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13 **UNITED STATES DISTRICT COURT**  
14 **NORTHERN DISTRICT OF CALIFORNIA**

15 DUANE WATERS, DEBRA TURNER )  
16 and RUDY FAJARDO, on behalf of )  
17 themselves, all others similarly situated )  
and the general public, )  
18 Plaintiffs, )  
19 vs. )  
20 AT&T SERVICES, INC. (formerly SBC )  
Services, Inc.) and DOES 1 through 10; )  
21 Defendants. )

**Case No: CV 09-3983 BZ**

**DECLARATION OF THOMAS W. FALVEY IN SUPPORT OF MOTION FOR FINAL APPROVAL OF CLASS ACTION SETTLEMENT AND MOTION FOR AWARD OF ATTORNEYS' FEES, COSTS, CLAIMS ADMINISTRATION EXPENSES AND CLASS REPRESENTATIVE ENHANCEMENTS**

**Date: February 9, 2011**  
**Time: 10:00 a.m.**  
**Courtroom: G**

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28 Declaration of Thomas W. Falvey in support Motion for Final Approval of Settlement and Award of Attorneys' Fees and Costs, Claims Administration Expenses and Class Representative Enhancement - CV 09-3983 BZ

1 I, Thomas W. Falvey, declare as follows:

2 1. I am an attorney duly licensed to practice law in the State of California. I am a member  
3 in good standing of the State Bar of California, and the Central District of California.

4 2. I founded my law firm in 1981. Prior to that I was an attorney with the firm of Bodkin,  
5 McCarthy, Sargent & Smith (previously known as Bodkin, Breslin & Luddy), working  
6 primarily as a defense attorney. I have been practicing in the field of employment law  
7 since 1979, and have, since then, continuously represented employee-plaintiffs (and, on  
8 very rare occasions, defendant-employers). In the past several years, my practice has  
9 been exclusively devoted to the field of employment law. I have represented plaintiffs  
10 at all levels including the federal and state trial courts, the California Court of Appeal,  
11 and the Ninth Circuit Court of Appeals.

12 3. I received my Juris Doctor degree in December 1975 from U.C.L.A. School of Law and  
13 became licensed to practice law California at that time. I have an extensive background  
14 in both employment and plaintiff-oriented civil litigation. The litigation of wage and  
15 hour cases, including class action matters under both state and federal law, is a  
16 significant part of my day-to-day practice. I have been lead counsel in numerous  
17 employment cases filed under various statutes, including The Fair Labor Standards Act,  
18 Title VII of the Civil Rights Act of 1964, the California Labor Code, California Fair  
19 Employment and Housing Act, and other analogous statutes. I currently have many  
20 cases pending, and have filed numerous cases which have resulted in positive results for  
21 literally thousands of individuals, involving plaintiff's employment law, in both federal  
22 and state court.

23 4. The Law Offices of Thomas W. Falvey, consisting of two partners, your declarant and  
24 J.D. Henderson, as well as an Associate, Daniel O'Neil-Ortiz, specializes in  
25 employment matters, including class-action litigation in federal and state court. A  
26 substantial portion of our class action cases consist of wage and hour cases in California

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1 state and federal court.

2 5. I have had extensive experience in class actions and other complex litigation. In  
3 particular, I have specialized in wage and hour litigation representing classes composed  
4 of workers who have been underpaid due to violations of state and federal labor laws.

5 6. Those cases have included, among others, the following:

6 *Elkin v. Six Flags, Inc.*, Case No BC 342633, \$14,225,000 settlement in wage and hour  
7 class action involving California Labor Code violations;

8 *Tong/Chau v. CVS RX Services, Inc.*, Case No. BC349224, a \$19,750,000  
9 settlement in wage and hour class action involving California Labor Code  
10 violations.

11 *Shoff, et al v. AT&T, et al*, Case No. CV 07-3289 DSF (AGRX) (C.D. Cal.), \$16,000,000  
12 settlement in wage and hour class action involving California Labor Code violations.

13 *Silva, et al v. Getronics, et al*, Case No. No. BC 368 049 (Los Angeles County  
14 Superior Court) \$1,550,000 settlement in wage and hour class action involving  
15 California Labor Code violations.

16 *Henderson, et al v. Raytheon, et al*, Case No. BC 381 868 (Los Angeles County  
17 Superior Court) \$1,450,000 settlement in wage and hour class action involving  
18 California Labor Code violations.

19 *Doyle, et al v. AT&T*, Case No. 08 CV 1275 JAH WMC (S.D. Cal.) \$10,500,000  
20 settlement in wage and hour class action involving California Labor Code  
21 violations.

22 7. In the case of *Elkin v. Six Flags, Inc.*, LASC Case No. BC342633, the Honorable  
23 Carolyn Kuhl, Judge, awarded approximately 30% attorney fees in a case involving over  
24 30,000 possible class members, in which approximately 8,000 class members made  
25 claims.

26 8. More recently, your declarant was co-counsel in a case which has received final

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1 approval, entitled *Silva, et al v. Getronics*, et al, L.A.S.C. Case No. BC 368 049 resulting  
2 in a settlement on behalf of approximately 400 employees, for a total settlement value of  
3 \$1.55 million.

4 9. Similarly, your declarant was co-led counsel in another class action, entitled *David*  
5 *Henderson v. Raytheon Company, etc., et al*, L. A. S.C. No. BC 381 868 , et al, which  
6 case resulted in approximately 80% of class members participating in a case with a total  
7 settlement value of over \$1.4 million.

8 10. Plaintiffs' counsel has conducted significant pre-litigation investigation of this case, and  
9 engaged in substantial discovery and legal analysis during the prosecution of this action,  
10 and in preparation for mediation.

11 11. Your declarant was the attorney who filed the initial complaint in the case of *Chris Shoff,*  
12 *etc., v. AT&T Services, Inc.* Case No: CV 07-3289 DSF (AGRX), referenced above.

13 12. For reasons which must remain confidential, your declarant was contacted by various  
14 former and current AT&T IT employees asking whether they were entitled to  
15 compensation for having to work overtime.

16 13. As a result of being so contacted, your declarant visited with several such employees, as  
17 well as spoke with them, and received and responded to contact via email. As a result of  
18 my investigation, it was thus determined that a class action was in order, which resulted  
19 in filing of the instant case.

20 14. To assist the plaintiffs and class in this matter, your declarant obtained the services of  
21 the Law Firm of Schonbrun DeSimone Seplow Harris Hoffman and Harrison, LLP., who  
22 have competently and ably assisted in achieving the results presented to this court.

23 15. From the inception of the complaint herein, because we were being approached by class  
24 members, almost on a weekly basis, your declarant was in continuing contact with class  
25 members or individuals who were inquiring whether they might be class members.

26 16. Due to changes in job titles, people felt that, because they seemed to be doing jobs

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1 similar to class members, they might be entitled to be class members in this litigation as  
2 well.

3 17. As a result of my speaking with these class members and while the litigation proceed,  
4 various individual called or emailed your declarant, and most of those individuals were  
5 determined to class members. By the time the mediation took place, your declarant had  
6 been in contact with over 100 individuals concerning the possibility that they were  
7 members of this class.

8 18. Because of the nature of the settlement, by which class counsel were not apprised of the  
9 names of the class members in advance of the class notice period, your declarant, along  
10 with the firm of Schonbrun, DeSimone, et al, made it a point to seek out the class  
11 members, to apprise them of the class action.

12 19. There are many reasons why it was important to do so. As the court is aware, due to the  
13 most recent recession, many people have lost their jobs. In fact, many of the members of  
14 this class action have seen their jobs disappear, either because they were eliminated, or  
15 they outsourced to another company, to another location, or even to another state or  
16 country.

17 20. Because of that fact, it was important to continually attempt to keep addresses current.  
18 Indeed, your declarant, over the course of recent months, has had to seek out class  
19 members in various class actions in Iraq, China Afghanistan, India, and throughout the  
20 United States, in order to attempt to ensure that they received the class notice, so as to  
21 make a choice as to whether to participate in the class action or not.

22 21. While it is not known how many of the people who did *not* file a claim had moved -  
23 whether it be within California or outside the state, we do know that of the 568 claims  
24 received, 17 were from out of state and one was from Denmark. In other words, roughly  
25 3% of the class had moved out of state who made claims. One would have to assume  
26 that an even larger percentage who did not reply had to have moved out of state,

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1 especially when considering the fact that 10 - according to the third party administrator,  
2 were undeliverable.

3 22. Even before the claims process began, because of prior experience with other cases, your  
4 declarant made a decision to attempt to ensure that every class member indeed received  
5 the class notice and claim form. It is one thing for a mailing to go out. However, it is an  
6 altogether different thing for it to be received by the class member. After the claims  
7 went out, on almost a weekly basis, your declarant spoke with someone who stated  
8 he/she had never received her claim form.

9 23. It is a further fact that this effort was made more difficult because of the sheer size of the  
10 state of California and that of AT&T. AT&T consists not only of AT&T Services, Inc.,  
11 but AT&T Mobility, AT&T Interactive, AT&T, Inc., AT&T Corp., Cingular, PacBell,  
12 SBC (and yes, the latter two companies are, to your declarant's knowledge, still listed as  
13 an employer in California). The fact that AT&T utilized various corporate names  
14 resulted in a dramatic increase in the number of potential class members who contacted  
15 our law firm.

16 24. Because AT&T has employed over 45,000 people in California, it also employs people  
17 having the same name. One individual claimed that there were five other people who  
18 had been employed at one time or another with AT&T who had the same name as his.  
19 Another made the same statement, albeit claiming four similarly named employees.  
20 Even when that was not a problem within the company, there were many names who  
21 simply were great in number throughout the state. For some people in this class there  
22 were well over a hundred such named people in the state of California.

23 25. Numerous class members, either because they wanted to help their colleagues, or because  
24 they knew their colleagues had moved, tried very hard to assist us in the location of class  
25 members. Your declarant asked lead plaintiffs to assist in this regard, and while they  
26 obviously didn't know all of the class members, when they were able to do so, they

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1 helped out, each in his or her own way.

2 26. In order to attempt to find class members, numerous search engines were utilized, and a  
3 private firm retained to attempt to seek out current addresses. When new phone numbers  
4 (and on very rare occasion, email addresses) were found, calls were made to attempt to  
5 contact the correct individual. Many times, no answering machine/service was available.

6 27. Likewise, messages would be left, and no return call would be received. Later, when  
7 contact was made, class members indicated that they doubted the veracity of the call,  
8 because it sounded to good to be true. A sad reality is that the same is true for claim  
9 forms - some class members simply thought it was a fraudulent means to get personal  
10 information.

11 28. Furthermore, as the claim process was ongoing, information would be provided which  
12 was used to assist class counsel in the prosecution of the case. Surprisingly, while it  
13 seemed that the claim form was clear that claims were to be returned to CPT Group, two  
14 were originally returned to our office. I thus instructed my staff to make sure, whenever  
15 they spoke with class members, that people understood to return the claim forms to CPT.

16 29. There is a plus-side and a minus-side to providing a 60-day window to file a claim. The  
17 plus is that they will have 60 days to do so. They can think it over, talk about it with  
18 friends, colleagues, family. They need not make a rapid decision.

19 30. The minus is that, having that much time, there is the tendency to put it aside, thinking,  
20 "I've got plenty of time to decide." The problem is, the claim process took place over  
21 the fall holiday season. Claim forms get lost and put aside. One class member found his,  
22 when I called to ask him if he was filing a claim, in the back seat of his car in his  
23 briefcase. He had days to return it.

24 31. Another problem lies in the fact that some people simply don't understand the process,  
25 and are concerned that they will have to appear and testify in court. Or they are worried  
26 that they will be fired if they file a claim, even when AT&T has said that they won't be

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1 fired if they do so.

2 32. In this case, I was informed that numerous AT&T employees were given conditional  
3 terminations during the claim period, i.e., they were told that they had 60 days to find  
4 another job within AT&T or they could take early termination. They wondered if filing a  
5 claim form meant that their chance of finding such a job was either lessened or nullified  
6 altogether.

7 33. For these and countless other reasons, your declarant had his staff call and email the class  
8 members, not only before the claims were mailed out, but during the claim period. Extra  
9 staff was retained, and contacts were not only attempted and made during the day, but at  
10 nights and on week-ends.

11 34. Hundreds of hours were used in attempts to contact class members, as well as to verify  
12 that claim forms had been received. In fact, on several occasions, for whatever reason,  
13 claim forms were not received by CPT, but, because we requested copies of claim forms  
14 from class members, were able to demonstrate that they had indeed filed claims and  
15 forward copies of said claims to the claims administrator.

16 35. The claims notice indicates all that the third party administrator will attempt to do, and  
17 does its best to accomplish. The reality is, however, that in wage and hour cases,  
18 especially during the past few years, people have been let go and moved in massive  
19 numbers. Thus almost every day, your declarant was reviewing the information gleaned  
20 each day by our staff, giving further instructions as to what to do next, and constantly  
21 seeking new and different ways to find class members.

22 36. This is a reality of life. Your declarant, on an almost monthly basis, gets mail which is  
23 not his. It's also a fact that getting anything which says "Class Action Information" often  
24 makes one think that it's just another gimmick for a discount or a coupon, or an  
25 announcement that the company promises never to do it again.

26 37. In this case, however, people were getting tens of thousands of dollars. In the eyes of

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1 plaintiffs' counsel, this was the employees' money. They were entitled to it, and so they  
2 were entitled to know about the claims process, and to the best extent possible, have their  
3 questions and doubts answered.

4 38. At the same time, each class member was asked for help in locating others. Many had no  
5 information at all. Many, when they first heard about the case, were extremely dubious.  
6 But the fact that over 560 people out of 673 class members filed claims demonstrates that  
7 the overwhelming majority, when helped to fully understand what the case meant, not  
8 only to them, but others, wanted in - and wanted to assist their fellow workers, when that  
9 was possible.

10 39. It's also a reality of life that, along with 'legitimate' mail, each day one received several  
11 pieces of junk mail, not to mention election materials and weekly fliers for department  
12 and grocery stores, etc. It is far too easy, no matter how greatly we attempt to make sure  
13 that the class action notice envelope is one which the class member will open, to be  
14 overlooked.

15 40. Another factor in this case was that some people had received checks in previous AT&T  
16 class actions. That had two effects.

17 41. On the one hand, many people who received checks didn't understand why they were  
18 receiving another claim form, because they thought they had waived all rights to such  
19 wages when they signed the claim form in the previous case. They needed to understand  
20 that, because AT&T changed their job titles, the previous cases dealt with the time period  
21 when they held those job titles, and this case involved the subject titles set forth on their  
22 claim form - a different title than in the previous case in which they were involved.

23 42. On the other hand, some people felt they should be paid for time for which they had  
24 already received checks, in all candor, not recalling the time period for which they were  
25 paid earlier. When your declarant explained this to them, they understood.

26 43. The court will note that there are 8 opt-outs in this case, about 1% of the total class size.

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1 One reason a person - perhaps the most logical - would opt out in a wage and hour class  
2 action, would be to protect his or her rights for bringing such a case in the future. Thus  
3 the number of people who can be said to have benefitted by our bringing this class action  
4 can legitimately be considered to include 8 more people.

5 44. In addition, because in past cases individuals would claim that they had filed claims, but  
6 had no proof of doing so, your declarant sent out *hundreds of letters, sometimes more*  
7 *than one letter to a potential class member because of multiple addresses being found,*  
8 explaining why it was important to keep a copy of the claim form, to send it certified  
9 mail, return receipt requested if they were going to mail it, and It was because of this  
10 class participation that further protections were undertaken so as to assist class members  
11 make a fair and reasoned decision as to whether they wanted to participate in the class.

12 45. On some occasions, envelopes were returned with a forwarding address. On most  
13 occasions, no forwarding address was available. Thus my staff was instructed to  
14 continue to watch for new/previously unknown addresses for class members. When we  
15 got such new addresses, letters were sent to the class member, in hopes that this address  
16 would be correct.

17 46. Literally hundreds of names were provided to us over the course of the months during  
18 which this case went on. Because we had no way of knowing whether a person was a  
19 class member, and because we felt a duty to attempt to assist each and every class  
20 member, we tried to locate every person whose name we received. To do otherwise, as  
21 far as your declarant is concerned, would have been wrong.

22 47. I and my staff were told on numerous occasions by individuals who we believed to be in  
23 the class that they had not received claim forms. As a result, my staff and I also took the  
24 time to instruct such class members as to how to go about trying to get the claim forms  
25 sent to them in a timely fashion so they could be returned in time to qualify as a class  
26 claimant.

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1 48. In summary, there could be many reasons why an individual might not have gotten a  
2 claim form. He or she might have moved. We know that was the case for many people.  
3 It also could have simply been tossed out, assumed to be junk mail. It could have been  
4 placed in the wrong mailbox. Depending on whether one lives in a home, or in an  
5 apartment or a townhome or condominium, mail is either more or less likely to go to the  
6 correct household.

7 49. Moreover, while the post office used to retain addresses for six months, they no longer  
8 do so. Because of the rising incidences of invasions of privacy, people are more apt to  
9 keep their personal information, i.e., home addresses and email addresses, along with  
10 home and cell phone numbers private. Finding those people is obviously even more  
11 difficult.

12 50. There is also the factor of claim forms having been thrown away, without their ever  
13 being known to the class claimant. We were informed many times that people who had  
14 job titles which seemed to make them not part of this case, even though they had  
15 received class notices. Your declarant is aware of many people who are either convinced  
16 they should be in the case, or should not be in the case, simply because they were of the  
17 belief that they had certain job titles, when AT&T records stated otherwise.

18 51. I hired extra staff to attempt to locate such class members, including expending  
19 substantial amounts on search costs and mailings. In fact, because I believe it to be  
20 appropriate, the costs to your declarant from the search sources, and identifiable mailings  
21 are requested herein. However, thousands of dollars incurred in additional salaries,  
22 phone calls, fax charges, and so on have not been charged.

23 52. I believe the results achieved over the 8 weeks of seeking out class members speak for  
24 themselves. Over 84% of the class filed claims, a substantially higher number than that  
25 suggested by the court (50%) at the motion for preliminary approval.

26 53. At the hearing on the motion for preliminary approval on August 4, 2010, your declarant

1 said that we expected to do better. We did do better. We work such cases so as to get  
2 maximum benefit to the class members. The proof is shown in the fact that over 5/6 of  
3 the class filed claims, and over 6/7 of the class value was claimed by the class members.

4 54. That figure is all the more astonishing because time and again people asked if they might  
5 lose their jobs for making a claim. Several people, while the class notice period was in  
6 process, did lose their jobs. When we learned of this possibility, we contacted defense  
7 counsel and asked for and then got their agreement to inform these class members that  
8 they could make a claim in this case and not lose their severance benefits.

9 55. A like concern was similarly raised by people wondering if AT&T would know of their  
10 being in the class. We explained that AT&T had deemed them to be in the class, if they  
11 were listed as such in the names provided to CPT Group, the class administrator. But  
12 because of the nature of AT&T employment, numerous people were unsure of their job  
13 titles, and thus uncertain of their right to make a claim.

14 56. Our staff works solely and exclusively on behalf of employees and consumers. Over  
15 90% of our cases involve unpaid wage claims, for which, including this case, we have  
16 obtained over \$80 million in total settlements. We have numerous cases pending right  
17 now, many of which show no signs of settling at all. Thus, even while this case has  
18 settled, and we hope and assume that final approval will be given of the proposed  
19 settlement, there is no guarantee in any case.

20 57. While we do our utmost, for example, to not file any case which conflicts with any other,  
21 and diligently search to attempt to determine if any case has already been filed which  
22 might relate to or anticipate our case, we always run the risk that we might incur  
23 substantial time and effort in cases where there will be no payment whatsoever.

24 58. It's also fair to say that the area of wage and hour, and specifically right now in  
25 California in the arena of meal breaks, is one which can see a phenomenal change in the  
26 value of the case. We thus practice contingency in the true sense of the word.

1 59. By the time the claim period ended, I believe it fair to say that my staff attempted to  
2 contact everyone whose name were provided as possible class members.

3 60. The number of names we were provided by various other class members - because we  
4 had no way of knowing of these people *but from other employees of AT&T*, was almost  
5 800 people. We were not able to contact all of those people, but we tried to do so. For  
6 some, we never obtained a good address or phone number.

7 61. Since the inception of this case, your declarant has literally spent many hundreds of hours  
8 on this case, and I continue to assist in the prosecution of this case to the current time. It  
9 might seem like a great number of hours, but this is a reality. It will average out to about  
10 an hour per class member. Were these cases prosecuted on an individual bases, it's fair  
11 to say that one might incur 30-50 times as many hours per class member. However, in  
12 order to maximize the benefit to each class member, it takes time to view and review and  
13 constantly sift information to try to assist the class.

14 62. Without revealing privileged communications, I interviewed or corresponded with the  
15 co-lead plaintiffs, as well, and other class members on hundreds of occasions, both prior  
16 to and after commencing the lawsuit. It is fair to say that I was in communication of  
17 some form, be it conference, telephone call, email or correspondence, an average of more  
18 than four times a day since the filing of the class action complaint.

19 63. In addition, my partner, J. D. Henderson also participated in this case, as did our  
20 associate Daniel O'Neil-Ortiz.

21 64. In our practice, Mr. Henderson and your declarant firmly believe that we must constantly  
22 attempt to understand our cases. We discuss cases, ideas, facts and what we learn on our  
23 cases throughout the day. It is in that way that we can continue to move forward in  
24 prosecuting class action such as the one currently before the court. Mr. Henderson  
25 invested more than two hundred hours in this case, as set forth in his declaration,  
26 concurrently filed herewith.

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1 65. The reasons for such constant investigation and vigilance were due to the very nature of  
2 the case. As the court can appreciate, AT&T is a substantial entity. The telecom  
3 industry has been in a continual state of growth and merger over the past several years.  
4 That situation gave rise to an added need for searching of records to ascertain what  
5 admissions might have been made by the defendant companies so as to assist in this  
6 litigation. The information was, on occasion, somewhat confusing.

7 66. The results, we suggest, speak for themselves. While the vast majority of class  
8 members resided and worked in Northern California, well over 500 class members  
9 trusted plaintiffs' counsel enough to file claims. It was through the diligence and  
10 investigation undertaken by the staff in my firm, together with the attorneys in the  
11 Schonbrun DeSimone firm, that we were able to assist so many individuals in filing their  
12 claims - for an amount exceeding \$10 million.

13 67. In the hearing for the motion for preliminary approval, your declarant specifically  
14 stepped forward and made the point herein - our firms handle class actions differently.  
15 We don't sit back after the settlement is made, simply waiting to pick up our checks. We  
16 do our utmost, our very best, to see that every single person who has the right to file a  
17 claim does so.

18 68. In this case, three class members had passed on. Because I knew, statistically speaking,  
19 that it was more likely than not that some class members had done so, I made it a point to  
20 ask class members, in both telephone conversations and in emails, to think about their  
21 colleagues, and who might have passed on, so that we might try to aid their heirs.  
22 Because of this class action, it's my understanding that three such families will have  
23 benefitted from our efforts.

24 69. A fourth family, specifically a man whose former wife had died, contacted our firm,  
25 because friends of his late wife believed she might be a member of the class. To his  
26 credit, when your declarant contacted him a third time to attempt to resolve the matter, he

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1 indicated he had found that his wife did not have the job title included in this case.

2 70. Perhaps all of the above will also assist the court in understanding why our firms felt it  
3 so important to do more than sit back and let the claim process unfold. There is a certain  
4 percentage of people who get these claim forms, and for whatever reason, choose to  
5 believe they are a waste of time. Your declarant has personally spoken to people who  
6 did not file a claim form, people who were entitled to thousands and thousands of  
7 dollars, and then months later wondered if it was possible to do so. It was, of course, not  
8 possible to do so, which is why we try to find everyone we can before the last day on  
9 which claims can be filed.

10 71. As more fully explained in other declarations, the investigation and handling of this case  
11 also included the preparation of a detailed survey which was to be sent to all potential  
12 members of the class. A substantial portion of those surveys were returned. To the  
13 benefit of the entire class, the respondents provided considerable information which  
14 aided in the further investigation and prosecution of the claim. The survey led to  
15 hundreds of follow-up telephone conversations with class members, as well as the emails  
16 and face-to-face meetings noted earlier, all of which also provided considerable  
17 information which aided in the further investigation and prosecution of the claim.

18 72. As a result of our efforts, five sixth of the class members stepped forward to accept the  
19 claim as settled. Likewise, almost 90% of the workweeks claimed were achieved in  
20 terms of settlement.

21 73. Your declarant participated not only in the resulting survey which went to potential class  
22 members, but was actively engaged in seeking to help all class counsel appreciate and  
23 understand and categorize all information contained in those surveys. The beauty of the  
24 information received from the responding employees was that, because of the data  
25 provided not only directly to the questions, but also submitted as extraneous comments,  
26 it helped the case become more clear.

27 -15-

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1 74. In particular, employees who had left the company were more willing and ready (for  
 2 obvious reasons, perhaps) to explain what they had missed. Such responses, together  
 3 with calls 'out of the blue,' often-times required additional follow-up, and on some  
 4 occasions, more call-backs after that.

5 75. When it became necessary, as the time for the mediation of this case approached, all the  
 6 information gathered was used as a means to convince defense counsel that it was in the  
 7 best interests of all concerned that this case merited a reasonable settlement, which we  
 8 believe was achieved here on behalf of the class.

9 76. Throughout the process of this case, I was personally deeply involved in understanding  
 10 and winnowing the information. I easily participated in more than 3,000 emails, along  
 11 with numerous phone calls throughout the past years while this case has been in process.  
 12 I met with not only class claimants, but other class member employees. I conferred  
 13 repeatedly with class counsel.

14 77. Because I had previously visited many of the (present and former) job sites for all class  
 15 members in Southern California, including not only Los Angeles, but also San Diego and  
 16 Orange Counties and some in Northern California, I was able to better converse with  
 17 class members about their job situations. It was because of this constant effort that class  
 18 counsel were able to cooperate in bringing about this significant benefit for so many  
 19 employees, both current and former of AT&T.

20 78. My firm's costs in the prosecution of this action to this point total \$7099.30, broken  
 21 down as follows:

22	Class Member Search Costs	\$3,186.00
23	Scans	\$440.00
24	Postage	\$428.34
25	Fed-Ex	\$1,433.84
26	Copying	\$165.00

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1 Travel \$1,446.12

2 Total \$7,099.30

3 79. Your declarant has been an attorney for over 35 years. More than 30 of those years have  
4 been engaged in one form or another relating to employment cases, including not only  
5 wage and hour cases, but cases involving ERISA, wrongful termination, discrimination  
6 and harassment.

7 80. In prosecuting this case, your declarant has expended over 670 hours as of this date. In  
8 2009, your declarant was approved in three separate class actions (including one in  
9 federal court, cited above) at a rate of \$675.00 per hour. I thus believe and request that  
10 this court recognize that an equitable billable rate for my services is \$700 per hour.  
11 Thus, in computing those 670 hours at that rate of \$700 per hour, that equals more than  
12 \$460,000 in time incurred as of the date of this declaration.

13 81. My partner in my firm, J.D. Henderson, as shown in his concurrently filed declarations,  
14 has also incurred time in behalf of the class. Mr. Henderson's time, which we believe to  
15 be fairly charged at \$450/hour, of 200 hours on behalf of this case, totals about  
16 \$90,000.00.

17 82. Based upon the work done by my staff, specifically in assisting the class by searching  
18 out, attempting to contact, contacting, and then assisting in filing claim forms, I estimate  
19 that my staff incurred at least 400 hours, which, billed at a rate of \$150 per hour, a rate I  
20 believe to be valid among class counsel in this area and in this state, totals \$60,000.00.

21 83. Furthermore, your declarant will continue to incur substantial time, undoubtedly another  
22 fifty or more hours, in the preparation for the hearing on the motion for final approval,  
23 together with interaction with all counsel and class members.

24 84. I estimate that by the date of the hearing of this case, your declarant will have incurred  
25 over 700 hours, i.e., over \$500,000.00 in time, in this case.

26 85. In addition, assuming final approval is granted by the court, an equal if not greater amount

27 -17-

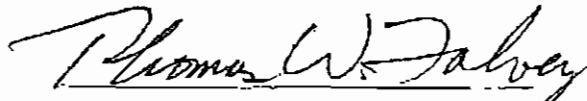
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1 of time, i.e., another 50 hours or more, will be spent thereafter in terms of class contacts,  
2 especially in responding to calls and emails from class member.

3 86. If the court is so inclined, your declarant will provide time billing records for this case, *in*  
4 *camera*, so as to not reveal confidential information, attesting to the time incurred, review  
5 of documentation, research, conferences, telephone calls, conversations, meetings, emails,  
6 and so on.

7 I declare under penalty of perjury that the foregoing is true and correct and based on my  
8 personal knowledge.

9 Executed December 21, 2010, in Pasadena, California.

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11   
12 Thomas W. Falvey  
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