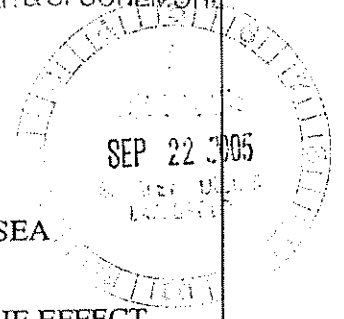


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IN THE SUPERIOR COURT OF WASHINGTON  
FOR KING COUNTY

SANDY JUDD, TARA HERIVEL, and  
ZURAYA WRIGHT, for themselves, and on  
behalf of all similarly situated persons,

Plaintiff,

v.

AMERICAN TELEPHONE AND  
TELEGRAPH COMPANY, GTE  
NORTHWEST INC., CENTURYTEL  
TELEPHONE UTILITIES, INC,  
NORTHWEST TELECOMMUNICATIONS,  
INC., d/b/a PTI COMMUNICATIONS, INC.,  
U.S. WEST COMMUNICATIONS, INC., and  
T-NETIX, INC.,

Defendants.

Case No.: 00-2-17565-5 SEA

AT&T'S MOTION FOR  
CLARIFICATION OF THE EFFECT  
OF THE SEPTEMBER 7, 2005  
ORDER GRANTING DEFENDANT  
T-NETIX'S MOTION FOR  
SUMMARY JUDGMENT

**I. INTRODUCTION AND RELIEF REQUESTED**

AT&T Corp. ("AT&T") requests that the Court clarify the effect of its September 7, 2005 Order Granting Defendant T-Netix's Motion for Summary Judgment. The Court granted T-Netix, Inc.'s ("T-Netix") motion for summary judgment based on the ground that Plaintiffs have no standing to pursue their claims. Accordingly, the Court should enter an order dismissing the claims against all Defendants.

AT&T'S MOTION FOR CLARIFICATION OF THE EFFECT OF THE SEPTEMBER  
7, 2005 ORDER GRANTING DEFENDANT T-NETIX'S MOTION FOR SUMMARY  
JUDGMENT - 1  
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STOKES LAWRENCE, P.S.  
800 FIFTH AVENUE, SUITE 4000  
SEATTLE, WASHINGTON 98104-3179  
(206) 626-6000

## II. BACKGROUND

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2 This matter had been stayed while the Washington Utilities and Transportation  
3 Commission ("WUTC") was considering certain questions referred to it by the Court. The stay  
4 was lifted so that T-Netix could move for summary judgment on the basis that Plaintiffs lack  
5 standing because they cannot demonstrate that they have suffered a legally cognizable injury. As  
6 T-Netix explained in its motion, there is no genuine dispute that (i) Plaintiffs' phone bills  
7 indicate that all of the inmate-initiated calls they received were intraLATA calls,<sup>1</sup> (ii) all of these  
8 calls were carried by local exchange carriers ("LECs") PTI, US West, or GTE, and (iii) none of  
9 these LECs was obligated to disclose its rates because they all had received exemptions or  
10 waivers from the WUTC. T-Netix's Motion for Summary Judgment at 13. Plaintiffs, therefore,  
11 were not entitled to receive rate disclosures for these calls and could not have been injured by  
12 any alleged failure to disclose such rates.

13 The Court granted T-Netix's motion for summary judgment and, on September 7, 2005,  
14 entered a proposed order submitted by T-Netix. The order states: "Ordered, Adjudged and  
15 Decreed that T-Netix's Motion for Summary Judgment is Granted." AT&T now moves to make  
16 explicit what is implicit in that order — that the claims against all Defendants, T-Netix and  
17 AT&T, must be dismissed with prejudice.

## III. ISSUE PRESENTED

18  
19 Where the Court grants summary judgment based on Plaintiffs' lack of a legally  
20 cognizable injury sufficient to support standing to pursue their claims, should the court enter an  
21 order dismissing Plaintiffs' claims against all Defendants?  
22  
23

24  
25 <sup>1</sup> Although Plaintiff Herivel alleges that she received one interLATA call, the factual record does not support her  
26 allegation. T-Netix's Motion for Summary Judgment at 14-15; see *Allan v. University of Wash.*, 140 Wash. 2d 323,  
329, 997 P.2d 360, 363 (2000) (plaintiff must make "a factual showing of perceptible harm") (quoting *Lujan v.*  
*Defenders of Wildlife*, 504 U.S. 555, 566 (1992)).

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#### IV. DISCUSSION

Standing is a threshold question. If Plaintiffs lack standing, then they may not pursue their claims. The Court, by granting T-Netix's motion for summary judgment, necessarily determined that Plaintiffs lack standing because there was no disclosure obligation to them that would support their claims. That lack of standing applies equally to T-Netix and AT&T, and requires dismissal of Plaintiffs' claims against all Defendants.

Therefore, in the interests of the efficient administration of justice, the Court should clarify the effect of its September 7, 2005 Order and explicitly dismiss Plaintiffs' claims against all defendants with prejudice. AT&T respectfully requests that the Court enter the attached proposed order.

DATED this 22nd day of September, 2005.

STOKES LAWRENCE, P.S.

By:   
Kelly Twiss Noonan (WSBA #19096)  
Michael Patrick McGinn (WSBA #22431)  
Attorneys for Defendant AT&T Corp.

HONORABLE JEFFREY M. RAMSDELL

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IN THE SUPERIOR COURT OF WASHINGTON  
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SANDY JUDD, TARA HERIVEL, and  
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AMERICAN TELEPHONE AND  
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NORTHWEST TELECOMMUNICATIONS,  
INC., d/b/a PTI COMMUNICATIONS, INC.,  
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T-NETIX, INC.,

Defendants.

Case No.: 00-2-17565-5 SEA

ORDER GRANTING AT&T'S  
MOTION FOR CLARIFICATION OF  
THE SEPTEMBER 7, 2005 ORDER  
GRANTING DEFENDANT T-  
NETIX'S MOTION FOR SUMMARY  
JUDGMENT  
(proposed)

This matter having come before the Court on Defendant AT&T's Motion for  
Clarification of the Effect of the September 7, 2005 Order Granting Defendant T-Netix's Motion  
for Summary Judgment, the Court having reviewed the Motion and all response documents, if  
any, filed by Plaintiffs and other Defendants and reply documents, if any, filed by AT&T, and  
having on September 7, 2005 entered an Order Granting Defendant T-Netix's Motion for  
Summary Judgment on the ground that Plaintiffs lack standing to assert claims against  
Defendants T-Netix and AT&T, it is now  
ORDER GRANTING AT&T'S MOTION FOR CLARIFICATION OF THE  
SEPTEMBER 7, 2005 ORDER GRANTING DEFENDANT T-NETIX'S MOTION FOR  
SUMMARY JUDGMENT - 1

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1 ORDERED that AT&T's Motion for Clarification of the Effect of the September 7, 2005  
2 Order Granting Defendant T-Netix's Motion for Summary Judgment is granted, and that  
3 Plaintiffs' claims against the Defendants are dismissed with prejudice.

4 DATED this \_\_\_\_ day of September, 2005.

5  
6  
7 \_\_\_\_\_  
8 The Honorable Jeffrey M. Ramsdell  
9

10 Presented by:

11 STOKES LAWRENCE, P.S.  
12

13 By: 

14 Kelly Twiss Noonan (WSBA #19096)  
15 Michael Patrick McGinn (WSBA #22431)  
16 Attorneys for Defendant AT&T Corp.  
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ORDER GRANTING AT&T'S MOTION FOR CLARIFICATION OF THE  
SEPTEMBER 7, 2005 ORDER GRANTING DEFENDANT T-NETIX'S MOTION FOR  
SUMMARY JUDGMENT - 2

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