

IN THE CIRCUIT COURT FOR THE STATE OF OREGON
FOR MULTNOMAH COUNTY

JOSE SOBERANIS PACHECO,

Plaintiff,

v.

**AT&T MOBILITY LLC and AT&T
MOBILITY II LLC,**

Defendants.

Case No.

**UNLAWFUL TRADE PRACTICES ACT
COMPLAINT**

Claim subject to forced private arbitration

Claim subject to mandatory arbitration

Fee authority: ORS 21.160(1)(a)

Amount in controversy: \$1,500

Filing fee: \$158

1.

INTRODUCTION

In November 2015, AT&T promised Mr. Pacheco a \$1,500 credit if he switched his family's wireless carrier from T-Mobile to AT&T.

After Mr. Pacheco switched his wireless carrier, AT&T gave him the runaround for several months, and ultimately broke its promise to provide the \$1,500 credit. On at least one occasion, AT&T pretended its call with Mr. Pacheco was being disconnected as a pretext to hang up on Mr. Pacheco.

Having no other choice to make things right, Mr. Pacheco files this complaint on behalf of his family to recover fair compensation. Mr. Pacheco hopes this case will help shine a light on AT&T's business practices and cause other customers with similar stories to come forward.

UNLAWFUL TRADE PRACTICES ACT COMPLAINT - Page 1 of 10

Olsen Daines PC
US Bancorp Tower
111 SW 5th Ave., Suite 3150
Portland, Oregon 97204
Direct 503-201-4570

1
2 2.

3 **JURISDICTION AND THE PARTIES**

4 Jose Soberanis Pacheco (“Mr. Pacheco”) files this case against AT&T Mobility LLC and
5 AT&T Mobility II LLC (defendants collectively referred to as “AT&T”) to recover fair
6 compensation under ORS 646.638 because Mr. Pacheco suffered ascertainable economic loss
7 caused by AT&T’s willful violation of ORS 646.608(1)(e), (i), (j), (k), (p), and (s).
8

9 3.

10 Mr. Pacheco lived in Lincoln City, Oregon at all times material and is a “person” as
11 defined at ORS 646.605(4).
12

13 4.

14 Defendant AT&T Mobility LLC is a Delaware limited liability company with its principal
15 place of business at 1025 Lenox Park Blvd., Atlanta, Georgia 30319.
16

17 5.

18 Defendant AT&T Mobility II LLC is a Delaware limited liability company with its
19 principal place of business at 1025 Lenox Park Blvd., Atlanta, Georgia 30319.
20

21 6.

22 AT&T Mobility LLC and AT&T Mobility II LLC are subsidiaries of AT&T Inc.

23 7.

24 AT&T Mobility LLC co-owns AT&T Mobility II LLC, along with three other subsidiaries
25 of AT&T Inc.
26
27

1
2 8.

3 AT&T Inc. is a Delaware corporation with its principal place of business at 205 S. Akard
4 St., Dallas, Texas 75202.

5
6 9.

7 AT&T operated its consumer wireless services business in Oregon at all times material
8 and was in the business of regularly selling its consumer wireless services at all times material
9 and was a “person” as defined at ORS 646.605(4).

10
11 10.

12 Venue is proper in Multnomah County, Oregon because the forum is most convenient for
13 the parties and AT&T regularly operates its consumer wireless services business here.

14
15 11.

16 **FACTUAL ALLEGATIONS**

17 This complaint’s allegations are based on personal knowledge as to Mr. Pacheco’s own
18 conduct and are made on information and belief as to the acts of others.

19
20 12.

21 In November 2015, at its store in Lincoln City, Oregon, AT&T offered to sell Mr. Pacheco
22 its consumer wireless services.
23
24
25
26
27

1
2 13.

3 Through the course of AT&T's business of selling consumer wireless services, AT&T
4 represented to Mr. Pacheco that if Mr. Pacheco purchased AT&T's consumer wireless services
5 along with DirecTV and traded in his family's old smart phones, AT&T would provide Mr.
6 Pacheco a \$1,500 buyback credit for switching his family's consumer wireless carrier from T-
7 Mobile to AT&T.
8

9 14.

10 Mr. Pacheco relied on AT&T's representation above and purchased AT&T's wireless
11 services along with DirecTV for his family's use and traded in his family's old smart phones.
12

13 15.

14 AT&T's representation concerning the \$1,500 credit were material and false because Mr.
15 Pacheco purchased AT&T's consumer wireless services based on AT&T's representation and
16 AT&T failed to provide Mr. Pacheco a \$1,500 credit and never intended to provide Mr. Pacheco
17 a \$1,500 credit.
18

19 16.

20 AT&T promoted the intentional misrepresentation of its \$1,500 credit in hopes of
21 generating profit.
22

23 17.

24 Mr. Pacheco complained to AT&T on multiple occasions over the phone about never
25 receiving its \$1,500 credit.
26
27
28

1
2 18.

3 AT&T's agents apologized and admitted it was at fault and promised to fix the problem
4 on various occasions.

5
6 19.

7 Ultimately, after months of phone calls, AT&T gave Mr. Pacheco the runaround between
8 departments, and credited and de-credited Mr. Pacheco's account but never provided Mr. Pacheco
9 his full \$1,500 credit.

10
11 20.

12 On at least one occasion, AT&T pretended its call with Mr. Pacheco was being
13 disconnected as a pretext to hang up on Mr. Pacheco.

14
15 21.

16 After trying to resolve this dispute informally on multiple occasions over the course of
17 several hours on the phone and having no success, Mr. Pacheco now prosecutes AT&T with the
18 help of a private attorney general to make things right.

19
20 22.

21 AT&T's conduct as alleged above violated ORS 646.608(1)(e) because AT&T
22 represented that purchase of its consumer wireless services included a \$1,500 credit as a benefit
23 for switching consumer wireless services from T-Mobile to AT&T, when in fact, purchase of
24 AT&T's consumer wireless services did not have that benefit.

1
2 23.

3 AT&T's conduct as alleged above violated ORS 646.608(1)(i) because AT&T advertised
4 that its consumer wireless services included a \$1,500 credit, when in fact, AT&T never intended
5 to provide Mr. Pacheco a \$1,500 credit.
6

7 24.

8 AT&T's conduct as alleged above violated ORS 646.608(1)(j) because AT&T's \$1,500
9 credit was a price reduction and AT&T made a false representation to Mr. Pacheco as to the
10 existence or amount of the price reduction.
11

12 25.

13 AT&T's conduct as alleged above violated ORS 646.608(1)(k) because AT&T made a
14 false representation as to the availability of its \$1,500 credit and misled Mr. Pacheco as to the
15 nature of his transaction with AT&T to purchase its consumer wireless services.
16

17 26.

18 AT&T's conduct as alleged above violated ORS 646.608(1)(p) because AT&T's \$1,500
19 credit was a promotion and AT&T made a false representation as to the promotion to Mr. Pacheco.
20

21 27.

22 AT&T's conduct as alleged above violated ORS 646.608(1)(s) because AT&T's
23 misrepresentation about its \$1,500 credit concerned Mr. Pacheco's cost of AT&T's consumer
24 wireless services.
25
26
27

1
2 28.

3 AT&T's violation of ORS 646.608(1)(e), (i), (j), (k), (p), and (s) as alleged above were
4 "willful" because AT&T knew and should have known its conduct constituted unlawful trade
5 practices, as AT&T was aware Oregon law prohibited false representations in connection with
6 the sale of its consumer wireless services, and numerous consumers have complained that AT&T
7 violated Oregon's Unlawful Trade Practices Act in the past.
8

9 29.

10 AT&T's unlawful trade practices directly and proximately caused Mr. Pacheco to incur
11 ascertainable economic loss because Mr. Pacheco never received his full \$1,500 credit as
12 promised.
13

14 30.

15 AT&T's unlawful trade practices also directly and proximately caused Mr. Pacheco to
16 suffer frustration, wasted time, and annoyance.
17

18 31.

19 As of the date of this complaint, AT&T Inc. and its subsidiaries have a net worth over
20 \$150 billion, annual gross profits over \$50 billion, annual net income over \$5 billion, and provide
21 wireless services to over 100 million customers.
22

23 32.

24 AT&T's disregard for Oregon's Unlawful Trade Practices Act stood to give it an unfair
25 advantage because it was able to lure customers away from its competitors based on false
26 promises.
27

1
2 33.

3 AT&T's conduct constituted extraordinary transgressions of socially tolerable behavior
4 because its unlawful trade practices were in pursuit of profit.
5

6 34.

7 Upon discovery of actual evidence of AT&T's malice, Mr. Pacheco intends to amend this
8 complaint to bring a claim against AT&T for punitive damages, in accordance with the
9 reprehensibility of AT&T's conduct.
10

11 35.

12 **CAUSE OF ACTION**

13 **CLAIM FOR RELIEF**

14 **(Unlawful Trade Practices)**

15 **(ORS 646.638)**

16 Mr. Pacheco re-alleges the above paragraphs by reference.
17

18 36.

19 AT&T's violation of ORS 646.608(1)(e), (i), (j), (k), (p), and (s) as alleged above caused
20 Mr. Pacheco ascertainable economic loss, and Mr. Pacheco is entitled to recover fair
21 compensation for his actual damages and reimbursed attorney fees and costs under ORS 646.638.
22
23
24
25
26
27

1
2 **WHEREFORE**, Mr. Pacheco requests judgment against AT&T as follows:

3 **A.** Money judgment against AT&T in favor of Mr. Pacheco for \$1,500 actual damages;

4 **B.** Money judgment against AT&T in favor of the law firms of Olsen Daines PC and
5 Hanson & Walgenkim LLC for reimbursement of their reasonable attorney fees and
6 costs in this case; and
7

8 **C.** For such other and further relief as the arbitrator may deem just and proper.
9

10 DATED: April 5, 2016

11 /s/ Michael Fuller
12 **Michael Fuller, OSB No. 09357**
13 Lead Trial Attorney for Mr. Pacheco
14 Olsen Daines PC
15 US Bancorp Tower
16 111 SW 5th Ave., Suite 3150
17 Portland, Oregon 97204
18 michael@underdoglawyer.com
19 Direct 503-201-4570

20 /s/ Young Walgenkim
21 **Young Walgenkim, OSB No. 124900**
22 Of Attorneys for Mr. Pacheco
23 Hanson & Walgenkim LLC
24 young@hansonwalgenkim.com
25 Phone 503-383-1496
26
27
28

1
2 **PROOF OF MAILING**

3 Under ORS 646.638(2), I declare and certify that on the date below I caused a copy of this
4 complaint to be mailed to the Oregon Attorney General at the following address:

5
6 **Ellen Rosenblum**
7 **Oregon Attorney General**
8 **Oregon Department of Justice**
9 **1162 Court Street NE**
10 **Salem, Oregon 97301-4096**

11 DATED: April 5, 2016

12 /s/ Michael Fuller
13 **Michael Fuller, OSB No. 09357**
14 Lead Trial Attorney for Mr. Pacheco
15 Olsen Daines PC
16 US Bancorp Tower
17 111 SW 5th Ave., Suite 3150
18 Portland, Oregon 97204
19 michael@underdoglawyer.com
20 Direct 503-201-4570