2018. Prior to reporting to Pegues, I had reported to William Brock, Associate Director (45). Pegues reported to Cynthia Jackson, Vice President.			
I was the oldest employee reporting to Pegues. I was the only employee reporting to Pegues who was selected for surplus and terminated.			
At the time of my surplus notification and termination, I was age forty-eight (48) with approximately (16) years of service at AT&T.			
I want this charge filed with both the EEOC and the State or local Agency, if any. I will advise the agencies if I change my address or phone number and I will cooperate fully with them in the processing of my charge in accordance with their procedures.		NOTARY - (when necessary for State and Local Requirements)	
I declare under penalty of perjury that the foregoing is true and correct.		I swear or affirm that I have read the above charge and that it is true to the best of my knowledge, information and belief.	
7/12/19 Date  Charging Party Signature		SIGNATURE OF COMPLAINANT	
		SUBSCRIBED AND SWORN TO BEFORE ME THIS DATE (month, day, year)	

¹ All ages herein are approximations.

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1. Relevant Work History (continued)

I was a highly qualified and dedicated employee for AT&T for sixteen (16) years. My extensive knowledge, skills, experience, and record of achievement as a successful Senior Technical Project/Program Management employee were recognized by AT&T. Among other things, I received annual merit increases and performance-based bonuses, key contributor awards, and my annual performance reviews were positive.

2. Harm Summary

I believe that AT&T discriminated against me because of my age (48) as part of a centrally planned, corporate-wide (*i.e.*, AT&T, Inc. and the many subsidiary entities under its direction and control, self-identified as the AT&T “family of companies”) involuntary group termination program, implemented in waves from at least March 1, 2013 and still continuing, intended to “transform” an aging workforce, and which intended to, and did, eliminate older workers and replace them with younger ones, while falsely and fraudulently telling the older workers that they had released claims under the Age Discrimination in Employment Act (“ADEA”) when AT&T knew that they had not.

On January 28, 2019, AT&T notified me that the position that I held was being eliminated, and that I was being placed on “surplus status.” I was to remain employed until March 29, 2019, at which time my employment was to be terminated if I had not been selected by AT&T for, and accepted, another position at AT&T.

On January 28, 2019, AT&T also presented to me a “General Release and Waiver” which fraudulently purported to release all claims against AT&T, including federal age discrimination claims with respect to my employment and (possible future) termination of employment. The General Release and Waiver was simultaneously accompanied by an “ADEA Listing” dated January 14, 2019 which, among other things, provided no information as to the identity of individuals actually terminated by AT&T.

After January 28, 2019, AT&T did not select me for any open and available positions with AT&T for which I was qualified.

AT&T terminated my employment effective March 29, 2019. That date was the commencement of the forty-five (45) day period for me to consider the General Release and Waiver. AT&T provided me at that time no disclosures required for an involuntary group termination pursuant to the Older Workers Benefit Protection Act (“OWBPA”).

I signed and returned to AT&T the General Release and Waiver on March 29, 2019. The purported waiver of my claims and right to bring and/or participate in a collective and/or representative action under the ADEA is invalid, unenforceable, and in violation of the ADEA, as amended by the OWBPA.

B. Respondents’ Stated Reasons

AT&T has stated that I was placed on surplus status because my position was being eliminated. This is a pretext for age discrimination. The statement that my position was being eliminated was false. Following the surplus, there remained several Senior Marketing Managers, including at least three (3) who reported to Pegues.

AT&T has not stated a reason why AT&T failed to select me for any open and available positions

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for which I was qualified.

AT&T has stated that I was to be terminated if I was unable to secure another position within sixty (60) days of my being placed on surplus status. AT&T gave a false and pretextual reason for my selection for surplus; AT&T has given no reason for its failure to select me for any one of the open positions for which I was qualified.

AT&T has not stated any reason for its fraudulent representation to me that by signing the General Release and Waiver I had released and waived my claims and rights under the ADEA, including my right to bring and/or participate in a collective and/or representative action, when AT&T knew that they had presented me with a General Release and Waiver that was invalid, unenforceable, and in violation of the OWBPA.

C. Statutes Violated and Basis for Allegations

I allege that Respondents have discriminated against me based on my age in violation of the Age Discrimination in Employment Act, as amended, 29 U.S.C. § 621, *et seq.* (“ADEA”) and the Older Workers Benefit Protection Act, 29 U.S.C. § 626(f) (“OWBPA”).

Evidence of discrimination includes, but is not limited to (in addition to what is set forth herein):

- 1) AT&T has a corporate culture of age bias and a public record of egregious age discrimination.
- 2) AT&T’s Chief Executive Officer, Randall Stephenson, has publicly discussed that AT&T has an aging workforce and had a need to reinvent the company. *See Gearing Up for the Cloud, AT&T Tells Its Workers: Adapt or Else*, <http://www.nytimes.com>, February 13, 2016. As part of this reinvention, AT&T came up with a plan to “retool” its aging workforce by the year 2020. *Id.*
- 3) As part of its plan – variously called “Vision 2020,” “Workforce 2020;” “Workplace 2020” – AT&T has publicly expressed age-based stereotypes and has acknowledged that those age-based stereotypes are considered in workplace decisions. *See, e.g., AT&T Prepares for a New World of Work: The Changing Work Force (Part 2)*, <https://networkingexchangeblog.att.com/enterprise-business> (dividing its workforce by age, characterizing “Baby Boomers” as the workforce of “Yesterday,” expressing without stated basis what is important to “Baby Boomers” as distinct from “Gen X” and “Gen Y” workers, explicitly stating that AT&T is taking these age-based stereotypical “factors into account when planning for our workplace of the future,” and stating that by 2015, 90% of new hires will be from Gen X and Gen Y).
- 4) Upon information and belief, since at least March 1, 2013, and continuing until the present, AT&T has, as part of its plan to transform its workforce, conducted vast involuntary terminations (referred to herein as “2020” terminations) with the intent and effect of eliminating older workers from its workforce. The massive and company-wide involuntary terminations were effectuated in waves across AT&T, Inc.’s various controlled/for payroll-purposes subsidiaries and in accordance with centrally planned, from the top, corporate-wide policies and procedures infected with age bias and, upon information and belief, causing a disparate impact on older workers.
 - a) Upon information and belief, as part of the “2020” terminations, AT&T, per its policies and procedures, notified certain workers that they were being placed on surplus status and would be terminated if unable to secure another position with

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AT&T within sixty (60) days. Employees were selected for surplus based on centrally determined, company-wide ill-defined and/or subjective criteria in a process infected with age bias. Without limitation, employees were assigned a rating for “skills,” but the “skills” supposedly assessed were not those necessary to perform an actual job but a job of the “future” per “Vision 2020,” thus permitting managers to assign ratings based on the ageist stereotype that older workers could not or would not acquire “high tech” skills necessary for these future jobs.

- b) The process by which certain employees on surplus status were able to secure another job within AT&T was infected with age bias. Among other things, the centrally determined, company-wide surplus policies and procedures specifically provided that managers could at their complete discretion notify certain – but not all – employees on surplus status of job openings by sending to them a Career Opportunity Notice (“CON”), thus permitting managers to act on unchecked age-bias and notify younger workers only of open positions. Moreover, per AT&T policies and procedures, it was automatically made known to a hiring manager when an application was received for an open job if the application was submitted by an employee whom AT&T had selected for surplus status, thus tainting that employee’s application prospects.
- c) If an employee has not secured a position at the end of the sixty (60) day period, an employee who had been placed on surplus status was terminated by AT&T. AT&T offered such terminated employees severance in exchange for signing what purported to be a general release of all claims (including their right to bring suit, and/or participate in a collective/representative action under the ADEA). AT&T knew that what it falsely told the older workers was a general release of all claims was not a release and waiver of an older worker’s right to bring and/or participate in an individual and/or collective action alleging age discrimination under the ADEA because the General Release and Waiver did not comply with the disclosure requirements of the OWBPA. Without limitation, **AT&T provided to the older workers no information as to who was actually being terminated and who was being retained.**
- d) AT&T affirmatively represented to the older, terminated workers that it had provided to them at the time of the surplus notification the ages and job titles of those “designated to participate in the Plan.” This was patently false. The Plan referenced was the AT&T, Inc. Severance Pay Plan; to be eligible to participate in it, among other things, one had to have been terminated from employment. The list provided did not identify any one who had actually been terminated. In fact, some employees who had been placed on surplus status and listed on the ADEA Listing were able to find other positions at AT&T within the sixty (60) day period. **Thus, AT&T fraudulently induced older workers to release rights pertaining to their termination, while hiding from those older workers information as to the ages of who was terminated and who was retained.**
- e) Upon information and belief, AT&T has for years, and at least since March 1, 2013, and continuing through the present, carried out in waves its “2020” terminations with the intent and effect of terminating older workers from its workforce, while retaining and hiring younger ones. AT&T has intentionally kept the older workers in the dark about the scope of its terminations and selection procedures, and has engaged in a massive fraud whereby older workers were deceived as to the information they were receiving regarding who was

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terminated and who was retained, and falsely led the older workers to believe that they had waived their right to bring an action against AT&T for age discrimination.

- 5) Since at least 2013 until the time of my termination, AT&T has actively recruited outside hires.
- 6) I was notified by AT&T that I was placed on surplus status, terminated, and presented with a fraudulent General Release and Waiver as part of AT&T's "2020" terminations.
- 7) AT&T selected me for surplus, failed to select me for any open and available jobs for which I was qualified, terminated my employment, and presented me with a false and fraudulent General Release and Waiver because of my age.
- 8) On January 28, 2019, AT&T notified me that I was placed on surplus status with sixty (60) days to try to find a job or else be terminated.
 - a) The statement that my position was being eliminated was false.
- 9) On January 28, 2019, AT&T presented me with a purported General Release and Waiver and accompanying "ADEA Listing." Among other things, and without limitation:
 - a) The General Release and Waiver and its accompanying materials purport to specify criteria but in fact provide no meaningful information as to the criteria used for selecting employees for surplus notification. The General Release and Waiver and its accompanying materials stated the following with regard to the criteria used for selecting employees for surplus notification: "The considerations when designating eligible employees for company initiated involuntary termination and participation in the AT&T Inc. Severance Pay Plan include some or all of the following: business needs, criticality of skills, job performance, role elimination, geographic location, and/or employee preference for displacement ('interest in leaving')."
 - b) The General Release and Waiver and its accompanying materials provided no information explaining the specific reason(s) for my selection for surplus notification.
 - c) The General Release and Waiver stated falsely that I was provided with the ages and job titles of those designated to participate in the Severance Plan. In fact, as of that date, no one identified on the ADEA Listing was eligible for the Severance Plan.
 - d) Accompanying documents were marked as "PROPRIETARY Not for use or disclosure outside AT&T Inc. and all its wholly owned subsidiaries and controlled companies, except under written permission," thereby attempting to discourage me and other older workers from sharing the information with an attorney or other AT&T employees.
 - e) The information provided in the "ADEA Listing" was for an "Organization" identified as "Channel Marketing and Data Analytics Rudolph Hermond- SVP- Channel Marketing and Operations." There was no information explaining what this "Organization" identification meant, and no information provided as to how this Organization was determined or who was assigned to it.

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- f) The ADEA Listing contained a category entitled "AWG." The ADEA Listing defines "AWG" as "Affected Work Groups," which "are comprised of positions at the same level with similar definable characteristics from which the surplus employees are selected. An AWG may be any portion of an organization, described in terms of level, job title, similar job functions, geography, lines of organization or other definable attributes based on needs of the business. The combined AWGs comprise the Decisional Unit for this business case." The ADEA Listing purports to describe but in fact does not provide meaningful information as to AWG numbers, the AWG category, or AWG assignments. The ADEA Listing does not indicate why I was assigned to a certain AWG 7 and why others were assigned different AWG numbers.
 - g) The Release and General Waiver provided no information as to the basis a particular AWG number was assigned and why those with different AWGs are grouped together for purposes of the ADEA Listing.
 - h) The ADEA Listing contained a category entitled "Expressed IIL." The ADEA Listing defines "IIL" as "Interest in Leaving," which "is a process used in some business cases that invites employees to express their interest in terminating their employment with eligibility for severance benefits. Employees expressing IIL may or may not be selected based on needs of the business, and employees who have not expressed IIL may nevertheless be selected for surplus based on other criteria such as performance, experience, skills and training." The ADEA Listing purports to but in fact does not provide meaningful information.
 - i) The ADEA Listing does not indicate who among the employees was terminated.
 - j) AT&T failed to provide required information and disclosures under the OWBPA, including failing to provide the cumulative information regarding numbers of employees in my Decisional Unit.
- 10) I was apparently assigned to AWG 7. I was never told by AT&T the basis of my or others' assignment to AWG 7.
- 11) Per the ADEA Listing, I was the only employees assigned to "AWG 7."
- a) Based on, *inter alia*, my knowledge, skills, and positive track record with AT&T, including in particular as a Senior Marketing Manager, I believe I was at least as, or better, qualified than all of the Senior Marketing Manager employees, including the substantially younger employees who were not listed on the ADEA Listing and not selected for surplus.
- 12) Per the ADEA Listing, there were eleven (11) employees in the Organization. All eleven (11) employees were selected for surplus. None of the other employees, including substantially younger employees, reporting to Pegues were included on the ADEA Listing. All the other employees, including substantially younger employees, reporting to Pegues were not selected for surplus and were retained by AT&T.
- a) Based on, *inter alia*, my knowledge, skills, and positive track record with AT&T, including in particular as a Senior Marketing Manager, I believe I was at least as, or better, qualified than all of the Senior Marketing Manager employees, including the substantially younger employees, who held that position, were not

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selected for surplus, and were retained by AT&T.

- 13) On March 29, 2019, AT&T terminated my employment.
- 14) AT&T retained several younger Senior Marketing Manager employees reporting to Pegues. Based on, *inter alia*, my knowledge, skills, and positive track record with AT&T, including in particular my ten (10) years as a Senior Marketing Manager employee, I believe I was better qualified than these younger individuals who were retained. Without limitation:
 - a) When I was terminated, AT&T retained the following substantially younger employees, without limitation, in the Senior Marketing Manager position, reporting to Pegues: Sherrese Kines (35); Jami Walker (39); Paul Velasco (40).
- 15) AT&T terminated numerous older employees when I was terminated. Without limitation:
 - a) When I was terminated, AT&T terminated the following older employees, without limitation: George Noga (55), Senior Information Technology Manager; Deborah Piwowarski (55), Senior Marketing Manager; Mike McQuaid (55), Market Area Coordinator; DJ Dammann (55), Senior Marketing Manager; Lisa Meitzer (50), Senior Product Marketing Manager; Cyndi Weinstein (48), Senior Business Analyst; Cindy Meyer (48), Principal Technical Business Analyst; Paul Wood (48), Senior Products Marketing Manager; Susan Young (48), Lead Marketing Manager; Rosemary Kahn (48), Information Technology Business Manager; and Christopher Byrne (48), Supply Chain and Logistics.
- 16) As of the termination of my employment on March 29, 2019, I was instructed to consider signing the General Release and Waiver in exchange for a severance payment.
 - a) AT&T never provided me with the disclosures required by the OWBPA.
 - b) AT&T never provided me with information indicating that it was the job titles and ages of those who had actually been terminated from employment.
 - c) The "ADEA Listing" that was given to me on January 28, 2019 was not given to me at the commencement of the General Release and Waiver consideration period as explicitly required by the OWBPA.
 - d) AT&T failed to provide to me in a manner calculated to be understood by the average individual eligible to participate in the Severance Pay Plan program the disclosures required for a knowing and voluntary waiver of my claims and rights under the ADEA, including my right to bring an age discrimination suit against them and to initiate and/or participate in a collective and/or representative action.
- 17) My performance was positive and did not warrant my selection for surplus, the fact that I was not selected for open positions for which I was qualified, or the termination of my employment.
- 18) Upon information and belief, AT&T's "2020" group involuntary termination program, including its centrally determined policies and procedures, had a disparate impact on older workers.

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- 19) AT&T has demonstrated an intent to terminate the employment of older workers, including me, and retain younger workers instead.
- 20) AT&T fraudulently induced me and other older workers to sign a General Release and Waiver that they knew to be in invalid, unenforceable, and in violation of the OWBPA.

D. Class Charge

I allege that AT&T has engaged in a pattern and practice of discriminating against older workers in violation of the ADEA. In that regard, I bring this Charge as a class and pattern and practice Charge on behalf of myself and any and all current or former employees, age forty (40) and over who have been adversely affected by AT&T's discriminatory practices (as a result of disparate treatment or disparate impact) in connection with its company-wide group terminations, implemented in waves pursuant to the same centrally determined and corporate-wide policies and procedures, since at least March 1, 2013 and continuing through the present, including but not limited to being placed on surplus status; being denied opportunities to secure or being rejected for open positions; and/or being terminated.

I further allege that AT&T has violated the ADEA, as amended by the OWBPA, and that the language, terms, and manner of presentation of AT&T's General Release and Waiver agreements utilized during the company-wide involuntary group terminations since at least March 1, 2013 and continuing through the present, is part of a pattern and practice to adversely treat and disparately impact me and similarly situated employees age forty (40) and over, and was a scheme in violation of the ADEA and OWBPA with the intention of deceiving me and other older workers into believing that we could not sign the General Release and Waiver, collect severance, and bring an age discrimination case against AT&T. In that regard, I bring this Charge as a class Charge on behalf of those individuals age forty (40) and over whom AT&T terminated as part of the involuntary group terminations since at least March 1, 2013, and continuing through the present, who were presented with a General Release and Waiver which purported to be a general release of all claims, including for age discrimination under federal law and the right to bring and/or participate in a collective and/or representative action under the ADEA, but which failed to comply with the OWBPA.

Exhibit “2”

U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

DISMISSAL AND NOTICE OF RIGHTS

To: **Sheri Thompson**
 redacted
 Collegeville, PA 19426

From: **Philadelphia District Office**
 801 Market Street
 Suite 1300
 Philadelphia, PA 19107

On behalf of person(s) aggrieved whose identity is
 CONFIDENTIAL (29 CFR §1601.7(a))

EEOC Charge No.

EEOC Representative

Telephone No.

530-2019-04935

Legal Unit,
 Legal Technician

(267) 589-9700

THE EEOC IS CLOSING ITS FILE ON THIS CHARGE FOR THE FOLLOWING REASON:

The facts alleged in the charge fail to state a claim under any of the statutes enforced by the EEOC.

Your allegations did not involve a disability as defined by the Americans With Disabilities Act.

The Respondent employs less than the required number of employees or is not otherwise covered by the statutes.

Your charge was not timely filed with EEOC; in other words, you waited too long after the date(s) of the alleged discrimination to file your charge

The EEOC issues the following determination: Based upon its investigation, the EEOC is unable to conclude that the information obtained establishes violations of the statutes. This does not certify that the respondent is in compliance with the statutes. No finding is made as to any other issues that might be construed as having been raised by this charge.

The EEOC has adopted the findings of the state or local fair employment practices agency that investigated this charge.

Other (briefly state)

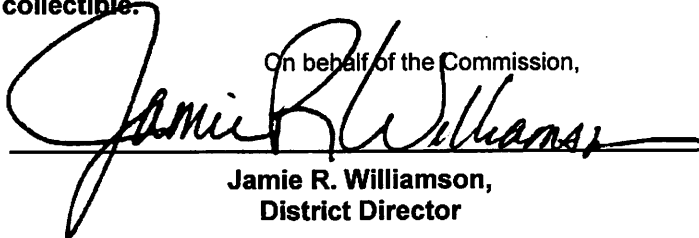
- NOTICE OF SUIT RIGHTS -

(See the additional information attached to this form.)

Title VII, the Americans with Disabilities Act, the Genetic Information Nondiscrimination Act, or the Age Discrimination in Employment Act: This will be the only notice of dismissal and of your right to sue that we will send you. You may file a lawsuit against the respondent(s) under federal law based on this charge in federal or state court. Your lawsuit **must be filed WITHIN 90 DAYS of your receipt of this notice**; or your right to sue based on this charge will be lost. (The time limit for filing suit based on a claim under state law may be different.)

Equal Pay Act (EPA): EPA suits must be filed in federal or state court within 2 years (3 years for willful violations) of the alleged EPA underpayment. This means that **backpay due for any violations that occurred more than 2 years (3 years) before you file suit may not be collectible.**

On behalf of the Commission,



Jamie R. Williamson,
 District Director

August 3, 2020

(Date Mailed)

Enclosures(s)

cc: **Carolyn Lavalais**
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