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Washington Court of Appeals, Division Three
By _____

No. 243991

COURT OF APPEALS, DIVISION III
OF THE STATE OF WASHINGTON

81006-1

AT&T CORP.,

Appellant,

v.

MICHAEL McKEE,

Respondent.

**APPEAL FROM THE SUPERIOR COURT
FOR CHELAN COUNTY
HONORABLE JOHN E. BRIDGES**

RESPONDENT'S STATEMENT OF ADDITIONAL AUTHORITIES

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STATEMENT OF ADDITIONAL AUTHORITIES

Pursuant to RAP 10.8, Respondent submits this statement of additional authorities to provide the Court with the recent decision in *Muhammad v. County Bank of Rehoboth Beach, Delaware*, --- A.2d ---, 2006 WL 2273448 (N.J. Aug. 9, 2006).

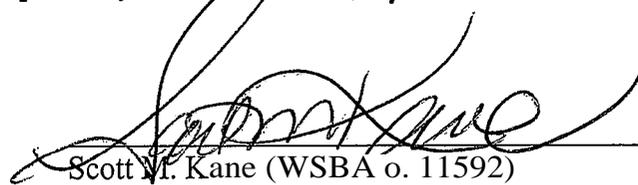
The *Muhammad* court held that the class arbitration waiver in County Bank's consumer contract of adhesion is unconscionable and unenforceable under New Jersey law, because it would effectively serve as an exculpatory clause. 2006 WL 2273448 at *1; *id.* at *7-10. The court noted that, as an individual case, the plaintiff's claim "involves a small amount of damages, rendering individual enforcement of her rights, and the rights of her fellow consumers, difficult if not impossible. In such circumstances a class-action waiver can act effectively as an exculpatory clause." *Id.* at *8. That holding is relevant to Respondent's argument that the class action ban in AT&T's arbitration clause is unconscionable under Washington law because it would effectively serve as an exculpatory clause. Br. of Respondent at 35-39.

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Respectfully submitted this 14th of August, 2006

A large, stylized handwritten signature in black ink, appearing to read "Scott M. Kane". The signature is written over a horizontal line.

Scott M. Kane (WSBA o. 11592)

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