

FILE

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BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Complaint of
Dr. Adam Edge,

Complainant,

vs.

Choice One Communications of
Ohio Inc. d/b/a One Communications,

Respondent.

Case No. 07-892-TP-CSS

PUCO

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COMPLAINANT'S MEMORANDUM CONTRA TO RESPONDENT'S
RENEWED MOTION TO DISMISS

Now comes Complainant, by and through counsel, and hereby respectfully requests that this Court deny Respondent's Renewed Motion to Dismiss. On February 21, 2007, Dr. Adam Edge contacted this office for representation in the matter before the Public Utilities Commission of Ohio. Prior to that date, he had not sought legal advice and assumed he could represent himself, and his business entity, in a proceeding before the Public Utilities Commission of Ohio. Pursuant to Ohio Law, and in stipulation with Respondent, counsel for Dr. Edge respectfully agrees that attorney representation is needed in this matter under Ohio Law. Attached, please find a copy of the formal letter of representation attached hereto as Exhibit A.

On an additional note, Respondent is asking this Court to dismiss the Complaint based upon the Answer which alleges that all of the issue in the

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Complaint had been satisfied. Respondents are relying on Rule 4901-9-01(f) to support their allegation.

Under Ohio Law, Courts have long had a policy affording considerable leniency of pro se litigants. Courts have firmly rejected notions that pro se litigants are to be held to the same standard as attorneys during proceedings. Highland County Board of Commissioners v. Fasbender (1999) 4th Dist., Case No. 98 CA 24, 1999 Ohio App. LEXIS 3565. Additionally, most Courts afford considerable leniency to briefs and other materials filed by pro se litigants. Burns v. Webb (1998) 4th Dist., Case No. 97 CA 45, 1998 Ohio App. LEXIS 4896, citing Besser v. Griffey (1993) 88 Ohio App. 3d 379, 382; 623 N.E. 2d 1326. The only limitations is that a Court is not required, or will not attempt to construct arguments for the pro se litigant or try to discern some argument from a convoluted pleading. *Id* at 14.

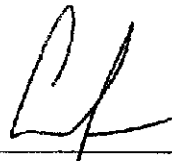
In the case at bar, Dr. Edge filed a Complaint on August 3, 2007. One Communications responded by filing their Answer on or about August 22, 2007, that included the defense of satisfaction. Sometime thereafter, Dr. Edge contacted the PUCO and was directed to file a written request for a formal hearing. Attached please see the Sworn Affidavit of Dr. Adam Edge attached as Exhibit B. On October 1, 2007, Dr. Edge responded to this Answer in a response that was addressed to the Docketing Clerk of the Public Utilities Commission of Ohio, attached hereto as Exhibit C. In this response, Dr. Edge specifically stated that "I am dissatisfied with the One Communications offer of \$160.00 or \$16.00 a

day for the loss of ten (10) days of service". He further responds that "it is my opinion that One Communications gave poor service, did not follow through fast enough or offer any alternative way of having my patients able to call into my office. I can show loss of income, services of loss of new patients to my office. We have suffered an economic loss due to poor performance and bad service of One Communications".

Although Respondents allege that this response is untimely, it is clear he contacted PUCO sometime prior to writing this letter. According to his Affidavit, he recalls it was sometime around the end of August. Clearly, this should substantiate the plea for leniency in this matter.

Accordingly, Respondent's Renewed Motion to Dismiss should be denied as Dr. Adam Edge is now represented by counsel and because an appropriate response was given under the Ohio Administrative Code Section. For the foregoing reasons said Renewed Motion to Dismiss should be denied.

RESPECTFULLY SUBMITTED,



AARON R. FALVO (0076301)
Blumenstiel, Huhn, Adams & Evans
261 West Johnstown Road
Columbus, OH 43230
Telephone: 614-475-9511
Fax: 614-475-0348

Attorney for Complainant

CERTIFICATE OF SERVICE

The undersigned hereby certifies that true copy of the foregoing has been served upon counsel below by regular U.S. MAIL, postage prepaid, this 7th day of March, 2008:

Lori A. Catalano, Esq.
Michael D. Dortch, Esq.
Kravitz, Brown & Dortch
65 E. State Street, Suite 200
Columbus, Ohio 43215

Attorney for Respondent
One Communications of Ohio Inc.



Attorney for Complainant

LAW OFFICES

BLUMENSTIEL, HUHN, ADAMS & EVANS, LLC

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AARON R. FALVO

BRADEN A. BLUMENSTIEL

OF COUNSEL

C. RICHARD GRIESER

March 6, 2008

Public Utilities Commissions of Ohio
Attention: Docketing
180 East Broad Street
Columbus, Ohio 43215

Lori A. Catalano, Esq.
Michael D. Dortch, Esq.
Kravitz, Brown & Dortch
65 E. State Street, Suite 200
Columbus, Ohio 43215

RE: In the Matter of the Complaint of Dr. Adam Edge v. Choice One
Communications of Ohio, Inc. d/b/a One Communications
Case No: 07-892-TP-CSS

Dear Clerk and Counsel:

Please be advised that this office has been retained to represent Adam Edge regarding the above referenced case. Please forward all future communications to this office. I look forward to working with you.

Very truly yours,



Aaron R. Falvo

ARF: hs

ENGAD 800-631-6389

PLAINTIFF'S
EXHIBIT

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BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Complaint of	:	
Dr. Adam Edge,	:	
	:	Case No. 07-892-TP-CSS
Complainant,	:	
	:	
vs.	:	
	:	
Choice One Communications of	:	
Ohio Inc. d/b/a One Communications,	:	
	:	
Respondent.	:	

AFFIDAVIT OF DR. ADAM EDGE

STATE OF OHIO

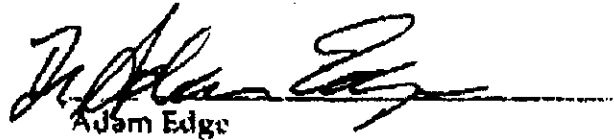
COUNTY OF FRANKLIN

Now comes affiant and further states as follows:

1. My name is Dr. Adam Edge and I currently own a chiropractic practice known as Advantage Health and Rehabilitation Center and Family Chiropractic Center located at 5060 Cemetery Road, Columbus, Ohio 43026.
2. On August 3, 2007, I filed a formal Complaint with the Public Utilities Commission of Ohio against One Communications for misrepresentations and other issues that had arisen as a result of poor service and lack of customer service. Because I was uncertain as to the procedures that needed to be met when filing a Complaint, I contacted Mr. Jennings of the PUCO numerous times.

3. I did receive a copy of the Answer that was filed by One Communications on or about August 22, 2007.
4. To the best of my recollection, on or about the day I received the Answer of One Communications, I contacted Mr. Jennings of the PUCO and was told I needed to request a formal hearing in writing. I relayed my concerns and disagreements with the language of the Answer during this phone call as well.
5. On October 1, 2007, I forwarded the letter to the Docketing Clerk of the Public Utilities Commission of Ohio attached to the Response as Exhibit C.

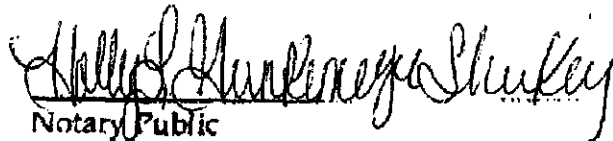
Further affiant sayeth naught:


Adam Edge

Sworn to before me and subscribed in my presence this 10th day
of March, 2008



HOLLY L. GRUNKEMEYER
Notary Public, State of Ohio
My Commission Expires 09-02-08


Notary Public

FILE

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2007 OCT 10 AM 10:48

PUCO

ADVANTAGE HEALTH
&
REHABILITATION CENTER

DR. ADAM C. EDGE
CHIROPRACTIC PHYSICIAN

DR. DARREN J. HOLSTEN
DR. MICHAEL A. NOVAK
DR. ADAM C. EDGE

October 01, 2007

The Public Utilities Commission Of Ohio

Attn:
Docketing 180 East Broad Street
Columbus, Ohio 43215
Case No. 07-892-TP-CSS,

In response to R. Edward Price Senior Director and Counsel of One Communications letter. He stated (Dr. Edge) should have contacted One Communications first prior to filing a formal complaint with P.U.C.O. I am sorry that One Communications couldn't realize that when I notified them, that my patients could not call in to make appointments to my office they failed to understand this was a problem.

Any reasonable person would assume since Dr. Edge spoke with Kim Nguyen Sales Rep. for One Communications several times who stated "the transfer from X/O would be seamless", Ben Barriah of One Communications several times, Susan A. supervisor for One Communications several times, Angela of One Communications several times, Mike Schomaker One Source several times, Jeramie at One Communications several times. Katherine Hart at One Communication several times, Kris at One Communications several times. One would think that after speaking to all these people at One Communications they would realize there is a problem.

Apparently to get good service Mr. Price feels I should have made a written complaint to One Communications rather than calling the 18 to 20 times. Believe me when I say I called several times a day, about the problem. I guess the only way to communicate with a telephone company is through the U.S. Postal Service. Basically I am dissatisfied with One Communications offer of 160.00 dollars or 16.00 a day for the loss of 10 days service, to have me go away.

It is my opinion that One Communications gave poor service, did not follow through fast enough nor offer any alternative way of having my patients being able to call in to my office. I can show loss of income, services and loss of new patients to my office. We have suffered an economic loss due to poor performance and bad service of One Communications.

I will need to request a formal hearing for my loss of service and damages of \$600.00 per day for 10 days totaling \$6000.00 in lost revenue, by not being able to schedule and treat existing patients. The loss of new patients.

Sincerely,



Dr. Adam Edge

A.E.

d/a/k

MT. GILEAD OFFICE

144 W. High St.
Mt. Gilead, OH 43338
(419) 947-7500
(419) 947-7567 Fax

COLUMBUS OFFICE

5060 Cemetery Rd.
Hilliard, OH 43026
(614) 527-1776
(614) 527-1774 Fax

MT. VERNON OFFICE

701 W. High St.
Mt. Vernon, OH 43050
(740) 393-3107
(740) 393-3131

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PLAINTIFF'S
EXHIBIT
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