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No. 243991

In the Office of the Clerk of Court
Washington Court of Appeals, Division Three

By 

**COURT OF APPEALS, DIVISION III
OF THE STATE OF WASHINGTON**

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

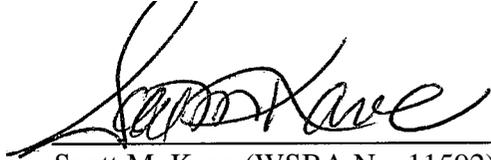
Pursuant to RAP 10.8, Respondent submits this statement of additional authorities to provide the Court with the recent decision in *Lowden v. T-Mobile, USA, Inc.*, 2006 WL 1009279 (W.D. Wash. April 13, 2006). In *Lowden*, the U.S. District Court for the Western District of Washington held that a class action ban in a wireless company's arbitration clause is substantively unconscionable and unenforceable under Washington law.

First, the *Lowden* court held that the class action ban in T-Mobile's arbitration clause is substantively unconscionable under Washington law because it would "deprive Plaintiffs of the means to effectively vindicate their rights under the CPA." 2006 WL 1009279 at *6. 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.

Second, the *Lowden* court held that the class action ban in T-Mobile's arbitration clause is substantively unconscionable under Washington law because, although nominally mutual, the term is "effectively one-sided because there is no conceivable set of facts under which T-Mobile would bring a class action against its customers." 2006

WL 1009279 at *6. That holding is relevant to Respondent's argument that the class action ban in AT&T's arbitration clause is effectively one-sided and thus substantively unconscionable under Washington law. Br. of Respondent at 33-35.

Respect. +1 submitted this 10 day of June, 2006



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