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Snohomish County, WASH

Case Number: 21-2-02029-31

**SUPERIOR COURT OF WASHINGTON
FOR SNOHOMISH COUNTY**

DANIELLE LATIMER,
for Herself, as a Private Attorney
General, and/or On Behalf Of All
Others Similarly Situated,

Plaintiff,

v.

AT&T MOBILITY LLC,
DIRECTV, LLC,
JOHN DOE 1,
AT&T INC., and
DOES 2–20, inclusive,

Defendants.

No. 21-2-02029-31

CLASS ACTION COMPLAINT FOR
STATUTORY DAMAGES AND
INJUNCTIVE RELIEF UNDER THE
CONSUMER PROTECTION ACT,
RCW 19.86, AND FOR INJUNCTIVE
RELIEF UNDER THE COMMERCIAL
ELECTRONIC MAIL ACT,
RCW 19.190

Plaintiff DANIELLE LATIMER, demanding trial by jury as to all issues so triable in a separate document to be filed, alleges as follows, on personal knowledge and/or on information and belief and/or upon the investigation of Plaintiff's counsel, against Defendant AT&T MOBILITY LLC, Defendant DIRECTV, LLC, Defendant JOHN DOE 1, Defendant AT&T INC., and Defendants DOES 2 through 20, inclusive:

I. INTRODUCTION

1. The subject line of an email from a mobile telephone company is false or

1 misleading when the subject line states that the email contains important information about a
2 customer's personal cell phone account, but the email is actually an advertisement for satellite
3 television offered by a different company.

4 2. That is the case at bar: Plaintiff Danielle Latimer had an account with Defendant
5 AT&T Mobility LLC for cell phone service. On July 9, 2018, AT&T Mobility LLC transmitted
6 to Ms. Latimer (and to a class of similarly situated Washington State residents) an email with
7 the subject line "Important AT&T wireless account notice".

8 3. The email was not a notice about Ms. Latimer's AT&T wireless account. It was
9 an advertisement for television subscription services offered by Defendant DIRECTV, LLC
10 (which is a corporate sibling of AT&T Mobility LLC, since both are subsidiaries of Defendant
11 AT&T Inc.).

12 4. The subject line of the email therefore contained false or misleading information
13 in violation of the Washington Consumer Protection Act, RCW 19.86 ("CPA"), and the
14 Washington Commercial Electronic Mail Act, RCW 19.190 ("CEMA").

15 5. Based on information and belief, July 8, 2018, was not the only time that one or
16 more of the defendants sent an email with that subject line or with a subject line of similar
17 meaning and effect. Based on information and belief, the defendants continue to transmit such
18 email subject lines into Washington State.

19 6. Plaintiff therefore brings this class action with the principal goals of (1)
20 obtaining statutory damages for past violations of the CPA and CEMA, and (2) obtaining a
21 public injunction to protect the public and future AT&T wireless subscribers from future
22 violations.

23 **II. PARTIES**

24 7. Plaintiff Danielle Latimer is an adult individual who is a citizen of the United
25 States of America and a citizen of the State of Washington. She was at all relevant times and is
26 a resident of the City of Edmonds, County of Snohomish, State of Washington.

27 8. Defendant AT&T Mobility LLC is a limited liability company chartered under
28 the laws of the State of Delaware with its principal place of business in the State of Georgia.

1 9. Defendant DIRECTV, LLC is a limited liability company chartered under the
2 laws of the State of California with its principal place of business in the State of California.

3 10. AT&T Mobility LLC and DIRECTV, LLC are as of the time of the filing of this
4 lawsuit and at all relevant times in the past corporate siblings in that AT&T Mobility LLC and
5 DIRECTV, LLC are and were each a subsidiary of Defendant AT&T Inc.

6 11. Defendant JOHN DOE 1 is a business entity of unknown form which is
7 currently in the process of being created or finalized and which may succeed to the liabilities of
8 Defendant DIRECTV, LLC, when the ongoing transaction between AT&T Inc. and TPG
9 Capital to create a new, spun-off DIRECTV business closes (as is expected to happen in the
10 second half of 2021, according to AT&T Inc.'s most recent Annual Report (SEC Form 10-K)).
11 (References in this pleading to the "named defendants" exclude Defendant John Doe 1.)

12 12. Defendant AT&T Inc. is a corporation chartered under the laws of the State of
13 Delaware with its principal place of business in the State of Texas.

14 13. Defendant AT&T Inc. is the parent of Defendant AT&T Mobility LLC and
15 Defendant DIRECTV, LLC. Both generally and with regard to the actions and omission pled
16 herein, Defendant AT&T Inc. so dominates and controls Defendant AT&T Mobility LLC and
17 Defendant DIRECTV, LLC as to make Defendant AT&T Mobility LLC and Defendant
18 DIRECTV, LLC simple instrumentalities of Defendant AT&T Inc. Defendant AT&T Inc.'s
19 ownership of Defendant AT&T Mobility LLC and Defendant DIRECTV, LLC is not for the
20 purpose of participating in the affairs of the subsidiary corporations in the customary and usual
21 manner but for the purpose of controlling Defendant AT&T Mobility LLC and Defendant
22 DIRECTV, LLC so that each may be used as a mere agency or instrumentality of Defendant
23 AT&T Inc.

24 14. For example, the principal allegation in this lawsuit—that AT&T Mobility
25 transmitted a commercial email with a false or misleading subject line in order to advertise the
26 services of Defendant DIRECTV, LLC—required instruction, approval, or coordination by
27 parent company AT&T Inc. AT&T Inc. also reaped the ultimate benefits of the unlawful
28 activities pled herein.

1 15. For example, AT&T Inc. so dominates and closely integrates the operations of
2 Defendant AT&T Mobility LLC and Defendant DIRECTV, LLC that AT&T Inc. combines
3 both companies (with others) for securities reporting purposes in the same “Communications”
4 segment of its business—the most important by far of AT&T Inc.’s reportable segments. *See*
5 AT&T Inc., Annual Report (SEC Form 10-K), filed Feb. 25, 2021, p. 4 (“Our Communications
6 segment provides wireless and wireline telecom, video and broadband services to consumers
7 located in the U.S. and businesses globally. Our Communications services and products are
8 marketed under the AT&T, Cricket, AT&T PREPAID, AT&T TV, AT&T Fiber and
9 DIRECTV brand names. The Communications segment provided approximately 79% of 2020
10 segment operating revenues and 80% of our 2020 total segment contribution.”).

11 16. Defendant Doe 2 through Doe 20, inclusive, aided, abetted and/or dominated
12 Defendant AT&T Mobility LLC and/or Defendant DIRECT, LLC in such a manner that Doe 2
13 through Doe 20, inclusive, are each directly, contributorily, vicariously, derivatively and/or
14 otherwise liable for the acts or omissions of Defendant AT&T Mobility LLC and/or Defendant
15 DIRECT, LLC. Plaintiff is currently unaware of the true identities of Doe 2 through Doe 20,
16 inclusive; Plaintiff anticipates that, upon learning the true identities of any of Doe 2 through
17 Doe 20, inclusive, Plaintiff will either freely amend the operative complaint or request leave
18 from the Court to amend the operative complaint.

19 **III. JURISDICTION AND VENUE**

20 17. This Court has subject matter jurisdiction over this civil action pursuant to,
21 without limitation, Section 6 of Article IV of the Washington State Constitution (Superior
22 Court jurisdiction, generally), RCW 19.86.090 (Superior Court jurisdiction over Consumer
23 Protection Act claims) and RCW 19.190.090 (Superior Court jurisdiction over Commercial
24 Electronic Mail Act claims).

25 18. This Court has personal jurisdiction over each of the defendants pursuant to,
26 without limitation, RCW 4.28.185, in that: (1) Defendant AT&T Mobility LLC and Defendant
27 DIRECTV, LLC are each registered to do business in the State of Washington; (2) each named
28 defendant has transacted and continues to transact business within the State of Washington;

1 and/or (3) each named defendant has committed tortious acts within the State of Washington or
2 has committed tortious acts outside the State of Washington which had an impact within the
3 State of Washington. In addition, each named defendant intended, knew, or is chargeable with
4 the knowledge that its out-of-state actions would have a consequence within the State of
5 Washington.

6 19. With regard to the cause of action brought pursuant to the Washington
7 Consumer Protection Act, this Court has personal jurisdiction over each named defendant
8 pursuant to RCW 19.86.160. For example, and without limitation, Defendant AT&T Mobility
9 LLC, Defendant DIRECTV, LLC, and Defendant AT&T Inc. has each engaged and is
10 continuing to engage in conduct in violation of RCW 19.86 which has had and continues to
11 have an impact in Washington State which said chapter reprehends.

12 20. Venue is proper in Snohomish County Superior Court because, without
13 limitation, Plaintiff Danielle Latimer resides in Snohomish County; a significant portion of the
14 acts giving rise to this civil action occurred in Snohomish County; and/or each named
15 defendant intended to and did have a substantial and foreseeable effect on trade or commerce in
16 Snohomish County.

17 **IV. FACTUAL ALLEGATIONS**

18 **A. AT&T Mobility And DirecTV Are Corporate Siblings Who Sell Different**
19 **Products.**

20 21. Defendant AT&T Mobility LLC (“AT&T Mobility”) is one of the nation’s and
21 the state’s largest providers of wireless telephone and telecommunications services.

22 22. As of December 31, 2020, AT&T Mobility served approximately 183 million
23 subscriber lines nationwide. *See* AT&T Corp., Annual Report (SEC Form 10-K), filed Feb. 25,
24 2021, p. 3.

25 23. Based on information and belief, AT&T Mobility has more than 3 million
26 subscriber lines in Washington State.

27 24. AT&T Mobility is continuously attempting to keep its current Washington State
28 customers, is continuously attempting to sell additional products and services to its existing



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