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9 Attorneys for Plaintiffs
10

11 **UNITED STATES DISTRICT COURT**
12 **NORTHERN DISTRICT OF CALIFORNIA**

13 DUANE WATERS, DEBRA
14 TURNER and RUDY FAJARDO,
on behalf of themselves, all others
15 similarly situated and the general
public,

16 Plaintiffs,

17 vs.

18 AT&T SERVICES, INC. (formerly
19 SBC Services, Inc.) and DOES 1
through 10;

20 Defendants.
21

Case No: CV 09-3983 BZ

**DECLARATION OF MICHAEL
D. SEPLOW IN SUPPORT OF
MOTION FOR PRELIMINARY
APPROVAL OF CLASS ACTION
SETTLEMENT AND
PROVISIONAL
CERTIFICATION OF THE
CLASS**

**Date: August 4, 2010
Time: 10:00 a.m.
Courtroom G**

22
23 **DECLARATION OF MICHAEL D. SEPLOW**

24 I, Michael D. Seplow, declare as follows:
25

26 1. I am an attorney-at-law and a partner with the firm Schonbrun
27 DeSimone Seplow Harris & Hoffman LLP ("SDSHH"). I am duly admitted to
28

1 practice before this Honorable Court and am one of the attorneys of record for
2 Plaintiffs in this action. I have personal knowledge of the facts set forth herein,
3 (except where indicated upon information and belief) and if called as a witness,
4 could and would testify competently thereto. I am making this declaration in
5 support of Plaintiffs' Motion for Preliminary Approval of Class Action Settlement
6 and Provisional Certification of the Class.

7
8 2. Plaintiffs Duane Waters and Debra Turner, formerly employed as Sr.
9 Analysts (also known as Sr. IT Analysts), filed this class action complaint on
10 August 27, 2009 in the United States District Court for the Northern District of
11 California alleging violations of both California law and the Fair Labor Standards
12 Act ("FLSA"). On September 16, 2009, Plaintiffs filed a First Amended
13 Complaint which added Rudy Fajardo, a former Sr. Database Administrator, as a
14 named plaintiff. Defendant filed its Answer to the First Amended Complaint on
15 October 28, 2009.

16
17 3. After participating in the early meeting of counsel, the parties agreed to
18 stay formal discovery and participate in a private mediation, similar to the
19 approach that was taken in the *Doyle* and *Shoff* cases.^{1/} Thereafter, the parties
20 agreed to participate in informal discovery in which it was agreed that surveys
21 were to be sent to each and every one of the 667 putative class members (which
22 included 606 Sr. Analysts and 61 Sr. Database Administrators). Defendant also
23 produced data and documents regarding job titles, claimed overtime hours, work
24 weeks and termination dates and payroll data for each class member. Class
25

26 1. *Doyle v. AT&T Services, Inc.* and *Shoff v. AT&T Services Inc.* were, like
27 here, class actions on behalf of allegedly mis-classified Information Technology
28 ("IT") employees which were litigated by Plaintiffs' counsel and which resulted in
court approved class settlements.

1 Counsel developed detailed questionnaires (“surveys”) that were sent to the Class
2 Members. Plaintiffs’ counsel received survey responses from approximately 130
3 Sr. Analysts and approximately 30 surveys from Sr. Database Administrators,
4 including extensive written comments by class members. Additionally, Plaintiffs’
5 counsel called each class member who provided a survey response and conducted
6 interviews with scores of class members. Based on these surveys and interviews,
7 Plaintiffs’ counsel compiled a detailed database of information concerning the job
8 duties and work hours of the class members.

9
10 4. Plaintiffs’ Counsel investigated further by reviewing and analyzing
11 Defendant’s documents, including job descriptions from the job titles at issue in
12 this case. Plaintiffs’ Counsel also analyzed extensive spreadsheets and other data
13 provided by Defendant, including badge swipe data from each of Defendant’s
14 California facilities, security event logs from each of Defendant’s California
15 facilities, and extensive payroll and employee data as to each and every class
16 member. There was an enormous amount of data which took a great deal of time
17 and effort to analyze and understand.

18
19 5. Plaintiffs’ Counsel also retained the services of an expert forensic
20 accountant and worked closely with him to analyze the data provided by
21 Defendant, as well as the information contained in over 150 survey responses.
22 The forensic accountant produced a detailed analysis of his findings which was
23 utilized extensively in preparation for the mediation.

24
25 6. Prior to the mediation session, Plaintiffs’ Counsel prepared a 38 page
26 mediation brief, which contained extensive and detailed analyses of liability, class
27 certification and damages issues. Plaintiffs’ Counsel contends that their analysis
28

1 supported Plaintiffs' allegations that Defendant's designation of exempt status for
2 the Senior Analysts and Senior Database Administrators was in error, and that
3 employees were denied meal and rest periods. Plaintiff counsel contend that their
4 position at mediation was supported by their statistical expert's analysis of
5 Defendant's documents and putative class member questionnaire responses.
6

7 7. Defendant denied and continues to deny any liability or wrongdoing of
8 any kind and further contends that Defendant has complied with the California
9 Labor Code, the California Business and Professions Code, the applicable
10 Industrial Welfare Commission Wage Orders, and similar federal laws, including
11 but not limited to the federal Fair Labor Standards Act. Defendant contends that
12 case law supports its position that the employees at issue are exempt and also that
13 the case would not be certified for a class action due to the predominance of
14 individualized issues.
15

16 8. On May 12, 2010, the Counsel for all parties participated in an all day
17 mediation at the San Francisco offices of well-respected class action mediator,
18 Mark Rudy. At the conclusion of the mediation, the parties were at an impasse.
19 Thereafter, Mr. Rudy proposed a mediator's compromise to resolve this case and
20 gave each side one week to consider the proposal. On May 19, 2010, the
21 mediator informed both sides that his proposal had been accepted. Thereafter,
22 counsel for the parties worked on drafting an initial memorandum agreement and
23 a more detailed proposed Settlement Agreement, subject to the Court's approval.
24

25 9. As part of the Settlement Agreement, Defendant has provided to
26 Plaintiffs' counsel a declaration under oath which sets forth the number of
27 compensable work weeks covering the period from August 27, 2005 to May 19,
28

1 2010, and explains the process by which the number of compensable work weeks
2 was determined. The declaration also estimates the number of additional
3 compensable work weeks through July 26, 2010. According to this declaration,
4 there will be approximately 93,086 compensable work weeks as of July 26, 2010.
5

6 10. I was admitted to the California Bar in 1990. I graduated Magna Cum
7 Laude from Duke University in 1985, with an A.B. degree, where my major was
8 in Public Policy Studies. I received my J.D. degree from UCLA School of Law in
9 1990, where I ranked in the top 15 percent of my class. During Law School, I
10 served as an extern for the Honorable Abner J. Mikva on the United States Court
11 of Appeals for the District of Columbia Circuit. My firm and I, including my
12 partners and co-counsel in this action, V. James DeSimone and Michael
13 Morrison, have extensive experience litigating civil rights and employment
14 matters, including class action cases. Along with our co-counsel Thomas Falvey
15 and J.D. Henderson, our firm was class counsel in two prior class action cases on
16 behalf of IT workers at AT&T Services, which involved different job
17 classifications: *Doyle v. AT&T Services, Inc.*, Southern District Case No. 08-CV-
18 1275 JAH (Wmc) and *Shoff v. AT&T Services, Inc.* (Central District Case No.
19 CV-073289 DSF (AGRx). In October 2008, *Shoff*, which involved approximately
20 800 class members, settled for \$16 million. In March 2010, *Doyle*, which
21 involved approximately 641 class members, settled for \$10.5 million. The *Waters*
22 case involves approximately 671 class members and has a proposed settlement of
23 \$17 million. The Courts in both the *Doyle* and *Shoff* cases approved settlements
24 with attorneys fees based on 30% of the settlement. In addition, based on
25 information that is publicly available, I am aware that in a similar class action
26 case involving overtime claims of AT&T Services IT employees, *Huang v AT&T*
27 *Services, Inc.*, Case No. 06-CV-2238 (DMS) (Wmc) (Southern District of
28

1 California), in which plaintiffs were represented by another law firm, the Court
2 approved a settlement of \$11.5 million, and a 30% attorneys fee award.

3
4 11. As set forth above, both my firm and my co-counsel have extensive
5 experience litigating employment cases, including class actions. My firm has
6 actively commenced, prosecuted and concluded numerous class actions and other
7 complex cases, including constitutional class actions. Our firm was one of the
8 lead counsel on the groundbreaking case, *Doe, et al. v. Unocal Corp., et al.*
9 (United States District Court, Central District of California, Case No. CV 96-
10 6959-RSWL) in which Unocal was sued for human rights abuses committed
11 during the construction of an oil pipeline in Myanmar. I have been active in the
12 case of *Maynas Carijano v Occidental Petroleum*, Central District of California
13 Case No. 07-5068 PSG, in which my firm is one of several counsel representing
14 residents of a remote area of Peru who are suing for environmental contamination
15 to their native land. My co-counsel V. James DeSimone has been named by the
16 *Daily Journal* as one of the Top Ten Plaintiff Employment Attorneys in the State
17 of California in 2009 and 2010. Both Mr. DeSimone and I have also been listed
18 as "Super Lawyer" by Los Angeles Magazine for the past several years. Our firm
19 also obtained final approval by the courts for settlements in the amount of
20 \$5,000,000 in *Lita v. Bunim-Murray*, Case No. BC 350590 and \$1,500,000 in
21 *Fontana v. St. Joseph Hospital of Orange*, Case No. 03CC02559, two
22 employment class action cases. Mr. Morrison and Mr. DeSimone were also
23 members of the steering committee for the Plaintiff's side in the coordinated
24 action *The Clergy Cases (Clergy I)*, Case No. JCCP 4286, which settled for over
25 \$660 million dollars. Mr. Morrison of SDSHH was also a lead counsel in a class
26 action case that settled for over \$5,000,000 (*Morrison, et al. v. Six Flags Theme*
27 *Park, Inc., et al.*, Case No. BC 253314). Further, Mr. Falvey's firm has litigated
28

1 several multi-million dollar wage and hour class action lawsuits including *Dat*
2 *Chau v. CVS Pharmacy, Inc.* (formerly *Tong v. CVS Pharmacy, Inc.*), LASC Case
3 no. BC349224 (\$19,750,000 approved settlement); and *Elkin v. Six Flags, Inc.*,
4 LASC Case no. BC342633 (\$14,225,000 approved settlement.). Based on our
5 experience and knowledge in employment and class action litigation, including
6 the knowledge we developed during the *Shoff* and *Doyle* cases, we believe that
7 the proposed settlement of \$17,000,000 for 671 class members in this case (in
8 which it is estimated that class members will receive approximately \$126.00 per
9 compensable work week during the relevant class period) is eminently fair and
10 reasonable and provides a substantial benefit to the class, especially in light of the
11 disputed nature of the claims and the proposed defenses to liability and class
12 certification proffered by Defendant.

13
14 12. As set forth in the attached Joint Stipulation and Settlement Agreement,
15 Plaintiffs will be seeking attorneys fees of 30% of the total settlement amount,
16 which is not opposed by Defendant. This fee request is consistent with the
17 awards in the *Doyle*, *Shoff* and *Huang* cases, is well within the range of fee
18 awards in class actions of this type, and is fair and reasonable in light of the
19 tremendous benefits that Plaintiffs counsel's work will provide to the members of
20 the class. Further, Plaintiffs counsel will also be seeking reimbursement for
21 approximately \$25,000 in costs incurred in prosecuting this matter. Additionally,
22 as set forth in the attached Joint Stipulation and Settlement Agreement, Plaintiffs
23 are seeking service awards in the amount of \$25,000 to each of the three proposed
24 class representatives for their time and effort in this matter in providing benefits
25 to the class, which is less than the amount approved in the *Shoff* case and the
26 same as that in the *Doyle* case. Moreover, as set forth in the Joint Stipulation and
27 Settlement Agreement, the parties have agreed that CPT Group Inc. will be
28

1 appointed as the Claims Administrator. It is estimated that the cost of claims
2 administration will be approximately \$25,000.

3
4 13. Attached hereto as Exhibit 1 is a true and correct copy of the Joint
5 Stipulation and Settlement Agreement between Plaintiffs and Defendant. This
6 Joint Stipulation and Settlement Agreement has been agreed to by the parties and
7 their counsel. Counsel will submit a signed version of the Joint Stipulation and
8 Settlement Agreement to the Court prior to the hearing date.

9
10 14. Attached hereto as Exhibit 2 is a true and correct copy of the proposed
11 Notice to Class Members regarding the terms of the Settlement.

12
13 15. Attached hereto as Exhibit 3 is a true and correct copy of the proposed
14 Claim form.

15
16 16. Attached hereto as Exhibit 4 is a true and correct copy of the proposed
17 Exclusion form.

18
19 I declare under penalty of perjury that under the laws of the State of
20 California that the foregoing is true and correct.

21
22 Executed this 15th Day of July, 2010 in Venice, California.

23
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25 

26 Michael D. Seplow

EXHIBIT 1

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*(Counsel of Record listed
on next page)*

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

DUANE WATERS, DEBRA TURNER, and
RUDY FAJARDO, on behalf of themselves,
all others similarly situated and the general
public,

Plaintiffs,

vs.

AT&T SERVICES, INC., (formerly SBC
Services, Inc.) and DOES 1 through 10,

Defendants.

CASE NO. 3:09-CV-03983 BZ

**JOINT STIPULATION OF CLASS
SETTLEMENT AND RELEASE
BETWEEN PLAINTIFFS AND
DEFENDANT**

1 V. JAMES DESIMONE (SBN 119668)
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2 MICHAEL MORRISON (SBN 205320)
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12
13 Attorneys for Plaintiffs, DUANE WATERS,
DEBRA TURNER, and RUDY FAJARDO,
14 on behalf of themselves, all others similarly
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24
25 Attorneys for Defendant,
AT&T SERVICES, INC.

1 Plaintiffs Duane Waters, Debra Turner, and Rudy Fajardo, individually and on
2 behalf of all others similarly situated, and defendant AT&T Services, Inc. (“Defendant” or
3 “AT&T”), by and through their respective counsel of record, agree to resolve the above-captioned
4 case through this Joint Stipulation of Settlement and Release Between Plaintiffs and Defendant
5 (“Settlement”).

6 **I.**

7 **DEFINITIONS**

8 The terms below have the following meanings:

9
10 1. “Action” means the civil action entitled *Duane Waters, Debra Turner, and*
11 *Rudy Fajardo, on behalf of themselves, all others similarly situated and the general public vs.*
12 *AT&T Services, Inc. (formerly SBC Services, Inc.) and Does 1 through 10*, filed in the United
13 States District Court, Northern District of California, Case No. 3:09-CV-03983 BZ.

14 2. “AT&T” or “Defendant” shall mean Defendant AT&T Services, Inc.

15 3. “Class Representatives” or “Plaintiffs” shall mean Plaintiffs Duane Waters,
16 Debra Turner, and Rudy Fajardo.

17 4. “Court” refers to the United States District Court for the Northern District
18 of California.

19 5. “Class Counsel” shall mean V. James DeSimone, Michael D. Seplow, and
20 Michael Morrison of SCHONBRUN DESIMONE SEPLOW HARRIS & HOFFMAN LLP, and
21 Thomas W. Falvey and J.D. Henderson of the LAW OFFICES OF THOMAS W. FALVEY.

22 6. “Parties” shall mean the Plaintiffs/Class Representatives and Defendant.

23 7. “Class” or “Class Members” include the following persons:

24 All persons who work or worked for AT&T Services, Inc. in
25 the State of California as Senior Analysts (or Senior IT Analysts or
26 Senior QC Test Analysts) or Senior Database Administrators, while
27 classified by the Defendant as exempt from overtime pay
28 requirements, at any time from August 27, 2005 through the date of
preliminary approval of the Settlement.

1 8. “Compensable Workweeks” shall mean all workweeks during which Class
2 Members received pay for work performed (e.g., were not on leave of absence) while employed
3 by AT&T Services, Inc. in California in the job titles of Senior Analyst (or Senior IT Analyst or
4 Senior QC Test Analyst) or Senior Database Administrator while classified as exempt from
5 overtime pay requirements, at any time from August 27, 2005 through the date of preliminary
6 approval of the Settlement.

7 9. “Notice” shall mean the Notice of Pendency of Class Action Settlement
8 attached as Exhibit “A” hereto, which, following Court approval, will be mailed by the Claims
9 Administrator to each Class Member explaining the terms of the Settlement and the claims
10 process.

11 10. “Claim Form” shall mean Exhibit “B” attached hereto, which, following
12 Court approval, each Class Member must submit to the Claims Administrator to recover a portion
13 of the Settlement proceeds.

14 11. “Exclusion Form” refers to Exhibit “C” attached hereto, which, following
15 Court approval, Class Members must submit to the Claims Administrator to exclude themselves
16 from this Settlement.

17 12. “Final Approval Hearing” means the hearing to be conducted by the Court
18 to determine whether to finally approve and implement the terms of this Settlement.

19 13. “Maximum Payment” shall mean the gross sum of Seventeen Million
20 Dollars (\$17,000,000) payable by Defendant pursuant to this Settlement.

21 14. “Claims Administrator” shall mean CPT Group, Inc., or an administrator
22 mutually agreed to by the Parties and approved by the Court, that will perform the duties of:
23 (i) using the data provided by Defendant to prepare the Claim Forms with the number of
24 Compensable Workweeks for each Class Member; (ii) mailing the Notice, Claim Forms and
25 Exclusion Forms to Class Members; (iii) tracking returned Claim and Exclusion Forms; (iv)
26 sending out cure letters, sending out reminder notices, and making follow-up phone calls to Class
27 Members as necessary; (v) notifying the Parties of timely and untimely claims; (vi) calculating
28 the amounts due to each Class Member pursuant to the Settlement; (vii) notifying the Parties of

1 and resolving any disputes regarding claims by the Class Members as set forth in Paragraph 36
2 below; (viii) providing settlement payments, along with IRS Forms W-2 and 1099, to the Class
3 Members who submit timely and valid claims and to the taxing authorities; and (ix) performing
4 such other duties as are described herein.

5 15. "Settlement Effective Date" shall mean the first day following the last of
6 the following occurrences:

7 (a) The date or the time to appeal or seek permission to appeal or seek
8 other judicial review of the entry of Judgment approving the Settlement has expired, with no
9 appeal or other judicial review having been taken or sought; or

10 (b) If an appeal or other judicial review has been taken or sought, the
11 date the final Judgment is finally affirmed by an appellate court with no possibility of subsequent
12 appeal or other judicial review therefrom, or the date the appeal(s) or other judicial review
13 therefrom are finally dismissed with no possibility of subsequent appeal or other judicial review.

14 **II.**

15 **RECITALS**

16 16. On August 27, 2009, Plaintiffs Duane Waters and Debra Turner
17 commenced a putative class action against AT&T Services, Inc. in the United States District
18 Court, Northern District of California, Case No. 3:09-CV-03983 BZ ("the Action"). On
19 September 16, 2009, Plaintiffs filed a First Amended Complaint ("Complaint"), adding another
20 named plaintiff, Rudy Fajardo. Plaintiffs allege that they and the members of the putative class
21 were misclassified as exempt from federal and state overtime laws and not paid compensation for
22 overtime hours they worked, including interest and penalties. Plaintiffs further allege that
23 Defendant failed to provide meal periods, failed to authorize and permit rest periods, failed to
24 provide proper itemized earnings statements, and failed to pay all wages due at time of
25 termination, as required by California law. The Complaint further alleges that Defendant's pay
26 practices constituted the tort of conversion under California common law and also constituted
27 unfair business practices under California Business & Professions Code § 17200.
28

1 Class Counsel, plus reasonable litigation costs (estimated to be \$25,000); (2) up to \$25,000 in
2 service payments to each of the Class Representatives, Duane Waters, Debra Turner, and Rudy
3 Fajardo; (3) the reasonable costs of the Claims Administrator to administer the Settlement,
4 currently estimated to be \$25,000; (4) \$35,000 to the State of California Labor and Workforce
5 Development Agency (“LWDA”); and (5) the “Remainder” of up to \$11,740,000 to pay the
6 timely and valid claims of the Class Members. This Settlement does not establish a fund from
7 which claims will be paid.

8 (b) The Remainder of the Maximum Payment available to pay the
9 timely and valid claims of the Class Members, pursuant to the formula described below, will
10 result in a complete distribution of that portion, assuming that all Class Members participate in
11 the distribution. If fewer than all Class Members participate in the distribution, the total amount
12 paid by Defendant will be less than the Maximum Payment. In no event shall Defendant be
13 responsible for paying more than the Maximum Payment of Seventeen Million Dollars, plus the
14 employer’s portion of payroll taxes.

15 21. Attorneys’ Fees: Plaintiffs request, and Defendant does not oppose, an
16 award of attorneys’ fees of thirty percent (30%) of the Maximum Payment (or \$5,100,000) to
17 compensate Class Counsel for all of the work already performed in this case and all work
18 remaining to be performed in documenting the Settlement, securing Court approval of the
19 Settlement, administering the Settlement, ensuring that the Settlement is fairly administered and
20 implemented, and obtaining dismissal of the Action. The Parties agree that a reduction by the
21 Court in the attorneys’ fees awarded to Class Counsel is not a basis for rendering the entire
22 Settlement voidable or unenforceable.

23 22. Costs: Plaintiffs request, and Defendant does not oppose, payment to Class
24 Counsel of their reasonable litigation costs, in an amount estimated to be \$25,000, from the
25 Maximum Payment for costs and expenses incurred by Class Counsel in prosecuting the Action
26 and implementing the terms of the Settlement. The Parties agree that a reduction by the Court in
27 the litigation costs awarded to Class Counsel is not a basis for rendering the entire Settlement
28

1 voidable or unenforceable. Defendant will issue Class Counsel an IRS Form 1099 for their
2 attorneys' fees and costs.

3 23. Service payments to Class Representatives: Subject to Court approval and
4 the execution of a general release in favor of Defendant (as described more fully below),
5 Defendant agrees to pay to each of the Class Representatives, Duane Waters, Debra Turner, and
6 Rudy Fajardo, a service payment in the amount of \$25,000, to be taken from the Maximum
7 Payment, as an enhancement for their service as Class Representatives, in addition to any
8 payment they may otherwise receive as Class Members. Defendant will not oppose Plaintiffs'
9 request for service payments in this amount. The Parties agree that a reduction by the Court in
10 the Class Representatives' requested service payments is not a basis for rendering the entire
11 Settlement voidable or unenforceable. Defendant will issue an IRS Form 1099 for these Class
12 Representative service payments. Duane Waters, Debra Turner, and Rudy Fajardo will each be
13 responsible for correctly characterizing this compensation for tax purposes and for paying any
14 taxes owing on said amount.

15 24. Payment to Labor Workforce and Development Agency: Defendant agrees
16 to pay Thirty-Five Thousand Dollars (\$35,000) from the Maximum Payment to the LWDA
17 pursuant to the Labor Code Private Attorneys General Act (the "PAG Act"), Cal. Lab. Code
18 § 2699 *et seq.*, to cover any and all claims for civil penalties that were or could have been brought
19 in this Action.

20 25. Distribution to Class Members:

21 (a) Submission of Claim Forms. Defendant agrees to pay only those
22 Class Members who submit timely and valid Claim Forms. To be timely, the Claim Forms must
23 be submitted by the deadline indicated on the Notice and Claim Forms. To be valid, Claim Forms
24 must be completed in full, signed under penalty of perjury, and returned to the Claims
25 Administrator by the deadline.

26 (b) Calculation of Remainder. After deductions of \$5,100,000 for
27 attorneys' fees, approximately \$25,000 in litigation costs, \$75,000 for the service payments to the
28 Class Representatives, an estimated \$25,000 to pay for the services of the Claims Administrator,

1 and the \$35,000 payment to the LWDA (assuming Court approval of these amounts), the
2 remainder of the Maximum Payment shall be approximately \$11,740,000 (the "Remainder").

3 (c) Compensable Workweeks. Compensable Workweeks will be all
4 weeks (or portions of weeks) worked by Class Members: (1) while employed by AT&T Services,
5 Inc. in California in the job titles of Senior Analyst (or Senior IT Analyst or Senior QC Test
6 Analyst) or Senior Database Administrator, while classified as exempt from overtime pay
7 requirements, at any time from August 27, 2005 to the date of preliminary approval of the
8 Settlement. Defendant currently estimates that there are 90,915 Compensable Workweeks from
9 August 27, 2005 through May 19, 2010. In accordance with the Parties' Memorandum of
10 Agreement, Defendant has furnished Class Counsel with a declaration verifying the number of
11 Compensable Workweeks through May 19, 2010, explaining the process by which the number of
12 Compensable Workweeks was determined, and estimating the number of additional Compensable
13 Workweeks through July 26, 2010.

14 (d) Distribution Formula. The Class Members' distribution amounts,
15 prior to any tax or payroll deductions, will be calculated by: (1) dividing the Remainder of the
16 Maximum Payment by the total number of Compensable Workweeks, revealing the value per
17 Compensable Workweek; and (2) multiplying that amount by the number of Compensable
18 Workweeks worked by each Class Member who submits a timely and valid claim ("Participating
19 Class Members").

20 (e) Tax Allocation: The Parties agree that 50% of all payments to
21 Participating Class Members will be treated as subject to W-2 reporting. Therefore, normal
22 payroll taxes and withholdings will be deducted pursuant to state and federal law, and all required
23 payroll contributions will be made on these amounts. Defendant will pay its employer portion of
24 payroll taxes and withholdings (FICA and FUTA) on these amounts, and the employer payments
25 of FICA and FUTA will not be deducted from the payments made to the Participating Class
26 Members. The other 50% of the payments made to the Participating Class Members represents
27 interest and penalties sought in this Action, and Participating Class Members will be issued an
28 IRS Form 1099 for that portion of their payments. Defendant will not make any payroll or tax

1 withholdings on this portion of the settlement payments. The Participating Class Members will
2 be responsible for correctly characterizing this compensation for tax purposes and paying any
3 taxes owing on said amounts.

4 (f) Settlement Payment Due Date: Within twenty (20) calendar days
5 after the Settlement Effective Date, the Claims Administrator shall mail the settlement payments
6 to the Participating Class Members, the enhancement payments to the Class Representatives, and
7 the payment of \$35,000 to the LWDA. At that time, the Claims Administrator also shall make
8 the payment for Class Counsel's approved attorneys' fees and costs.

9 **IV.**

10 **CLAIMS ADMINISTRATOR**

11 26. CPT Group, Inc. ("CPT") will serve as the Claims Administrator for this
12 Settlement, subject to the Court's approval, unless the Parties mutually agree on the appointment
13 of a different Claims Administrator. CPT has estimated that all necessary settlement
14 administration duties will not exceed \$25,000. All settlement administration costs shall be taken
15 from the Maximum Payment.

16 27. Among its other duties as described elsewhere herein, the Claims
17 Administrator shall provide counsel for all parties with a weekly report showing the number of
18 claims received, including any opt-outs and objections. The weekly report shall also provide
19 counsel with the approximate cost to date for the claims administration. Twenty-one (21) days
20 prior to the deadline to submit the Claim Forms, the Claims Administrator shall send a reminder
21 notice to all Class Members who have not yet submitted Claim Forms. Within fifteen (15) days
22 prior to the deadline to submit Claim Forms, the Claims Administrator will attempt to contact by
23 telephone any Class Members who still have not submitted Claim Forms by that date.

24 **V.**

25 **MOTION FOR PRELIMINARY APPROVAL**

26 28. Promptly upon the execution of this Settlement, the Parties shall file a joint
27 motion for preliminary approval of the Settlement. Specifically, the Parties will apply to the
28 Court for the entry of an Order:

- 1 (a) Scheduling a fairness hearing on the question of whether the
2 proposed Settlement should be approved as fair, reasonable and adequate as to the Class;
- 3 (b) Approving as to form and content the proposed Notice to the Class;
- 4 (c) Approving as to form and content the proposed Claim Form and
5 instructions for Class Members;
- 6 (d) Approving as to form and content the proposed Exclusion Form;
- 7 (e) Directing the mailing of the Notice, the Claim Form and the
8 Exclusion Form by first-class mail to the Class Members;
- 9 (f) Preliminarily approving the Settlement;
- 10 (g) Preliminarily certifying the Class for purposes of Settlement only;
- 11 and
- 12 (h) Approving V. James DeSimone, Michael D. Seplow, Michael
13 Morrison, SCHONBRUN DESIMONE SEPLOW HARRIS & HOFFMAN LLP, Thomas W.
14 Falvey, J.D. Henderson, and the LAW OFFICES OF THOMAS W. FALVEY as Class Counsel;
15 Duane Waters, Debra Turner, and Rudy Fajardo as Class Representatives; and CPT as the Claims
16 Administrator.

17 VI.

18 **NOTICE TO THE CLASS**

19 29. Within twenty (20) calendar days following the Court's entry of its Order
20 Granting Preliminary Approval of the Settlement, to the extent practicable, Defendant will
21 provide to the Claims Administrator the names, last known addresses, last known telephone
22 numbers, and Social Security numbers of the Class Members, along with data indicating the
23 number of Compensable Workweeks for each Class Member. This data shall be based on
24 Defendant's payroll and other business records and shall be provided in a format acceptable to the
25 Claims Administrator. Defendant will consult with the Claims Administrator prior to the
26 production date to ensure that the format of the database will be acceptable to the Claims
27 Administrator. The Claims Administrator will not share the identity of individual Class Members
28 with the Class Representatives or Class Counsel, except as provided otherwise herein.

1 agreement, the Claims Administrator's determination on whether to accept or reject the claim will
2 be final and binding. In the event of a final rejection by the Claims Administrator of a disputed
3 claim, the claimant shall have the right to opt out of the Settlement and pursue his or her own
4 individual case, by submitting an Exclusion Form within the deadline for submitting such claims
5 or within ten (10) days after notification of the rejection, whichever comes later. The date of the
6 notification is defined as three business days after the date of mailing by First Class U.S. Mail.
7 Anyone who opts out of the Settlement may not object to the Settlement and/or appear at the
8 hearing to raise any objections to the Settlement. Therefore, any Claimant who withdraws a
9 claim and submits an Exclusion Form after the rejection of his or her claim for additional
10 workweeks will be deemed to have withdrawn any prior objections that the Claimant may have
11 submitted in connection with the prior claim.

12 37. The dispute-resolution procedure described in the preceding paragraph
13 shall also apply to any persons who may believe that they were wrongly excluded from the class
14 list; provided, however, that any such persons excluded from the class need not to file an
15 Exclusion Form in order to opt out of the class.

16 38. The Claims Administrator shall be responsible for issuing the settlement
17 payments to the Class Members and calculating and withholding all required state and federal
18 taxes. Upon request, the Claims Administrator will file proof of payment with the Court and
19 provide Defendant and Class Counsel with a copy.

20 21 IX.

22 OBJECTIONS TO THE SETTLEMENT

23 39. Class Members who wish to object to the Settlement must file with the
24 Court and serve on counsel for the Parties, not later than sixty (60) days after the date that the
25 Claims Administrator first mails the Notice Packet, a written statement objecting to the
26 Settlement and setting forth the grounds for the objection. This statement also must indicate
27 whether the Class Member intends to appear and object to the Settlement at the Final Approval
28 Hearing. The failure to so indicate will constitute a waiver of the right to appear at the hearing.

1 A Class Member who does not file and serve an objection in the manner and by the deadline
2 specified above will be deemed to have waived all objections and will be foreclosed from making
3 any objection to the Settlement, whether by appeal or otherwise.

4
5 **X.**

6 **REQUESTS TO BE EXCLUDED FROM SETTLEMENT**

7 40. Eligible Class Members who wish to exclude themselves from the
8 Settlement (“opt out” of the Settlement) must submit to the Claims Administrator, not later than
9 sixty (60) days after the date that the Claims Administrator first mails the Notice Packet, a
10 completed Exclusion Form (Exhibit “C”). Exclusion Forms may be submitted to the Claims
11 Administrator via U.S. Mail, fax, and/or email. A Class Member who does not complete and
12 submit a timely Exclusion Form in the manner and by the deadline specified above will
13 automatically become a Participating Class Member and, if the Court approves the Settlement,
14 will be bound by all terms and conditions of the Settlement and by the Judgment, regardless of
15 whether he or she submits a Claim Form. An eligible Class Member who timely submits an
16 Exclusion Form will not participate or be bound by the Settlement or the Judgment in any respect.
17 Persons who submit an Exclusion Request will not be permitted to file objections to the
18 Settlement or appear at the Final Approval Hearing to voice any objections to the Settlement.

19 41. If an eligible Class Member completes and submits both a Claim Form and
20 an Exclusion Form, the Claims Administrator will contact the Class Member and obtain
21 clarification of the Class Member’s intent. In the event that the Claims Administrator cannot
22 obtain clarification of the Class Member’s intent by the time of the Final Approval Hearing, it
23 will be presumed that the Claim Form is controlling, and such Class Member shall remain a
24 member of the Class and be bound by the terms of the Settlement. The Claims Administrator will
25 provide all counsel with the name and contact information of any person who submits both a
26 Claim Form and an Exclusion Form.

1 Representative Payments and Class Counsel's attorney's fees and costs in the event any
2 opposition to their motion for such payments, fees and/or costs has been filed.

3 47. Upon final approval of the Settlement by the Court or after the Final
4 Approval Hearing, the parties will present a Judgment for the Court's entry, dismissing the
5 Action with prejudice. After entry of the Judgment, the Court will have continuing jurisdiction
6 over the Action and the Settlement solely for purposes of enforcing the Settlement, addressing
7 settlement administration matters, and addressing such post-Judgment matters as may be
8 appropriate under court rules or applicable law.

9 48. Upon final approval of the Settlement by the Court or after the Final
10 Approval Hearing, the Parties will submit a proposed Order or Orders:

11 (a) Approving the Settlement, adjudging the terms thereof to be fair,
12 reasonable and adequate, and directing consummation of its terms and provisions;

13 (b) Approving Class Counsel's application for an award of attorneys'
14 fees and reimbursement of costs;

15 (c) Approving the Class Representatives' service payments;

16 (d) Certifying the Class for settlement purposes only;

17 (e) Dismissing this Action on the merits and with prejudice and
18 permanently enjoining all Class Members (other than those who timely filed Exclusion Forms)
19 from prosecuting against the Released Parties any and all Class Members' Released Claims; and

20 (f) Permanently enjoining the Class Representatives from prosecuting
21 against the Released Parties any and all Class Representatives' Released Claims.

22 **XII.**

23 **RELEASE OF CLAIMS**

24 49. Claims Released by Class Members. Upon the Court's final approval of
25 the Settlement, and except as to such rights or claims as may be created by the Settlement, the
26 Class Representatives and the Class Members (other than those who file Exclusion Forms) hereby
27 release and discharge AT&T Services, Inc. and its former and present parents, subsidiaries, and
28 officers, directors, employees, partners, shareholders and agents, and any other successors,

1 assigns, or legal representatives (collectively, “the Released Parties”), from any and all wage-and-
2 hour claims of every nature or description related to the allegations in the operative Complaint.
3 These released claims include any and all known or unknown claims of unpaid wages, including
4 overtime, and payments for alleged meal and rest period violations, liquidated damages,
5 attorneys’ fees and costs, any and all available penalties, including but not limited to record-
6 keeping penalties, pay stub penalties, minimum wage penalties, meal and rest period penalties
7 and waiting time penalties, interest, and other claims or penalties under federal and state wage-
8 and-hour law up to and including the date of final court approval of this Settlement; except,
9 however, claims under the FLSA are released only by those Class Members who submit Claim
10 Forms pursuant to this Settlement. The claims released by the Class Members (other than those
11 who submit timely and valid Exclusion Forms) include, but are not limited to, all claims of the
12 foregoing nature that arise under the California Labor Code; Business and Professions Code §§
13 17200 *et seq.*; the Private Attorneys General Act of 2004 (codified at California Labor Code
14 §§ 2698 through 2699); California Industrial Welfare Commission Wage Orders; the FLSA; and
15 claims for conversion (collectively, “Class Members’ Released Claims”); provided, however, that
16 Class Members who do not submit claims will not be releasing claims under the FLSA.

17 50. As to the released claims, the Class Members each waive all rights and
18 benefits afforded by Section 1542 of the Civil Code of the State of California, and do so
19 understanding the significance of that waiver. Section 1542 provides: “A general release does
20 not extend to claims which the creditor does not know or suspect to exist in his or her favor at the
21 time of executing the release, which if known by him or her must have materially affected his or
22 her settlement with the debtor.” This Section 1542 waiver applies only to those claims released in
23 Paragraph 49 and not to any other claims.

24 51. Claims Released by the Class Representatives. In consideration for the
25 service payments being paid to the Class Representatives, each of the Class Representatives
26 (Duane Waters, Debra Turner, and Rudy Fajardo), upon the Court’s final approval of the
27 Settlement, hereby fully and finally releases and discharges the Released Parties from all known
28 and unknown claims they may have against the Released Parties, of every nature or description

1 whatsoever, up to the date of the Court's final approval of the Settlement, in addition to the Class
2 Members' Released Claims described in the preceding paragraph. This general release of claims
3 includes any and all known or unknown contract, tort, statutory, common law, constitutional,
4 discrimination, public policy, retaliation, wrongful discharge, and other claims of any type
5 whatsoever, to the fullest extent such claims are releasable by law, arising out of the Class
6 Representatives' employment with Defendant, the termination of their employment, and their
7 other dealings with the Defendant and the Released Parties (collectively, "Class Representatives'
8 Released Claims").

9 52. As to the Class Representatives' Released Claims, the Class
10 Representatives, and each of them, waive all rights and benefits afforded by Section 1542 of the
11 Civil Code of the State of California, as quoted above, and do so understanding the significance
12 of that waiver.

13 XIII.

14 EFFECT OF DENIAL OF COURT APPROVAL

15 53. If the District Court does not grant final approval of the Settlement, or if
16 the District Court's final approval of the Settlement is reversed or materially modified on
17 appellate review, then this Settlement will become null and void. In such case, the Settlement
18 shall not be used or be admissible in any subsequent proceedings either in this Court or in any
19 other Court or forum.

20 XIV.

21 EFFECT OF SETTLEMENT PAYMENTS ON BENEFITS

22 54. The settlement payments to Class Members under this Settlement shall not
23 have any effect on the eligibility or calculation of any employee benefits. The Parties agree that
24 the settlement payments to Participating Class Members do not represent any modification of any
25 employee's previously-credited hours of service or other eligibility criteria under any employee
26 pension benefit plan, employee welfare benefit plan, or other program or policy sponsored by
27 Defendant or any of its affiliates. Further, the settlement payments shall not be considered wages,
28 compensation, or annual earnings for benefits in any year for purposes of determining eligibility

1 for, or benefit accrual within, an employee pension benefit plan, employee welfare benefit plan,
2 or other program or policy sponsored by Defendant or any of its affiliates.

3 **XV.**

4 **PARTIES' AUTHORITY**

5 55. The respective signatories to the Settlement represent that they are fully
6 authorized to enter into this Settlement and bind the respective Parties to its terms and conditions.

7 **XVI.**

8 **MUTUAL FULL COOPERATION**

9 56. The Parties agree to cooperate fully with each other to accomplish the
10 terms of this Settlement, including but not limited to executing such documents and taking such
11 other actions as may reasonably be necessary to implement the terms of the Settlement. The
12 Parties shall use their best efforts, including all efforts contemplated by this Settlement and any
13 other efforts that may become necessary by order of the Court, or otherwise, to effectuate the
14 terms of the Settlement.

15 57. Any dispute concerning the interpretation or implementation of this
16 Settlement Agreement will be resolved by the Magistrate Judge. Prior to any such resort to the
17 Court, counsel for the Parties will confer in good faith to resolve the dispute. If the parties are
18 unable to resolve the dispute themselves, the dispute will be submitted to Mark Rudy for
19 mediation before being submitted to the Magistrate Judge.

20 58. The parties agree that they will not discourage Class Members from filing
21 Claim Forms or encourage Class Members to file Exclusion Forms.

22 **XVII.**

23 **NO PRIOR ASSIGNMENTS**

24 59. The Parties represent, covenant, and warrant that they have not directly or
25 indirectly assigned, transferred, encumbered, or purported to assign, transfer, or encumber to any
26 person or entity any portion of any liability, claim, demand, action, cause of action, or right
27 released and discharged in this Settlement.

28

1 **XVIII.**

2 **NO ADMISSION OF LIABILITY**

3 60. Nothing contained in this Settlement shall be construed or deemed an
4 admission of liability, culpability, negligence, or wrongdoing on the part of Defendant. Each of
5 the Parties has entered into this Settlement with the intention to avoid further disputes and
6 litigation with the attendant inconvenience and expenses. This Settlement shall be inadmissible
7 in evidence in any proceeding, except an action or proceeding to approve, interpret, or enforce its
8 terms.

9 **XIX.**

10 **FAIR, ADEQUATE, AND REASONABLE SETTLEMENT**

11 61. The Parties agree that the Settlement is fair, adequate, and reasonable, and
12 will so represent it to the Court. In addition, the Parties may request that mediator Mark Rudy
13 execute a declaration supporting the Settlement, and the Court may, in its discretion, contact Mr.
14 Rudy to discuss the Settlement and whether or not the Settlement is fair and reasonable.

15 **XX.**

16 **ENFORCEMENT ACTIONS**

17 62. In the event that one or more of the Parties institutes any legal action,
18 arbitration, or other proceeding against any other Party or Parties to enforce the provisions of this
19 Settlement, or to declare rights and/or obligations under this Settlement, the successful Party or
20 Parties shall be entitled to recover from the unsuccessful Party or Parties reasonable attorneys'
21 fees and costs, including expert witness fees incurred in connection with any enforcement actions.

22 **XXI.**

23 **NOTICES**

24 63. Unless otherwise specifically provided herein, all notices, demands, or
25 other communications given hereunder shall be in writing and shall be deemed to have been duly
26 given as of the third business day after mailing by United States first-class mail, return receipt
27 requested, addressed as follows:
28

1 (a) To the Class:
2 V. James DeSimone, Esq. and Michael D. Seplow, Esq.
3 SCHONBRUN DESIMONE SEPLOW HARRIS & HOFFMAN, LLP
4 723 Ocean Front Walk
5 Venice, CA 90291

6 Thomas W. Falvey, Esq. and J.D. Henderson, Esq.
7 LAW OFFICES OF THOMAS W. FALVEY
8 301 North Lake Avenue, Suite 800
9 Pasadena, CA 91101

10 (b) To Defendant:
11 Thomas E. Geidt, Esq.
12 PAUL, HASTINGS, JANOFSKY & WALKER LLP
13 55 Second Street, 24th Floor
14 San Francisco, CA 94105

15 **XXII.**

16 **CONSTRUCTION**

17 64. The Parties agree that the terms and conditions of this Settlement are the
18 result of lengthy, intensive arm's-length negotiations between the Parties, and that this Settlement
19 shall not be construed in favor of or against any Party by reason of the extent to which any Party
20 or his, her, or its counsel participated in its drafting.

21 **XXIII.**

22 **CAPTIONS AND INTERPRETATIONS**

23 65. Paragraph titles or captions contained in this Settlement are a matter of
24 convenience and for reference, and in no way define, limit, extend, or describe the scope of this
25 Settlement or any provision.

26 **XXIV.**

27 **MODIFICATION**

28 66. This Settlement may not be changed, altered, or modified, except in writing
and signed by the Parties, and approved by the Court. This Settlement may not be discharged
except by performance in accordance with its terms or by a writing signed by the Parties.

1 **XXV.**

2 **INTEGRATION CLAUSE**

3 67. This Settlement contains the entire agreement between the Parties relating
4 to the resolution of the Action, and all prior or contemporaneous agreements, understandings,
5 representations, and statements, whether oral or written and whether by a Party or such Party's
6 legal counsel, are merged in this Joint Stipulation. No rights under this Joint Stipulation may be
7 waived except in writing.

8 **XXVI.**

9 **BINDING ON ASSIGNS**

10 68. This Settlement shall be binding upon and inure to the benefit of the Parties
11 and their respective heirs, trustees, executors, administrators, successors, and assigns.

12 **XXVII.**

13 **CLASS COUNSEL SIGNATORIES**

14 69. It is agreed that because the members of the Class are so numerous, it is
15 impossible or impractical to have each Class Member execute this Settlement. The Notice,
16 Exhibit "A," will advise all Class Members of the binding nature of the release. Excepting only
17 the Class Members who timely submit an Exclusion Form, this Joint Stipulation shall have the
18 same force and effect as if it were executed by each Class Member.

19 **XXVIII.**

20 **COUNTERPARTS**

21 70. This Joint Stipulation may be executed in counterparts, and when each
22 Party has signed and delivered at least one such counterpart, each counterpart shall be deemed an
23 original, and, when taken together with other signed counterparts, shall constitute one Settlement,
24 which shall be binding upon and effective as to all Parties.

25 **XXIX.**

26 **WAIVER OF APPEALS**

27 71. The Parties agree to waive all appeals from the Court's final approval of
28 this Settlement, unless the Court materially modifies the Settlement; provided, however, that

1 Plaintiffs may appeal any reduction in the attorneys' fee award. Any reduction in the award of
2 attorney's fees, costs, and/or service payments to the Class Representatives will not, however,
3 constitute a material modification of the Settlement and will not be grounds to void the
4 Settlement.

5 **XXX.**

6 **CLASS CERTIFICATION**

7 72. The Parties agree that the stipulation for Class Certification is for
8 settlement purposes only, and if for any reason the Settlement is not approved, the stipulation will
9 be of no force or effect. The Parties agree that certification for settlement purposes is in no way
10 an admission that class certification is proper, and that evidence of this stipulation for settlement
11 purposes only will not be deemed admissible in this or any other proceeding.

12 **XXXI.**

13 **CCP SECTION 384 NOT APPLICABLE**

14 73. The Parties agree that California Code of Civil Procedure Section 384 is
15 not applicable to this Settlement. The Parties represent that the Maximum Payment is a
16 settlement amount that takes into account the probability that some or many Class Members, for
17 various reasons, will not file claims. The Parties recognize that the settlement amount would
18 have been substantially less if all of it had to be paid. No fund has been created. No obligation to
19 pay Class Members is created until a valid Claim Form is filed. There is thus no residue. Neither
20 Plaintiffs nor their counsel shall take, or cause any other person to take, a position before the
21 Court that California Code of Civil Procedure Section 384 applies to this Settlement.

22 **XXXII.**

23 **NO TAX ADVICE**

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25 74. Neither Class Counsel nor defense counsel intend anything contained
26 herein to constitute legal advice regarding the taxability of any amount paid hereunder, nor shall
27 it be relied upon as such.

28 **XXVIII.**

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PUBLICITY

75. The Parties and their counsel agree that they will not issue any press releases, initiate any contact with the media, respond to any media inquiry, or have any communication with the media about this case and/or the fact, amount, or terms of this Settlement; provided, however, that if Class Counsel receive an inquiry from the media after preliminary approval of the Settlement is granted, Class Counsel may respond only by stating the terms of the Settlement. After the Parties have filed their motion for preliminary approval of the Settlement, class counsel may place factual information regarding the Settlement and the claim form procedures on their respective web-sites. Before the date on which the Parties file their motion for preliminary approval, the Parties and their counsel will not initiate any contact with class members about the Settlement, except that Class Counsel, if contacted by a class member, may answer any questions that the class member may have about the Settlement.

DATED: _____, 2010 REPRESENTATIVE PLAINTIFF

By: _____
DUANE WATERS

DATED: _____, 2010 REPRESENTATIVE PLAINTIFF

By: _____
DEBRA TURNER

DATED: _____, 2010 REPRESENTATIVE PLAINTIFF

By: _____
RUDY FAJARDO

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DATED: _____, 2010 SCHONBRUN, DESIMONE, SEPLOW, HARRIS &
HOFFMAN, LLP
LAW OFFICES OF THOMAS W. FALVEY

By: _____
V. JAMES DESIMONE

Attorneys for Plaintiffs, DUANE WATERS,
DEBRA TURNER, and RUDY FAJARDO,
on behalf of themselves, all others similarly
situated and the general public

DATED: _____, 2010 AT&T SERVICES, INC.

By: _____
THERESA C. O'LOUGHLIN
General Attorney and Associate General Counsel

DATED: _____, 2010 PAUL, HASTINGS, JANOFSKY & WALKER LLP

By: _____
THOMAS E. GEIDT

Attorneys for Defendant,
AT&T SERVICES, INC.

LEGAL_US_W # 65019200.2

EXHIBIT 2

IN THE UNITED STATES DISTRICT COURT OF CALIFORNIA
NORTHERN DISTRICT OF CALIFORNIA

Waters et al. v. AT&T Services, Inc., U.S.D.C, Case No. 3:09-CV-03983 BZ

NOTICE OF CLASS ACTION SETTLEMENT

To: All CURRENT and FORMER EMPLOYEES of AT&T SERVICES, INC., who worked in the State of California as Senior Database Administrators, Senior IT Analysts (or Senior Analysts), and Senior QC Test Analysts while classified as exempt from overtime pay requirements at any time from August 27, 2005 to _____, 2010.

PLEASE READ THIS NOTICE CAREFULLY.

Pursuant to an Order of the United States District Court for the Northern District of California, entered on _____, 2010, **YOU ARE HEREBY NOTIFIED AS FOLLOWS:**

A proposed settlement (the "Settlement") has been reached among the parties in this class action pending in the U.S. District Court for the Northern District of California, brought on behalf of all individuals described above (the "Class"). The Court has preliminarily approved the Settlement and conditionally certified the Class for purposes of the Settlement only. You have received this notice because AT&T Services, Inc.'s records indicate that you are a member of the Class. This notice is designed to inform you of how you can make a claim under the Settlement, object to the Settlement, or elect to exclude yourself from the Settlement.

I. BACKGROUND OF THE CASE

On August 27, 2009, Plaintiffs Duane Waters and Debra Turner commenced a putative class action against AT&T Services, Inc. ("AT&T") in the United States District Court, Northern District of California, Case No. 3:09-CV-03983 BZ ("the Action"). Plaintiffs later amended their complaint to include another named plaintiff, Rudy Fajardo.

Plaintiffs allege that they and all persons who worked for AT&T in the State of California as Senior Database Administrators, Senior IT Analysts (or Senior Analysts), and Senior QC Test Analysts, while classified as exempt from overtime pay requirements at any time from August 27, 2005 to _____, 2010, were misclassified as exempt and not paid compensation for overtime hours they worked, including interest

Page 1 of 12

QUESTIONS? CALL TOLL FREE 1-866-_____
Claim Form Must Be Submitted by _____, 2010

and penalties. Plaintiffs also allege that AT&T failed to provide meal periods, failed to authorize and permit rest breaks, failed to provide proper pay statements, and failed to pay all wages due at time of termination, as required by California law.

AT&T filed an Answer to the Complaint on October 28, 2009. AT&T denies any liability or wrongdoing of any kind associated with the claims alleged and contends that, for any purpose other than settlement, this action is not appropriate for class action treatment. AT&T further contends that it has complied with the California Labor Code, the California Business and Professions Code, applicable Industrial Welfare Commission Wage Orders, and all similar federal laws, including but not limited to the federal Fair Labor Standards Act and its regulations.

On May 19, 2010, after good-faith negotiations presided over by a private mediator, the parties reached an agreement to settle the Action pursuant to the terms and conditions of the Settlement.

The Settlement represents a compromise and settlement of highly-disputed claims. Nothing in the Settlement is intended to or will be construed as an admission by AT&T that Plaintiffs' claims in the action have merit or that it has any liability to Plaintiffs or the Class on those claims.

Plaintiffs, AT&T, and their counsel have concluded that the Settlement is advantageous considering the risks and uncertainties to each side of continued litigation. The parties and their counsel have determined that the Settlement is fair, reasonable, and adequate and is in the best interests of all parties.

II. SUMMARY OF THE SETTLEMENT

A. Who is included in the Settlement?

You are a Class Member, and are included in the Settlement, if you worked for AT&T Services, Inc. in the State of California as a Senior Database Administrator, Senior IT Analyst (or Senior Analyst), or Senior QC Test Analyst while classified as exempt from overtime pay requirements at any time from August 27, 2005 to _____, 2010.

B. What will I receive from the Settlement?

AT&T will make a settlement payment ("Settlement Payment") to each Class Member who submits a timely and valid claim based on the formula set forth below. If you

submit a timely and valid claim, the Settlement Payment you receive will be reduced by applicable tax deductions and withholdings.

The Settlement calls for the potential payment by AT&T of Seventeen Million Dollars (\$17,000,000) (referred to as the "Maximum Payment" or "Gross Potential Settlement Amount"), as well as the employer's share of payroll taxes. As will be set forth in more detail below, the amount available for Class Members from the \$17,000,000 is estimated at \$11,740,000, calculated as follows:

\$17,000,000	(Gross Potential Settlement Amount)
- 5,100,000	(Plaintiffs' Attorneys' Fees)
- 25,000	(Plaintiffs' Litigation Costs)
- 75,000	(Class Representatives' Service Payments)
- 25,000	(Claims Administrator Fees - Estimate)
- <u>35,000</u>	(Payment to the State of California Labor and Workforce Development Agency)
\$11,740,000	(Net Available to Class or "Remainder")

This total will vary if the Court does not approve the requested amounts for attorneys' fees, litigation costs, or class representatives' service payments, or if the cost of administration is different than estimated.

The approximate \$11,740,000 Remainder of the Maximum Payment will be distributed as follows: Compensable Workweeks will be all workweeks (or portions of weeks) during which Class Members performed work for pay while employed by AT&T in California in the job titles of Senior Database Administrator, Senior IT Analyst (or Senior Analyst), or Senior QC Test, and while classified as exempt from overtime pay requirements, at any time from August 27, 2005 to _____, 2010.

The Class Members' Distribution Amount, prior to deductions set forth below, will be calculated by: (1) dividing the Remainder of the Maximum Payment by the total number of Compensable Workweeks for all eligible Class Members, to obtain the value per Compensable Workweek; and (2) multiplying that amount by the number of Compensable Workweeks worked by each Class Member who submits a timely and valid claim. There are approximately _____ Compensable Workweeks for the entire class period.

Each Class Member who submits a Claim Form that is completed in its entirety, signed under penalty of perjury, and submitted by the deadline stated on the Claim Form is a "Participating Class Member" and will receive the pro rata distribution as described above.

The Parties estimate that each Class Member who submits a valid and timely Claim Form will receive \$126 per Compensable Workweek under the settlement formula.

The actual net amount received by each Participating Class Member will be the gross amount reduced by payroll and tax withholding, as follows: 50% of the payment will be treated as wages subject to W-2 reporting and, therefore, normal payroll taxes and withholdings will be deducted pursuant to state and federal law. AT&T will pay its portion of payroll taxes and withholdings, and those amounts will not be deducted from the payments made to Participating Class Members. The remaining 50% will be treated as interest and penalties subject to IRS Form 1099 reporting, and Participating Class Members will be issued an IRS Form 1099 for that portion of their payment as required by law. Participating Class Members will be responsible for correctly characterizing this compensation for tax purposes and paying any taxes owing on this amount.

C. When will I receive my Settlement Payment?

The Settlement Payments will be paid approximately twenty (20) calendar days after final court approval of the Settlement and after all rights to appeal or review are exhausted or any appeal or review has been resolved in favor of the Settlement.

D. What if I do not want to participate in the Settlement?

You will not be included in the Settlement if you elect not to participate by submitting a signed Exclusion Form that is provided with this Notice, by the deadline and in the manner specified in the form. If you return the Exclusion Form, you will not receive a Settlement Payment or be bound by the terms of the Settlement.

E. What if I do nothing: do not submit an Exclusion Form and do not submit a Claim Form?

If you do not timely submit a Claim Form or an Exclusion Form, you will be bound by the Settlement, you will forfeit any rights you would otherwise have to sue AT&T for claims that your rights under California overtime and other wage-and-hour laws have been violated, and you will not receive a Settlement Payment. If you submit a valid and timely Claim Form, you will receive a Settlement Payment and will forfeit any rights

you would otherwise have to sue AT&T for claims that your rights under California and federal wage-and-hour laws have been violated.

F. Claims Administrator.

The Court has appointed CPT Group, Inc., to act as an independent Claims Administrator to process this Settlement and to resolve any dispute concerning a Class Member's eligibility to participate in the Settlement and his or her share of the Settlement proceeds.

G. Release of Claims.

The Class Members (other than those who file Exclusion Forms) release and discharge AT&T Services, Inc. and its former and present parents, subsidiaries, and officers, directors, employees, partners, shareholders and agents, and any other successors, assigns, or legal representatives (collectively, "Class Members' Released Parties"), from any and all wage-and-hour claims of every nature or description that relate to the allegations in Plaintiffs' Complaint. These released claims include any and all known or unknown claims of unpaid wages, including overtime, and payments for alleged meal and rest period violations, liquidated damages, attorneys' fees and costs, and any and all available penalties, including but not limited to recordkeeping penalties, pay stub penalties, minimum wage penalties, meal and rest period penalties, and waiting time penalties, interest, and other claims or penalties under federal and state wage-and-hour law up to and including the date of the final court approval of the Settlement; except, however, claims under the federal Fair Labor Standards Act, as amended ("FLSA"), are released only by those Class Members who submit Claim Forms pursuant to the Settlement. The claims released by the Class Members (other than those who submit timely and valid Exclusion Forms) include, but are not limited to, all claims of the foregoing nature that arise under the California Labor Code; Business and Professions Code §§ 17200 et seq.; the Private Attorneys General Act of 2004 (codified at California Labor Code §§ 2698 through 2699); California Industrial Welfare Commission Wage Orders; the FLSA; and claims for conversion (collectively, "Class Members' Released Claims"); provided, however, that Class Members who do not submit Claim Forms will not be releasing claims under the FLSA.

As to the Class Members' Released Claims, the Class Members each waive all rights and benefits afforded by Section 1542 of the Civil Code of the State of California, and do so understanding the significance of that waiver. Section 1542 provides: "A general release does not extend to claims which the creditor does not know or suspect to exist in his or her favor at the time of executing the release, which if known by him or her must

have materially affected his or her settlement with the debtor.” This Section 1542 waiver applies only to those claims released in the preceding paragraph and not to any other claims.

H. Class Representatives’ Service Payments.

In addition to their share as Participating Class Members, Plaintiffs Duane Waters, Debra Turner, and Rudy Fajardo will each be paid up to \$25,000, subject to Court approval, for their services as Class Representatives, as well as their willingness to accept the risks of an unsuccessful outcome. These payments will be deducted from the Gross Potential Settlement Amount.

I. Attorneys’ Fees.

Class Counsel will seek approval from the Court for payment of attorneys’ fees in the amount of thirty percent (30%) of the Gross Potential Settlement Amount (or \$5,100,000) plus \$25,000 in costs, which, if approved by the Court, will be deducted from the Gross Potential Settlement Amount. Class Counsel believes the amount requested for costs and attorneys’ fees is fair and reasonable. AT&T will not oppose Class Counsel’s request for these amounts.

J. Costs of Administration.

The costs of administering the Settlement will be deducted from the Gross Potential Settlement Amount. The Claims Administrator estimates this amount to be approximately \$25,000.

K. Penalty Payment to the Labor and Workforce Development Agency.

In addition, AT&T will pay \$35,000 to the State of California Labor and Workforce Development Agency, to be deducted from the Gross Potential Settlement Amount, to cover any and all claims for civil penalties that were or could have been sought in the Action.

III. PLAINTIFFS AND CLASS COUNSEL SUPPORT THE SETTLEMENT

Plaintiffs, as Class Representatives, and Class Counsel support this Settlement. Their reasons include the inherent risk of denial of class certification, the risk of a trial on the merits, and the inherent delays and uncertainties associated with litigation. Based on their experience litigating similar cases, Class Counsel believe that further proceedings

in this case, including a trial and probable appeals, would be very expensive and protracted. No one can confidently predict how the various legal questions at issue, including the amount of damages, would ultimately be resolved. Therefore, upon careful consideration of all of the facts and circumstances of this case, Class Counsel believe that the Settlement is fair, reasonable, and adequate.

IV. WHAT ARE YOUR RIGHTS AS A CLASS MEMBER?

A. Participating in the Settlement.

Plaintiffs, as Class Representatives, and Class Counsel represent your interests as a Class Member. Unless you elect not to participate in the Settlement by timely filing an Exclusion Form, you are a part of the Class, and you will be bound by the terms of the Settlement and any final judgment that may be entered by the Court, and you will be deemed to have released the California wage-and-hour claims described in Paragraph G above against AT&T and the other released parties. If you submit a valid and timely Claim Form, you will receive a Settlement Payment and will forfeit any rights you would otherwise have to sue AT&T for claims (as described in Paragraph G) that your rights under California and federal wage-and-hour laws have been violated. As a member of the Class, you will not be responsible for the payment of attorneys' fees or reimbursement of litigation expenses unless you retain your own counsel, in which event you will be responsible for your own attorneys' fees and costs.

B. Disputes as to Class Members' Compensable Workweeks.

The Claim Forms enclosed with this Notice list the time periods that you worked in the various Class Positions and the number of your Compensable Workweeks, according to AT&T's records. If you wish to challenge the number of Compensable Workweeks listed on your Claim Form, you may do so by submitting a written challenge to the Claims Administrator along with the signed Claim Form, by _____, 2010, and by including any supporting evidence or documentation, in accordance with the instructions on the Claim Form. The Claims Administrator will evaluate the evidence you submit and, after reviewing AT&T's records, the Claims Administrator will make the final decision as to your correct number of Compensable Workweeks. The Claims Administrator will notify you if your challenge is rejected and give you an opportunity to submit additional supporting evidence. If your challenge as to the correct number of Compensable Workweeks is ultimately rejected, you will have the opportunity to opt out of the Settlement by submitting an Exclusion Form by _____, 2010, or within 10 days after the Claims Administrator notifies you of the rejection of your challenge,

whichever is later. If you dispute the number of Compensable Workweeks, you may consult with Class Counsel.

C. Objecting to the Settlement.

You may object to the terms of the Settlement before final approval by filing a written notice of your objections. If you timely file written objections, you may also file a notice of your intent to appear and object at the final approval hearing, if you wish to do so. If you file a written objection, you may also submit a Claim Form. If the Court rejects your objection and you have not also filed a Claim Form, you will not receive a Settlement Payment, but you will be bound by the terms of the Settlement.

To object, you must send a written notice of objection, and also, if you wish, a written notice of your intent to appear and object at the final approval hearing, to the Court and to Counsel at the addresses shown below. **DO NOT TELEPHONE THE COURT OR AT&T'S COUNSEL.** Any written objection and/or notice of your intent to appear at the hearing must state: (1) your full name; (2) your address; (3) your date of birth; (4) your dates of employment and positions held at AT&T Services, Inc. in California; and (5) each specific reason for your objection and any legal support for your position. To be valid and effective, the Court and Counsel must receive any written objections and/or notices of intent to appear at the hearing not later than _____, 2010 (within sixty (60) days of the mailing of this Notice). A Class Member who fails to file and serve a written statement of objection in the manner described above and by the specified deadline will be deemed to have waived any objections and will be foreclosed from making any objection (whether by appeal or otherwise) to the Settlement.

If you file an Exclusion Form, you may not submit objections to the Settlement or appear at the hearing to present any objections. However, you will have the right to pursue your own claims against AT&T in a separate proceeding.

File Your Notice of Objections With :

Hon. Magistrate Judge Bernard Zimmerman.

United States District Court
Northern District of California
450 Golden Gate Avenue
San Francisco, CA 94102

And Also Send Copies of Your Notice to:

CLASS COUNSEL

V. James DeSimone, Esq. and Michael D. Seplow, Esq.
SCHONBRUN DESIMONE SEPLow HARRIS & HOFFMAN, LLP
723 Ocean Front Walk
Venice, CA 90291

Thomas W. Falvey, Esq. and J.D. Henderson, Esq.
LAW OFFICES OF THOMAS W. FALVEY
301 North Lake Avenue, Suite 800
Pasadena, California 91101

AT&T's COUNSEL

Thomas E. Geidt, Esq.
PAUL, HASTINGS, JANOF SKY & WALKER LLP
55 Second Street, 24th Floor
San Francisco, CA 94105

D. Excluding Yourself from the Settlement.

If you do not wish to participate in the Settlement, you must complete the enclosed Exclusion Form. To be valid, the Exclusion Form must be completed, signed by you under penalty of perjury, and returned to:

AT&T/Waters Claims Administrator
c/o CPT Group, Inc.
P. O. Box _____

The Exclusion Form must be mailed, faxed, or emailed, postmarked (if mailed) not later than _____, 2010 (within 60 days of the mailing of this Class Notice). A Class Member who fails to submit an Exclusion Form in the manner and by the deadline specified above will be bound by all terms and conditions of the Settlement and the Judgment if the Settlement is approved by the Court, regardless of whether he or she has objected to the Settlement (except that Class Members who do not file Claim Forms will not forfeit their federal claims under the Fair Labor Standards Act)

Any Class Member who files a complete and timely Exclusion Form will, upon its receipt by the Claims Administrator, no longer be a member of the Settlement Class, will be barred from participating in any portion of the Settlement, and will receive no

benefits from the Settlement. Any such person, at his or her own expense, may pursue any claims he or she may have against AT&T.

DO NOT SUBMIT BOTH AN EXCLUSION FORM AND A CLAIM FORM.

IF YOU SUBMIT BOTH AND IF THE CLAIMS ADMINISTRATOR IS UNABLE TO CONTACT YOU TO ASCERTAIN YOUR INTENT, THE EXCLUSION FORM WILL BE DEEMED INVALID, THE TIMELY CLAIM FORM WILL BE ACCEPTED FOR PAYMENT PURSUANT TO THE TERMS OF THE SETTLEMENT, AND YOU WILL BE BOUND BY THE TERMS OF THE SETTLEMENT.

E. Claiming a Share of the Settlement Proceeds.

To receive your share of the Settlement proceeds, you must sign the enclosed Claim Form and return it in the enclosed pre-addressed, postage-paid envelope, or fax or email the Claim Form, to:

AT&T/Waters Claims Administrator
c/o CPT Group, Inc.
P. O. Box _____

Fax no. _____
Email address: _____

To be valid, the Claim Form must include the last four digits of your social security number and be dated and signed by you under penalty of perjury. The Claim Form must be mailed, faxed, or emailed, with a postmark (if mailed) of not later than _____, 2010 (within 60 days of the mailing of this Class Notice). A Class Member who fails to submit a Claim Form in the manner and by the deadline specified above **will not** receive a share of the Settlement proceeds. If that Class Member also fails to file a valid and timely Exclusion Form, the Class Member will be bound by all terms and conditions of the Settlement and the Judgment if the Settlement is approved by the Court (except as to federal claims under the Fair Labor Standards Act), even though the Class Member did not receive a share of the Settlement proceeds.

V. FINAL SETTLEMENT APPROVAL HEARING

The Court will hold a final approval hearing in Courtroom G of the United States District Court for the Northern District of California, 450 Golden Gate Avenue, 15th Floor, San Francisco, California 94102, on _____, at _____, to determine whether the Settlement should be finally approved as fair, reasonable, and adequate. The Court will also be asked to approve Class Counsel's request for costs and attorneys' fees and Plaintiffs' request for service payments as the Class Representatives.

The hearing may be postponed without further notice to the Class. It is not necessary for you to appear at this hearing. If you have given notice of your objection to the settlement, you may appear at the hearing at your option if you have filed a notice of intent to appear by _____, 2010.

If the Settlement is not approved by the Court or does not become final for some other reason, the litigation will continue.

VI. GETTING MORE INFORMATION

The above is a summary of the basic terms of the Settlement. For the precise terms and conditions of the Settlement, you are referred to the detailed Joint Stipulation of Class Settlement and Release between Plaintiffs and Defendant, which will be on file with the Clerk of the Court. The pleadings and other records in this litigation, including the Joint Stipulation of Class Settlement, may be examined at any time during regular business hours in the office of the Clerk, United States District Court, Northern District of California, 450 Golden Gate Ave., San Francisco, CA 94102. **You may also contact the Claims Administrator at: 1-8 _____, or Class Counsel listed below for more information:**

V. James DeSimone, Esq. and Michael D. Seplow
SCHONBRUN DESIMONE SEPLOW
HARRIS & HOFFMAN, LLP
723 Ocean Front Walk
Venice, CA 90291
Telephone: (310) 396-0731
Facsimile: (310) 399-7040
Email: vjdesimone@gmail.com and
msepflow@gmail.com

Thomas W. Falvey, Esq. and J.D. Henderson,
Esq.
LAW OFFICES OF THOMAS W. FALVEY
301 North Lake Avenue, Suite 800
Pasadena, CA 91101
Telephone: (626) 795-0205
Facsimile: (626) 795-3026
Email: thomaswfalvey@gmail.com and
jdlaw@charter.net

IMPORTANT:

1. **PLEASE DO NOT TELEPHONE THE COURT OR AT&T'S COUNSEL FOR INFORMATION REGARDING THIS SETTLEMENT OR THE CLAIM PROCESS!**
2. **If you move, please send the Claims Administrator your new address. It is your responsibility to keep a current address on file with the Claims Administrator to ensure receipt of your Settlement Payment.**
3. **It is strongly recommended that you keep a copy of the completed claim form and proof of timely submission until after you have received your Settlement Payment.**

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EXHIBIT 3

CLAIM FORM

Waters v. AT&T Services, Inc., Northern District of California Case No. 3:09-CV-03983 BZ

IF YOU WANT TO RECEIVE MONEY UNDER THIS SETTLEMENT, YOU MUST COMPLETE THIS FORM.

YOU MUST COMPLETE, SIGN, AND MAIL (BY FIRST CLASS U.S. MAIL OR EQUIVALENT), FAX, OR EMAIL THIS CLAIM FORM. IT MUST BE POSTMARKED (IF MAILED), FAXED, OR EMAILED ON OR BEFORE _____, 2010, ADDRESSED AS FOLLOWS, OR YOU WILL BE INELIGIBLE TO RECEIVE A MONETARY RECOVERY.

<p>MAIL TO:</p> <p>AT&T/Waters Claims Administrator c/o CPT Group, Inc. P.O. Box _____</p> <p>_____</p> <p>Phone number 1-800- _____</p> <p>FAX TO: _____</p> <p>OR EMAIL TO: _____</p>

INSTRUCTIONS

1. You must complete, sign and mail, fax, or email this Claim Form in order to be eligible for monetary recovery. You must include the last four digits of your social security number in the space provided below.
2. If you move, please send the Claims Administrator your new address. It is your responsibility to keep a current address on file with the Claims Administrator.

3. If you wish to challenge the employment data below, you must submit your challenge by _____.

YOU MUST COMPLETE ALL PAGES OF THE CLAIM FORM.

<<Claim Number>>
 <<Name>>
 <<Address>>
 <<City>>, <<State>> <<Zip Code>>

Name/Address Changes, if any:

(_____) _____ - _____
 Home Telephone Number

AT&T Services, Inc.'s records show that during the dates set forth below (which are just those between August 27, 2005 and _____, 2010), you worked in California and held one or more of the following position(s) while the position(s) was classified as exempt from overtime pay requirements: (1) Senior Database Administrator; (2) Senior Analyst (or Senior IT Analyst); and/or (3) Senior QC Test Analyst.

EMPLOYMENT DATES	POSITION
<<DATES>>	Senior Database Administrator
<<DATES>>	Senior Analyst (or Senior IT Analyst)
<<DATES>>	Senior QC Test Analyst

According to the Company's records, your total number of Compensable Workweeks (the number of workweeks you received pay for work performed within these date ranges) is: ____.

Based on the settlement formula, eligible class members will receive approximately \$____ per Compensable Workweek. Therefore, the Parties estimate that the gross amount you will receive if you file a claim is \$_____.

Note: The amount you receive could be slightly higher or lower than this estimate.

FLSA CONSENT TO OPT IN

By submitting this Claim Form, I hereby give my consent to be a party plaintiff in this action pursuant to the Fair Labor Standards Act of 1938, 29 U.S.C. § 216(b).

CHALLENGE**Check one:**

- I do not wish to challenge the dates or number of Compensable Workweeks listed above.
- I wish to challenge the dates and/or number of Compensable Workweeks listed above. I have included with my signed Claim Form a written statement with what I believe are my correct dates during which I met the requirements for Compensable Workweeks. I have also included documentary evidence that supports my claim, and I recognize that my claim will not be reviewed without such evidence. I understand that by submitting this challenge, I hereby authorize the Claims Administrator to review AT&T Services, Inc.'s records and make a determination based on its records and the records I submitted. I understand that this determination may increase or decrease the amount of my settlement share. I understand that such determinations are final and binding. I understand that I may contact Class Counsel regarding any challenge if I wish.

RELEASE OF CLAIMS

My signature constitutes my full and complete release of AT&T Services, Inc. and its former and present parents, subsidiaries, and officers, directors, employees, partners, shareholders, and agents, and any other successors, assigns, or legal representatives, from any and all wage-and-hour claims of every nature or description related to the allegations in the operative Complaint in *Duane Waters vs. AT&T Services, Inc.*, filed in the U.S. District Court, Northern District of California, Case No. 3:09-CV-03983 BZ. These released claims include any and all known or unknown claims of unpaid wages, including overtime, and payments for alleged meal and rest period violations, liquidated damages, attorneys' fees and costs, any and all available penalties, including but not limited to recordkeeping penalties, pay stub penalties, minimum wage penalties, meal and rest period penalties, and waiting time penalties, interest, and other claims or penalties under federal and state wage-and-hour law up to and including the date of the final court approval of the settlement. This includes, but is not limited to, all claims of the foregoing nature that arise under the California Labor Code; Business & Professions Code §§ 17200 *et seq.*; the Private Attorneys General Act of 2004; the California Industrial Welfare Commission Wage Orders; the Fair Labor Standards Act; and claims for conversion.

DECEASED OR INCAPACITATED CLASS MEMBERS

If you are submitting this Claim Form on behalf of a class member who has passed away or become incapacitated, provide details about the capacity in which you are submitting this Claim Form on separate sheets and include them with this completed Claim Form. You will have until _____, 2010 to submit a claim on behalf of a deceased class member.

TAXPAYER IDENTIFICATION NUMBER CERTIFICATION**Substitute IRS Form W-9**

Enter the last four digits of your Social Security Number: XXX—XX—

I certify that:

1. The partial social security number shown on this form correctly states the last 4 digits of my taxpayer identification number, **and**
2. I am not subject to backup withholding because: (a) I am exempt from backup withholding, or (b) I have not been notified by the Internal Revenue Service (IRS) that I am subject to backup withholding as a result of a failure to report all interest or dividends, or (c) the IRS has notified me that I am no longer subject to backup withholding; **and**
3. I am a U.S. citizen or authorized to work in the U.S.

Note: If you have been notified by the IRS that you are subject to backup withholding, you must cross out item 2 above.

The IRS does not require your consent to any provision of this document other than this Form W-9 certification to avoid backup withholding.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Dated: _____

Signature

YOU MUST COMPLETE ALL PAGES OF THE CLAIM FORM.

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EXHIBIT 4

REQUEST FOR EXCLUSION FORM

IN THE UNITED STATES DISTRICT COURT OF CALIFORNIA
NORTHERN DISTRICT OF CALIFORNIA

Waters et al. v. AT&T Services, Inc., U.S.D.C., Case No. 3:09-CV-03983 BZ

DO NOT FILL OUT THIS FORM if you want to be included in this class action settlement and to receive your portion of the Settlement. If you do want to receive your portion of the settlement, you must complete the enclosed Claim Form and return it postmarked on or before _____, 2010.

INSTRUCTIONS

If you do not want to participate in the Settlement, you may "opt out" of the Settlement by returning this Request for Exclusion Form. If you choose to opt out of the Settlement: (a) you will have no right to receive any money under the Settlement; (b) you will not be bound by the Settlement; and (c) you will have no right to object to the Settlement and/or be heard at the final approval hearing.

To opt out, you must sign and return this Request for Exclusion Form to the Claims Administrator, c/o CPT Group, Inc., at the address listed below, and you must return it postmarked **no later than** _____, 2010.

AT&T/Waters Claims Administrator
c/o CPT Group, Inc.

OPT OUT SIGNATURE

By signing this Request for Exclusion Form, I hereby opt out of the lawsuit and the Settlement. By signing this Request for Exclusion Form, I understand that I will have no right to receive any money under the Settlement, and I will have no right to object to the Settlement and/or be heard at the final approval hearing.

Dated: _____, 2010

[Fit this all on one page]

(Signature (under penalty of perjury))

(Typed or Printed Name)

(Address)

(City, State, Zip Code)

(Telephone Number, Including Area Code)

(Last Four Digits of Social Security Number)