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DAVIS WRIGHT TREMAINE

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IN THE CIRCUIT COURT OF THE STATE OF OREGON
FOR THE COUNTY OF MULTNOMAH

AT&T COMMUNICATIONS OF THE
PACIFIC NORTHWEST, INC. AND TCG
OREGON.

Plaintiffs,

v.

QWEST CORPORATION

Defendant.

Case No. 0607-07247

**ORDER DENYING MOTION TO
DISMISS AND GRANTING MOTION
TO STRIKE AS MODIFIED DURING
ORAL ARGUMENT**

Defendant Qwest Corporation's Motion to Dismiss and Motion to Strike came for hearing before the Court, the Honorable Richard Baldwin, Circuit Court Judge, presiding, on October 27, 2006. Sarah Wallace of Davis Wright Tremaine LLP and Theodore Livingston of Mayer, Brown, Rowe & Maw LLP (admitted *pro hac vice*) appeared for plaintiffs; Alex Duarte, corporate counsel for defendant, appeared for defendant.

The Court has considered the pleadings and briefs submitted by the parties, and the argument presented by the parties at oral argument. After considering such material and the court file, and upon oral argument, it is hereby

ORDERED that

(1) defendant's Motion to Dismiss is DENIED,

(2) defendant's Motion to Strike certain allegations of plaintiffs' Complaint is GRANTED AS MODIFIED during oral argument, and

1 (3) plaintiffs have leave to replead within ten days from the date of entry of this Order.

2 (4) the denial of the Motion to Dismiss is without prejudice to defendant filing a motion
3 to dismiss to the amended complaint.

4 DATED this 2ND day of NOVEMBER, 2006.

5
6 s/ RICHARD C. BALDWIN
RICHARD BALDWIN, CIRCUIT COURT JUDGE

7 SUBMITTED BY:

8
9 

10 DAVIS WRIGHT TREMAINE LLP

11 Mark P. Trinchero, OSB #88322

12 Eric L. Dahlin, OSB #96572

13 Sarah K. Wallace, OSB #00292

14 Of Attorneys for Plaintiffs

15 Phone: 503-241-2300

16 Fax: 503-778-5299

17 Email: marktrinchero@dwt.com

18 Of Attorneys for Plaintiff

1 CERTIFICATE OF SERVICE

2 I hereby certify that I served a copy of the foregoing **ORDER DENYING**
3 **MOTION TO DISMISS AND GRANTING MOTION TO STRIKE AS MODIFIED**
4 **DURING ORAL ARGUMENT** on:

5 Alex M. Duarte
6 Qwest
7 421 SW Oak Street, Suite 810
8 Portland, OR 97204
9 Telephone (503) 242-5623
10 Facsimile (503) 242-8589
11 Email Alex.Duarte@qwest.com
12 Of Attorneys for Defendant

13 by mailing a copy thereof in a sealed, first-class postage prepaid envelope,
14 addressed to said attorney's last-known address and deposited in the U.S. mail at Portland,
15 Oregon on the date set forth below;

16 by causing a copy thereof to be hand-delivered to said attorney's address as
17 shown above on the date set forth below;

18 by personally handing a copy thereof to said attorney on the date set forth
19 below;

20 by sending a copy thereof via electronic mail to said attorney's last-known
21 e-mail address on the date set forth below; or

22 by faxing a copy thereof to said attorney at his/her last-known facsimile
23 number on the date set forth below.

24 Dated this 2nd day of November, 2006.

25 DAVIS WRIGHT TREMAINE LLP

26 By 

Mark P. Trincherro, OSB #88322
Eric L. Dahlin, OSB #96572
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