STITES & HARBISON PLLC
ATTORNEYS

421 West Main Street
Post Office Box 634
Frankfort, KY 40602-0634
(502) 223-3477
(502) 223-4124 Fax

April 24, 2020

Mark R. Overstreet
(502) 209-1219
(502) 779-8349 FAX
moverstreet@stites.com

FILED VIA E-MAIL – PSCED@KY.GOV

RECEIVED
APR 24 2020
PUBLIC SERVICE COMMISSION

Kent A. Chandler
Executive Director
Public Service Commission of Kentucky
211 Sower Boulevard
P.O. Box 615
Frankfort, KY 40602-0615

RE: Case No. 2019-00047

Dear Mr. Chandler:

The accompanying filing is being transmitted by e-mail in accordance with the Commission's March 16, 2020 order in Case No. 2020-00085. Please file it in Case No. 2019-00047.

Please do not hesitate to contact me if you have any questions.

Very truly yours,

Mark R. Overstreet

MRO
cc: paul@louisvillelaw.com
caroline.pieroni@dinsmore.com
kenyon.meyer@dinsmore.com

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ASSOCIATES IN DERMATOLOGY, PLLC	)	
	)	
COMPLAINANT	)	
	)	
V.	)	CASE NO.
	)	2019-00047
BELLSOUTH TELECOMMUNICATIONS, LLC dba AT&T KENTUCKY	)	
	)	
	)	
DEFENDANT	)	

Notice By BellSouth Telecommunications, LLC d/b/a AT&T Kentucky Of Filing By Associates In Dermatology PLLC Of Demand For Arbitration And Supplemental Motion To Dismiss

BellSouth Telecommunications, LLC d/b/a AT&T Kentucky further moves the Public Service Commission of Kentucky to dismiss this matter following the filing by Associates In Dermatology PLLC ("AID") of its demand for arbitration with the American Arbitration Association. AT&T Kentucky states in support of its motion:

1. This matter is before the Commission on AID's complaint against AT&T Kentucky seeking, *inter alia*, liquidated and unliquidated damages. Currently pending before the Commission is the issue of whether the Commission has jurisdiction over the complaint.[1] Discovery was taken on the issue and the matter has been briefed by the parties.

[1] Order, *In the Matter of Associates In Dermatology, PLLC v. BellSouth Telecommunications, Inc. d/b/a AT&T Kentucky*, Case No. 2019-00047 at 4-6 (Ky. P.S.C. December 3, 2019).

2. Among the grounds raised by AT&T Kentucky in support of its position the Commission lacks jurisdiction is that AID is required to arbitrate the dispute under the terms of its agreements with AT&T Kentucky.[2]

3. On April 20, 2020 AID dispatched to the American Arbitration Association a Demand for Arbitration and enclosed Arbitration Complaint. A copy of the Demand and Arbitration Complaint are attached as **EXHIBIT 1**. The Demand and Arbitration Complaint were served on counsel for AT&T Kentucky and received on April 23, 2020.

4. Paragraph 15 of the Arbitration Complaint indicates that among the claims AID seeks to arbitrate are the matters before the Commission in this proceeding:

> 15. AID also has a Complaint pending against AT&T before the Kentucky Public Service Commission ("KPSC") related to some of these same actions. AT&T has taken the position in that matter that the KPSC does not have jurisdiction for various reasons, including that the disputes should be heard in arbitration. Out of an abundance of caution, AID is bringing this claim, in case the KPSC determines it does not have jurisdiction.

5. AID having now sought to resolve its claims through arbitration as required under the agreements, this Commission should not be required to expend further resources in this matter. In addition, AT&T Kentucky should not be facing the same claims in two different fora. Accordingly, the complaint pending before this Commission should be dismissed.

Wherefore, AT&T Kentucky respectfully requests the Public Service Commission of Kentucky enter an order dismissing Associate in Dermatology's complaint.

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[2] Brief of AT&T Kentucky, *In the Matter of Associates In Dermatology, PLLC v. BellSouth Telecommunications, Inc. d/b/a AT&T Kentucky*, Case No. 2019-00047 at 11-12 (Ky. P.S.C. Filed February 13, 3020).

Respectfully submitted,

Dated: April 24, 2020

Mark R. Overstreet
Katie M. Glass
STITES & HARBISON, PLLC
421 W. Main St.
P.O. Box 634
Frankfort, KY 40602-0634
Telephone: (502) 779-8349
moverstreet@stites.com
kglass@stites.com

Counsel for BellSouth Telecommunications, LLC

Certificate of Service

I certify that a true copy of the foregoing was served by first class mail, postage prepaid, and by e-mail transmission on the following this 24th day of April 2020:

Paul Schurman
Avery & Schurman, PLC
115 N. Watterson Tr.
Louisville, KY 40243
paul@louisvillelaw.com

Kenyon R. Meyer
Caroline L. Perioni
Dinsmore & Shohl
101 S. Fifth Street
Suite 2500 PNC Tower
Louisville, KY 40202
kenyon.meyer@dinsmore.com
caroline.pieroni@dinsmore.com

Mark R. Overstreet

Exhibit 1

Legal Counsel.

Dinsmore

RECEIVED

APR 23 REC'D

Stites & Harbison, PLLC

DINSMORE & SHOHL LLP
101 South Fifth Street ^ Suite 2500 ^ Louisville, KY 40202
www.dinsmore.com

Caroline L. Pieroni
(502) 540-2324 (direct) · (502) 585-2207 (fax)
caroline.pieroni@dinsmore.com

April 20, 2020 ***via Federal Express***

American Arbitration Association
Case Filing Services
1101 Laurel Oak Road, Suite 100
Vorhess, NJ 08043

RE: Demand for Arbitration

To Whom it May Concern:

Enclosed is Claimant Associates in Dermatology PLLC's Demand for Arbitration versus Respondent Bellsouth Telecommunications, LLC d/b/a AT&T Kentucky. A copy of this Demand for Arbitration is being provided to Bellsouth Telecommunications, LLC d/b/a AT&T Kentucky, in care of its counsel, Mark R. Overstreet. Please also find enclosed Check No. in the amount of $1,925.00 submitted by Claimant in satisfaction of the initial filing fee.

Please contact me with any questions or concerns.

Very truly yours,

DINSMORE & SHOHL LLP

/s/ Caroline L. Pieroni

Caroline L. Pieroni

Enclosures

AMERICAN ARBITRATION ASSOCIATION® | INTERNATIONAL CENTRE FOR DISPUTE RESOLUTION®

COMMERCIAL ARBITRATION RULES
DEMAND FOR ARBITRATION

You are hereby notified that a copy of our arbitration agreement and this demand are being filed with the American Arbitration Association with a request that it commence administration of the arbitration. The AAA will provide notice of your opportunity to file an answering statement.

Name of Respondent: BellSouth Telecommunications, LLC dba AT&T KY

Address: 675 W. Peachtree St., NW Suite 27-310

City: Atlanta | State: Georgia | Zip Code: 30375

Phone No.: (912) 526-3440 | Fax No.:

Email Address: hood.harris@att.com

Name of Representative (if known): Mark R. Overstreet

Name of Firm (if applicable): Stites & Harbison

Representative's Address: 421 W. Main Street, P. O. Box 634

City: Frankfort | State: Kentucky | Zip Code: 40602

Phone No.: (502) 223-3477 | Fax No.: (502) 779-8349

Email Address: moverstreet@stites.com

The named claimant, a party to an arbitration agreement which provides for arbitration under the Commercial Arbitration Rules of the American Arbitration Association, hereby demands arbitration.

Brief Description of the Dispute:

See attached brief paragraph and Arbitration Complaint, included as Exhibit A.

Dollar Amount of Claim: $ 149,000.00 in actual damages, plus more in attorneys' fees, interest, punitive damages, etc.

Other Relief Sought: ☑ Attorneys Fees ☑ Interest ☑ Arbitration Costs ☑ Punitive/Exemplary
☐ Other:

Amount enclosed: $ 1,925.00

In accordance with Fee Schedule: ☐ Flexible Fee Schedule ☑ Standard Fee Schedule

Please describe the qualifications you seek for arbitrator(s) to be appointed to hear this dispute:

Prefer an arbitrator with experience in telecommunication and/or fraud.

Hearing locale: Jefferson County, Kentucky

(check one) ☐ Requested by Claimant ☑ Locale provision included in the contract

Estimated time needed for hearings overall: hours or 2 days

Type of Business: Claimant: Dermatologist Offices	Respondent: Phone and Internet Service Provider
Are any parties to this arbitration, or their controlling shareholder or parent company, from different countries than each other?	
Signature (may be signed by a representative):	Date: April 20, 2020
Name of Claimant: Associates in Dermatology, PLLC	
Address (to be used in connection with this case): 3810 Springhurst Boulevard, Suite 200	
City: Louisville	State: Kentucky · Zip Code: 40241
Phone No.: (502) 583-1749	Fax No.: (502) 329-7599
Email Address:	
Name of Representative: Caroline L. Pieroni (see attached)	
Name of Firm (if applicable): Dinsmore & Shohl LLP	
Representative's Address: 101 South Fifth Street, Suite 2500	
City: Louisville	State: Kentucky · Zip Code: 40202
Phone No.: (502) 540-2324	Fax No.: (502) 585-2207
Email Address: caroline.pieroni@dinsmore.com	
To begin proceedings, **please file online at www.adr.org/fileonline**. You will need to upload a copy of this Demand and the Arbitration Agreement, and pay the appropriate fee.	

Brief Description of Dispute:

Bellsouth Telecommunications ("AT&T") has engaged in a pattern and practice of fraudulent billing, charging for services not provided, and incentivizing its salespeople to treat "upgrades" as "new" business, resulting in greater commission to its sales staff and more profit for AT&T. AT&T routinely overbilled Associates in Dermatology ("AID"), adding unapproved charges and telephone lines that it could not explain and failed to shut off old lines when AT&T upgraded its services. AT&T's action have cost AID in excess of $149,000 via overcharges for services not requested or provided, and other forms of fraudulent billing. AID is also seeking punitive damages, attorneys' fees, and other forms of damages. Specifically, this dispute includes allegations of breach of contract, fraud, unjust enrichment, negligence and gross negligence against AT&T.

Claimant is also represented by:

Paul R. Schurman, Jr.
Avery & Schurman, PLC
115 N. Watterson Trail, Suite 101
Louisville, KY 40243
Phone: (502) 244-8099
Fax: (502) 244-9743
Email: paul@louisvillelaw.com

R. Kenyon Meyer
Dinsmore & Shohl LLP
101 S. Fifth Street, Suite 2500
Louisville, KY 40202
Phone: (502) 540-2325
Fax: (502) 585-2207
Email: kenyon.meyer@dinsmore.com

AMERICAN ARBITRATION ASSOCIATION®

COMMERCIAL ARBITRATION RULES AND MEDIATION PROCEDURES

Administrative Fee Schedules

Amended and Effective May 1, 2018

For all cases determined to be international by the AAA-ICDR, the International Fee Schedule shall apply. An international case is generally defined as having either the place of arbitration or performance of the agreement outside the United States, or having an arbitration agreement between parties from different countries. To view the International Fee Schedule, visit info.adr.org/internationalfeeschedule.

The AAA offers parties two options for the payment of administrative fees.

For both schedules, administrative fees are based on the amount of the claim or counterclaim and are to be paid by the party bringing the claim or counterclaim at the time the demand or claim is filed with the AAA. *Arbitrator compensation is not included in either schedule.* Unless the parties' agreement provides otherwise, arbitrator compensation and administrative fees are subject to allocation by an arbitrator in an award.

Standard Fee Schedule: A two-payment schedule that provides for somewhat higher initial filing fees but lower overall administrative fees for cases that proceed to a hearing.

Flexible Fee Schedule: A three-payment schedule that provides for lower initial filing fee and then spreads subsequent payments out over the course of the arbitration. Total administrative fees will be somewhat higher for cases that proceed to a hearing.

Standard Fee Schedule

Amount of Claim	Initial Filing Fee	Final Fee
Less than $75,000	$925	$800
[illegible]	[illegible]	[illegible]
$150,000 to less than $300,000	$2,900	$2,200
$300,000 to less than $500,000	$4,400	$3,850
$500,000 to less than $1,000,000	$5,500	$6,825
$1,000,000 to less than $10,000,000	$7,700	$8,475
$10,000,000 and above	$11,000 plus .01% of the claim amount above $10,000,000 up to $65,000	$13,750
Undetermined Monetary Claims	$7,700	$8,475
Nonmonetary Claims*	$3,500	$2,750
Deficient Filing Fee	$500	
Additional Party Fees	If there are more than two separately represented parties in the arbitration, an additional 10% of each fee contained in these fee schedules will be charged for each additional separately represented party. However, Additional Party Fees will not exceed 50% of the base fees contained in these fee schedules unless there are more than 10 separately represented parties. *See below for additional details.*	

Flexible Fee Schedule

Amount of Claim	Initial Filing Fee	Proceed Fee	Final Fee
Less than $75,000	Only available for claims $150,000 and above		
$75,000 to less than $150,000			
$150,000 to less than $300,000	$1,825	$1,875	$2,200
$300,000 to less than $500,000	$2,200	$3,300	$3,850
$500,000 to less than $1,000,000	$2,750	$4,725	$6,825
$1,000,000 to less than $10,000,000	$3,850	$6,275	$8,475
$10,000,000 and above	$5,500	$10,000 plus .01% of the claim amount above $10,000,000 up to $65,000	$13,750
Undetermined Monetary Claims	$3,850	$6,275	$8,475
Nonmonetary Claims*	$2,200	$2,475	$2,750
Deficient Filing Fee	$500		
Additional Party Fees	If there are more than two separately represented parties in the arbitration, an additional 10% of each fee contained in these fee schedules will be charged for each additional separately represented party. However, Additional Party Fees will not exceed 50% of the base fees contained in these fee schedules unless there are more than 10 separately represented parties. *See below for additional details.*		

ASSOCIATES IN DERMATOLOGY PLLC CLAIMANT

v.

BELLSOUTH TELECOMMUNICATIONS,
LLC
D/B/A AT&T KENTUCKY RESPONDENT
675 W. PEACHTREE STREET, NW
SUITE 4514
ATLANTA, GA 30375

ARBITRATION COMPLAINT

CLAIMANT: Associates in Dermatology PLLC

RESPONDENTS: BellSouth Telecommunications, LLC d/b/a AT&T Kentucky

AAA Case No.: ____________________

****

Claimant Associates in Dermatology PLLC ("AID"), by counsel, states as follows for its Arbitration Complaint to Respondent BellSouth Telecommunications, LLC d/b/a AT&T Kentucky ("AT&T"):

INTRODUCTION

1. AID brings this arbitration alleging fraud, gross negligence, and/or negligent practices by Respondent related to AT&T's telephone services. Specifically, AT&T routinely overbilled AID, adding unapproved charges and telephone lines that it could not explain, and failed to shut off old lines as promised when it upgraded AID's services. Additionally, AT&T negligently managed the account of AID and breached contracts with AID.

2. Upon information and belief, the overcharges are the result of a fraudulent billing scheme implemented by AT&T, which incentivizes individual salespeople to set up "replacement" lines of business but call them "new" business in AT&T's system, resulting in more profit to the sales force via higher commissions for new business, and more profit to AT&T, because the company fails to manage the accounts properly and does not shut down the replaced lines until customers request it in writing – something the clients do not do since the new lines already "replaced" the old ones.

3. In other situations, AT&T starts billing for an unapproved and unrequested product, and then spends months trying to "figure out" how it happened, all while billing the client.

4. AT&T failed purposely and/or negligently to manage the accounts and services of AID.

5. AT&T breached contracts with AID by failing to provide services as promised.

6. AT&T's actions have cost AID more than $149,000 in damages via overcharges to date, not to mention the countless hours trying to manage and correct the problems.

7. AT&T engages in these fraudulent and unjust practices to the detriment of its client and the benefit of the company and its individual salespeople.

PARTIES AND AAA JURISDICTION AND VENUE

8. Complainant AID is a Kentucky limited liability company operating in Jefferson County, Kentucky providing professional medical services.

9. Respondent AT&T is an Atlanta-based telecommunications company registered to do business in the state of Kentucky that provided business services to Complainant in Jefferson County, Kentucky.

10. AID and AT&T entered into a series of contracts between 2014 and 2019 that required the parties to arbitrate certain disputes, some of which are at issue here. The last contract, ID No. 4876093, which was entered into in August 2016 ("August 2016 Contract"), contains an arbitration clause that requires an arbitration hearing to "take place in the county of [AID's] billing address." *See* Contract, attached as Exhibit A, p. 6.

11. The August 2016 Contract adopts the Commercial Arbitration Rules, as modified by the contract. Ex. A, p. 6.

12. The August 2016 Contract also requires that AID send a letter to AT&T 30 days prior to the filing of this arbitration, which AID has done. *See* AID Litigation Hold and Arbitration Demand letter, attached as Exhibit B.

13. While it is AID's position that many of the disputes herein are not governed by the August 2016 contract, or any contract between the parties, judicial economy dictates that AID bring the disputes together in arbitration, since some are arbitrable.

14. AT&T has refused to resolve the claims to date, other than to make a few very small refunds.

15. AID also has a Complaint pending against AT&T before the Kentucky Public Service Commission ("KPSC") related to some of these same actions. AT&T has taken the position in that matter that the KPSC does not have jurisdiction for various reasons, including that the disputes should be heard in arbitration. Out of an abundance of caution, AID is bringing this claim, in case the KSPC determines it does not have jurisdiction

FACTS

16. AID is a dermatology practice with offices in Louisville, Kentucky and New Albany, Indiana.

17. AID has entered into multiple contracts with AT&T for telecommunications services since 2013, the latest of which is the August 2016 contract.

18. AID has been overcharged by AT&T in numerous ways, including but not limited to: 1) AT&T upselling AID on new replacement phone systems, but failing to disconnect the old lines when the new systems were put in; 2) AT&T suddenly billing at a higher rate for the same service without permission or explanation; 3) AT&T adding new, unapproved lines without permission or request by AID, and 4) AT&T enticing AID to enter into the contracts by promising AT&T would manage services provided to AID, but then not providing those services.

<u>Salespeople's Role in Overcharges</u>

19. AT&T employs salespeople to sell these products and communicate with AID, who profit through commissions on these overcharges.

20. Here, AT&T employees Paul Black ("Black"), Brad Wood ("Wood"), Timothy Whitlock ("Whitlock"), Britanee Etherton ("Etherton"), and/or Miles Fitzgerald ("Fitzgerald") acted within the scope of their employment in failing or refusing to turn off old services (for which they were getting commissions) and failing to resolve AID's concerns.

21. The salespeople, in conjunction with AT&T, purposely failed to manage the very services they contractually agreed to manage.

22. Each time AID would complain to AT&T about overcharges, AT&T's representative to AID would change or be moved to another location, and the problem would not be fixed.

23. Each time AID would complain about the lack of management, clear billing, effective services, or other problems, AT&T would delay or fail to resolve the issue.

24. Although AID complained numerous times in writing to AT&T, the company's only defense has been that it did not receive a written request, per the "terms of service" in its contracts, to disconnect the lines, when replacement services obviously do not require such a request and written complaints about overcharges should constitute a request in any event. It gave no defense to its failure to manage services as required.

25. AT&T has not provided any valid excuse for its numerous unaccounted-for upcharges, or the addition of extra lines that were not requested.

26. AID anticipates that AT&T may assert (in the alternative to its written request argument) that the salespeople were responsible for cutting off service but failed to do so. However, the management of AT&T was made aware of these failures and continued to propagate the practice and the failure to manage.

First Overcharge

27. The first overcharge for which AID seeks to recover relates to an upgrade AT&T pitched to AID, via salesperson Black, when AID began to express concerns about problems with its phone service in 2013.

28. This overcharge relates to Account No. 831-0002646 967.

29. On or around June 5, 2014, AT&T replaced AID's 3Mbps service with 10 Mbps service. This was done at AID's New Albany location, 2241 Green Valley Road, New Albany, IN 47150 ("New Albany Location"). Because this was an upgraded system that was marketed and sold to AID in a way that made it clear that the new service would *replace* the old service, AID should not have needed to inform AT&T that the old service needed to be shut off.

30. Salesperson Black represented to AID that the old service would be shut off.

31. AT&T has the ability to shut off phone services without a written request and it does so on a regular basis, including in circumstances like this when a new system replaces an old system.

32. Despite Black's representation and the fact that the transaction made it clear that the old service would be cut off, AT&T did not shut off the old service. Instead, AT&T continued to charge AID for both services for two years. The overcharges were more than $1,000 per month, and this error alone resulted in AID overpaying more than $48,000, for out-of-contract services.

33. AT&T's phone service bills are so difficult to interpret and its customer service so deficient, that AID had to hire an outside consultant to figure out why this and other bills were so high, and to help it decrease its telecommunications costs and improve the value of its services.

34. The consultant explained that these and other telephone bills were falsely elevated because of overcharges, and asserted that AT&T commonly fails to disconnect old services and its agents and the company profit from this intentional practice.

35. Upon information and belief, AT&T incentivizes its salespeople, through their compensation structure, to treat replacement phone systems as "new" business (earning a greater commission) when really it is not. This treatment of replacement business as new business results in a greater commission to the salespeople, and also prevents the proper instructions for cutting off service to be communicated to the proper parties. AT&T benefits when companies are tricked into paying double charges for phone services.

36. Upon information and belief, AT&T does not audit, or review accounts set up as "new" to determine that they are actually new instead of replacement. To do so would result in AT&T losing business.

Second Overcharge

37. The second overcharge for which AID seeks to recover relates to an internet upgrade AT&T sold to AID in 2016 that was never fully implemented.

38. In August of 2016, AT&T replaced AIG's 50 Mbps Internet with 100 Mbps Internet without the old service being shut off as agreed.

39. This replacement occurred at AIG's Louisville office at 3810 Springhurst Blvd, Suite 200, Louisville, KY 40241 ("the Springhurst Location").

40. The second overcharge relates to Account No. 171-796-3198 076.

41. Even though it was clear AID did not need two internet services, AT&T did not stop billing for the first service when it replaced that service with the second one.

42. AT&T billed AID for both services for approximately three years, resulting in an out-of-contract overcharge in excess of $67,000.

43. Even though AID was one customer with one billing office with just two locations, AT&T would send seven separate invoices per month.

Third Overcharge

44. The third overcharge for which AID seeks to recover relates to a 23 Channel PRI used by AID's Springhurst Location.

45. In November of 2018, AT&T simply began billing at a higher rate for this service, with no explanation.

46. The account number that relates to the third overcharge is 171-800-3774 001.

47. The original rate was $413.11 per month as of October 2018. By November, it increased by $397.39 per month (except for the first month, when it increased by $948.02).

48. When AID complained about this increase in July of 2019, AT&T salespeople and representatives could not explain why the rate had increased.

49. This overcharge resulted in a loss of more than $6,000 to AID.

50. AT&T's bills are so difficult to interpret, AID did not realize it was being overcharged until it hired an outside consultant to help it improve its internet and phone services, as explained above.

Fourth Overcharge

51. The fourth overcharge for which AID seeks to recover relates to AT&T's unexplained decision to bill for 35 SIP trunks at the New Albany Location that were not requested by AID.

52. AT&T billed for this from April 2019 on, with no explanation, and no basis in any contract.

53. The account number related to the fourth overcharge is 171-800-3774 001.

54. When AID complained about this increase, AT&T representatives and sales people could not explain why the rate had increased.

55. This error resulted in more than $3,000 in overcharges.

56. Specifically, AID was overcharged $657.13 on April 5, 2019, then $603.18 on May 5 and thereafter.

Fifth Overcharge

57. The fifth overcharge for which AID seeks to recover relates to unexplained overbilling for AID's New Albany location.

58. The account number that relates to the fifth overcharge is 171-800-3774 001.

59. From September 2018 to November 2019, various unexplained overcharges appeared on the bills.

60. AT&T overcharged $1,820.23 on September 15, 2018, $1,832.02 for the following two months, then $1,822.02 in December, $1,831.49 for January and February of 2019, and then $1,825.05 or more from March 15, 2019 to October 2019.

61. When AID complained about this increase in July of 2019, AT&T could not explain why the rate had increased.

62. These overcharges total more than $18,000.

Bills After Termination

63. AT&T also continued billing AID for services after both parties agreed that AID had canceled the contract.

64. Although AID ended its relationship with AT&T in October 2019, it was still receiving bills in 2020, and has received more than $25,000 in bills to date. When AID asked why it continued to receive bills after its written order to disconnect, an AT&T representative acknowledged the problem and said "there's too many departments involved" to get the bills discontinued.

CAUSES OF ACTION
COUNT I: Breach of Contract

65. AID incorporates by reference each and every allegation in Paragraphs 1 through 64 of this Demand.

66. AT&T and AID have entered into numerous contracts.

67. AT&T did not perform its obligations under numerous contracts with AID, including the contract attached as Exhibit A, because the service took years to fully implement.

68. Additionally, by its own terms, the contract in Exhibit A supercedes any previous contracts and therefore AT&T should not have been charging for previous services, only the new services.

69. As such, AT&T breached its contracts with AID, including but not limited to the August 2016 contract identified above.

70. AID was damaged by the breach.

COUNT II: Fraud by Misrepresentation

71. AID incorporates by reference each and every allegation in Paragraphs 1 through 70 of this Demand.

72. AT&T, through its salespeople, represented to AID that the company's new services would replace old services as to at least the first and second overcharges, and that their old services would therefore be discontinued.

73. The statements that the old services would be discontinued were false.

74. AT&T and the salespeople knew or should have known that the statements were false, because they intended to mark the contract as new business, so that the old charges and services would not be shut off.

75. The statements were made with the intent that AID would be induced into entering the new contract based on the assertion that the old services would be shut off and the new services would be an improved replacement.

76. AID in fact did as intended, signed the new contract, and was charged for both the new contract and the old, no-longer-contracted-for and replaced services.

77. AID was injured by this fraud and has lost money as described above.

78. AT&T does not audit its systems to prevent this fraud. Rather, it incentivizes this fraud by paying the salespeople more for new business and never auditing to make sure that replacement accounts are treated as replacement accounts. Furthermore, when the fraud is brought to AT&T's attention, the company refuses to make the proper refunds and allows this system to continue.

79. AT&T further makes its bills so difficult to understand, that AID had to hire an outside consultant to figure out what was going on. At one point, AT&T was sending AID seven different bills per month.

COUNT III: Unjust Enrichment

80. AID incorporates by reference each and every allegation in Paragraphs 1 through 79 of this Demand.

81. The allegations related to overcharges one through five all describe a benefit conferred upon the Respondents at Claimant AID's expense.

82. The Respondents were unjustly enriched by the benefit and have retained it, despite AID's requests for repayment and refund.

83. Respondents have inequitably retained the benefit of AID's overpayments and have not offered any service or other repayment for the value wrongly conferred.

COUNT IV: Breach of Contract

84. AID incorporates by reference each and every allegation in Paragraphs 1 through 83 of this Demand.

85. AT&T was contractually employed to manage the router and firewall services of AID from 2012 through 2019.

86. AT&T did not abide by the terms of the contract when it failed to properly manage the services it provided AID and promised to manage.

COUNT V: Negligence

87. AID incorporates by reference each and every allegation in Paragraphs 1 through 86 of this Demand.

88. AT&T agreed to manage certain services it provided AID.

89. AT&T negligently performed its duty to manage to the detriment of AID.

90. As a result of its negligent management, AID suffered an economic harm.

WHEREFORE, Claimant demands as follows:

1. A judgment/award against Respondent, jointly and severally, for the $149,000-plus in overcharges.

2. Attorneys' fees and costs.

3. Punitive damages; and

4. Any and all other relief to which Claimant may be entitled.

Respectfully submitted,

R. Kenyon Meyer
Caroline Lynch Pieroni
Dinsmore & Shohl LLP
101 South Fifth Street, Suite 2500
Louisville, KY 40202
(502) 540-2300
(502) 585-2207 – Fax
Kenyon.Meyer@Dinsmore.com
Caroline.Pieroni@Dinsmore.com

– and –

Paul Schurman, Jr.
Avery & Schurman, PLC
115 N. Watterson Trail
Louisville, KY 40243
(502) 244-8099
paul@louisvillelaw.com
Counsel for Claimant