

COPY

1 Robert A. Curtis, State Bar No. 203870
2 **FOLEY BEZEK BEHLE & CURTIS LLP**
3 15 West Carrillo Street
4 Santa Barbara, California 93101
5 Telephone: (805) 962-9495
6 Facsimile: (805) 962-0722

7 J. Paul Gignac, State Bar No. 125676
8 Lisa Johnston Nicholes, State Bar No. 242852
9 **ARIAS OZZELLO & GIGNAC^{LLP}**
10 4050 Calle Real, Suite 130
11 Santa Barbara, California 93110
12 Telephone: (805) 683-7400
13 Facsimile: (805) 683-7401

14 Attorneys for Plaintiff

FILED
SUPERIOR COURT OF CALIFORNIA
COUNTY OF RIVERSIDE

OCT 02 2007

E. LaBarbera

10 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
11 **COUNTY OF RIVERSIDE**

13 ROCHELLE SAENZ, on behalf of herself and all
14 others similarly situated,

15 Plaintiff,

16 vs.

17 AT&T CORP., a New York corporation; and
18 DOES 1 through 20, inclusive,

19 Defendants.

Case No. INC 039363

Assigned to the Honorable Lawrence W. Fry

**[PROPOSED] ORDER GRANTING
CLASS CERTIFICATION**

Date: August 31, 2007
Time: 8:30 a.m.
Dept.: 2J

22 ///

23 ///

24 ///

25 ///

26 ///

27 ///

1 The motion for class certification filed by plaintiff Rochelle Saenz ("Plaintiff"), on behalf
2 of herself and the proposed class (the "Class"), and was heard by and before this Court on
3 _____, 2007.

4 The Court, having read and considered all of the papers filed in support of and in
5 opposition to the motion for class certification, and having heard and considered oral argument
6 thereon, grants the motion for class certification as follows:

7 1. The motion for class certification is granted, based upon the Court's
8 determination, pursuant to *California Code of Civil Procedure* section 382 and Rule 3.765 of the
9 *California Rules of Court*, that:

- 10 a. the Class is ascertainable;
- 11 b. the Class is sufficiently numerous that it is impracticable to bring all
12 members of the Class ("Class members") before the Court;
- 13 c. there are one or more questions of law or fact which are common to the
14 Class members;
- 15 d. the questions of law and fact common to the Class members predominate
16 over the questions of law or fact affecting only individual Class members;
- 17 e. AT&T Corp. has acted on grounds generally applicable to the Class;
- 18 f. Plaintiff's claims are typical of the claims of the other Class members;
- 19 g. Plaintiff will fairly and adequately protect the interests of the Class which
20 she will represent; and
- 21 h. the class action procedure is superior to any other available method for the
22 fair and efficient adjudication of the claims asserted in this action.

23 2. The Class is certified by the Court with respect to the cause of action for
24 Declaratory Relief as alleged in the Third Amended Complaint.

25 3. The certified Class is defined as:

26 [A]ll persons residing within the State of California who, at any time between
27 November 3, 1999 and October 1, 2004, contracted with defendant AT&T Corp.
28 for the use of a calling card under the One Rate Calling Card Plan and who were
billed at a rate in excess of twenty-five cents per minute for any calls initiated by
using their calling cards.

1 4. Plaintiff is certified as the representative of the Class.

2 5. J. Paul Gignac of Arias Ozzello & Gignac^{LLP} and Robert A. Curtis of Foley
3 Bezek Behle & Curtis LLP are appointed as co-counsel for the Class.
4

5 **IT IS SO ORDERED.**

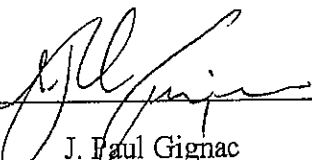
6
7 Dated: OCT 02 2007

RANDALL D. WHITE
Honorable Lawrence W. Fry
Riverside County Superior Court Judge

8
9
10 Prepared and submitted by:

11 FOLEY BEZEK BEHLE & CURTIS LLP

12 ARIAS OZZELLO & GIGNAC^{LLP}

13
14 
15 _____

16 J. Paul Gignac
Attorneys for Plaintiff

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

PROOF OF SERVICE

STATE OF CALIFORNIA, COUNTY OF RIVERSIDE

I am employed in the State of California, County of Santa Barbara. I am over the age of eighteen and am not a party to the within action; my business address is 4050 Calle Real, Suite 130, Santa Barbara, CA 93110. I declare that I am employed in the office of a member of the bar of this court at whose direction the service was made.

On July 24, 2007, I served the foregoing document described as: [PROPOSED] ORDER GRANTING CLASS CERTIFICATION on the interested parties in this action by transmitting [] the original [✓] a true copy thereof as follows:

[] (BY FAX) I hereby certify that this document was served by facsimile delivery on the parties listed herein at their most recent fax number of record in this action on from Santa Barbara, California.

[✓] (BY OVERNIGHT DELIVERY) I am "readily familiar" with this firm's practice of collection and processing correspondence for express mailing. Under that practice, overnight packages are enclosed in a sealed envelope with a packing slip attached thereto with postage thereon fully prepaid. The packages are deposited in the office of the building for overnight pickup in the ordinary course of business, addressed as follows:

Phillip J. Eskenazi, Esq.	Riverside County Superior Court
Akin Gump Strauss Hauer & Feld LLP	Clerk of the Court
2029 Century Park East, Suite 2400	46-200 Oasis Street
Los Angeles, CA 90067	Indio, California 92201

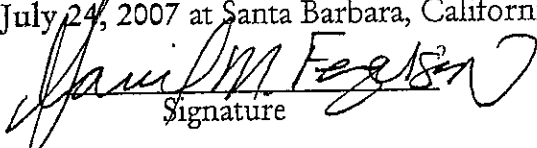
[] (BY PERSONAL SERVICE) I delivered such envelope by hand to the offices of the addressee named herein.

[✓] (BY MAIL), as follows: I deposited the envelopes for mailing in the ordinary course of business at Santa Barbara, California. I am "readily familiar" with this firm's practice of collection and processing correspondence for mailing. Under that practice, the sealed envelopes are deposited with the U.S. Postal Service that same day in the ordinary course of business, with postage thereon fully prepaid at Santa Barbara, California, addressed as follows:

Robert A. Curtis, Esq.
FOLEY, BEZEK, BEHLE & CURTIS, LLP
15 W. Carrillo Street
Santa Barbara, CA 93101

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed this July 24, 2007 at Santa Barbara, California.

Aariel M. Ferguson
Type or Print Name


Signature