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3 IN THE CIRCUIT COURT FOR THE STATE OF OREGON  
4 FOR MULTNOMAH COUNTY  
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7 **ELLIOTT YOUNG**  
8 individually and on behalf  
9 of others similarly situated

10 Plaintiff

11 vs

12 **AT&T MOBILITY LLC**

13 Defendant  
14

Case No.

**CLASS ACTION  
COMPLAINT FOR  
EQUITABLE RELIEF**

Unlawful Trade Practices  
Unjust Enrichment

Jury Trial Requested  
Filing Fee Authority: ORS 21.135  
Not Subject to Mandatory Arbitration

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16 **1.**

17 **INTRODUCTION**

18 In an effort to profit and to obtain an unfair advantage over its competitors,  
19 AT&T misled thousands of Oregon customers into paying unlawful five cent  
20 surcharges that AT&T was not permitted to collect. AT&T only said it would refund  
21 the money it wrongfully collected from Oregon customers after AT&T got caught.  
22 AT&T still has not agreed to pay its customers the \$200 penalties and interest they  
23 are entitled to under Oregon law as result of AT&T's unlawful trade practices.  
24  
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26 **2.**

27 Any Oregon customer affected by AT&T's unlawful surcharge may contact  
28 [underdoglawyer.com](http://underdoglawyer.com) or call 503-222-2000 to file a claim for \$200 compensation.

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2 **3.**

3 **FACTUAL ALLEGATIONS**

4 The Circuit Court for the County of Multnomah in Oregon has jurisdiction  
5 because the behavior alleged in this complaint took place in and around Multnomah  
6 County and because plaintiff's claim arises under the Oregon Unlawful Trade  
7 Practices Act, ORS 646.638.  
8

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10 **4.**

11 This complaint's allegations are based on personal knowledge as to plaintiff's  
12 own behavior and are made on information and belief as to the behavior of others.  
13

14 **5.**

15 Plaintiff is a college professor living in Portland, Oregon.

16 **6.**

17 Plaintiff is a "person" as that term is defined at ORS 646.605(4).  
18

19 **7.**

20 Defendant is a Delaware limited liability company.

21 **8.**

22 Defendant is a "person" as that term is defined at ORS 646.605(4).  
23

24 **9.**

25 Defendant regularly advertises and sells wireless goods and services in  
26 Oregon in the course of defendant's business.  
27  
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2 **10.**

3 In September 2019 defendant advertised and provided wireless goods and  
4 services to plaintiff and other class members in Oregon.  
5

6 **11.**

7 The wireless goods and services defendant advertised and provided to plaintiff  
8 and other class members were obtained primarily for their personal, family or  
9 household purposes.  
10

11 **12.**

12 As alleged in this complaint, in the course of defendant’s advertisement and  
13 provision of wireless goods and services to plaintiff and other class members,  
14 defendant caused likelihood of confusion or misunderstanding as to the source of  
15 defendant’s alleged five cent surcharge labeled “Portland Clean Energy Srchg”.  
16

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Surcharges & fees	
3. Federal Universal Service Charge	\$0.33
4. Portland Clean Energy Srchg	\$0.05

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21 **13.**

22 As alleged in this complaint, defendant misrepresented (through affirmative  
23 misrepresentation and by omission) the characteristics of its wireless goods and  
24 services by falsely representing to plaintiff and other class members that its wireless  
25 goods and services were subject to a Portland Clean Energy surcharge when in fact  
26 defendant knew and should have known that its wireless goods and services were  
27 not subject to a Portland Clean Energy surcharge.  
28

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2 **14.**

3 As alleged in this complaint, defendant made false or misleading  
4 representations concerning the nature of the alleged Portland Clean Energy  
5 surcharge and the obligation allegedly incurred by plaintiff and other class members  
6 to pay defendant the surcharge.  
7

8 **15.**

9 As alleged in this complaint, defendant made false or misleading  
10 representations of fact concerning plaintiff and other class members' cost for its  
11 wireless goods and services by falsely telling plaintiff and other class members that  
12 they were subject to pay a Portland Clean Energy surcharge.  
13  
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15 **16.**

16 As alleged in this complaint, defendant's behavior as alleged above violated  
17 ORS 646.608(1)(b), (e), (k), (s), and (u) and applicable Oregon Administrative Rules,  
18 causing plaintiff and other class members ascertainable loss of a surcharges they  
19 should never have been assessed, and loss of use of money and interest on surcharges  
20 they never should have been assessed.  
21

22 **17.**

23 Defendant's violation of ORS 646.608 as alleged in this complaint was willful  
24 because defendant knew or should have known that its behavior as alleged in this  
25 complaint was an unlawful trade practice, and defendant knew or should have  
26 known that its representations to plaintiff and other class members pertaining to  
27 the applicability of the Portland Clean Energy surcharge were inaccurate.  
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**18.**

Defendant knew or should have known that Oregon law protects customers from unfair and deceptive surcharges.

**19.**

Defendant's violation of ORS 646.608 was reckless because the unfair and deceptive surcharges as alleged in this complaint were in pursuit of profit and stood to give defendant an unfair advantage over its competitors in the billion-dollar wireless goods and services market that chose to follow Oregon law.

**20.**

Defendant is a multi-billion-dollar limited liability company and a wholly-owned subsidiary of AT&T Inc., which has a market cap of over \$274 billion as of October 11, 2019.

**21.**

Defendant's behavior as alleged in this complaint was reprehensible, and violated the common standards required of corporations by the people of Oregon.

3 **CAUSES OF ACTION**

4 **Claim One – Unlawful Trade Practices**

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6 This claim is not a request for damages at this time, only equitable and  
7 injunctive relief. Plaintiff and the other class members intend to request damages in  
8 an amended complaint. As alleged in this complaint, defendant’s behavior willfully  
9 violated ORS 646.608, causing plaintiff and the other class members an  
10 ascertainable loss of money or property. Under ORS 646.638 plaintiff requests an  
11 order that defendant’s behavior violated ORS 646.608, entitling plaintiff to relief  
12 under ORS 646.638, reasonable attorney fees, costs and disbursements, an order  
13 prohibiting defendant from continuing to violate ORS 646.608, an order requiring  
14 defendant to provide an accounting of the unlawful surcharges it collected in  
15 violation of ORS 646.608 in the past year, and an order requiring defendant to  
16 preserve all documents and information (and electronically stored information)  
17 pertaining to this case.  
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2 **23.**

3 **Claim Two – Unjust Enrichment**

4 This claim is not a request for damages at this time, only equitable and  
5 injunctive relief. As alleged in this complaint, defendant operated a common scheme  
6 to profit from the collection of misleading surcharges that were not allowed by law.  
7 As a matter of justice and equity, defendant should not be able to retain the unlawful  
8 surcharges it collected from plaintiff and the other class members. Under a theory  
9 of unjust enrichment, plaintiff requests an order that defendant’s behavior violated  
10 Oregon law, entitling plaintiff to reasonable attorney fees, costs and disbursements,  
11 an order prohibiting defendant from continuing to violate Oregon law, an order  
12 requiring defendant to provide an accounting of the unlawful surcharges it collected  
13 in violation of Oregon law in the past year, and an order requiring defendant to  
14 preserve all documents and information (and electronically stored information)  
15 pertaining to this case.  
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20 **24.**

21 **REQUEST FOR JURY TRIAL**

22 Plaintiff respectfully requests a trial by a jury.  
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2 **25.**

3 **PRAYER FOR RELIEF**

4 Plaintiff respectfully requests relief against defendant as sought in  
5 paragraphs 22 and 23, and any other relief the Court may deem appropriate, and an  
6 order appointing class counsel and an order certifying this case as a class action.  
7

8  
9 October 11, 2019

10 **RESPECTFULLY FILED,**

11 /s/ Michael Fuller

12 **Michael Fuller, OSB No. 09357**

13 Lead Attorney for Plaintiff

14 OlsenDaines

15 US Bancorp Tower

16 111 SW 5th Ave., Suite 3150

17 Portland, Oregon 97204

18 [michael@underdoglawyer.com](mailto:michael@underdoglawyer.com)

19 Direct 503-222-2000

20 **Kelly Jones, OSB No. 074217**

21 Of Attorneys for Plaintiff

22 The Law Office of Kelly Jones

23 [kellydonovanjones@gmail.com](mailto:kellydonovanjones@gmail.com)



1  
2 **CERTIFICATE OF SERVICE**

3 I certify that I caused this document and all attachments to be served on:  
4

5 **State of Oregon**  
6 **c/o Oregon Department of Justice**  
7 **1162 Court St. NE**  
8 **Salem, Oregon 97301-4096**

9 October 11, 2019  
10

11 /s/ Michael Fuller

12 **Michael Fuller, OSB No. 09357**

13 Lead Attorney for Plaintiff

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