

FILE

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BEFORE  
THE PUBLIC UTILITIES COMMISSION OF OHIO

William Steven Gandee, D.C.	)	
	)	
Complainant,	)	
v.	)	Case No. 09-51-TP-CSS
	)	
Choice One Communications of Ohio	)	
Inc. d/b/a One Communications	)	
	)	
Respondent.	)	
	)	
Brian Longworth, D.C.	)	
	)	
Complainant,	)	
v.	)	Case No. 09-52-TP-CSS
	)	
Choice One Communications of Ohio	)	
Inc. d/b/a One Communications	)	
	)	
Respondent.	)	

DIRECT TESTIMONY OF RICHARD WHEELER  
ON BEHALF OF CHOICE ONE COMMUNICATIONS OF OHIO, INC.  
D/B/A ONE COMMUNICATIONS.

_____	Management Policies, Practices, & Organization
_____	Operating Income
_____	Rate Base
_____	Allocations
_____	Rate of Return
_____	Rates and Tariffs
<u>  X  </u>	Other—Consumer Complaint

PUCO

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## **I. INTRODUCTION**

1 **Q. PLEASE STATE YOUR NAME AND BUSINESS ADDRESS.**

2 A. My name is Richard Wheeler, and my business address is 5 Wall Street, Burlington,  
3 Massachusetts 01803.

4 **Q. BY WHOM ARE YOU EMPLOYED AND IN WHAT CAPACITY?**

5 A. I am employed by One Communications Corp., the parent company of Choice One  
6 Communications of Ohio, Inc. d/b/a One Communications (One Communications), as its  
7 Strategic Compliance Implementation Manager.

8 **Q. PLEASE SUMMARIZE YOUR EDUCATION AND PROFESSIONAL**  
9 **QUALIFICATIONS.**

10 A. I received a B.A. in History and Political Science from Washington University in St. Louis  
11 in 1993. I received my J.D. from Suffolk University Law School in 1998. I was admitted to  
12 the Massachusetts bar in December, 1998.

13 **Q. PLEASE SUMMARIZE YOUR WORK EXPERIENCE.**

14 A. I have worked for One Communications for four years. Prior to that, I had my own law firm  
15 for five years. I worked at another competitive local exchange carrier ("CLEC"), Servisense,  
16 for two years. I also worked at the Massachusetts Department of Telecommunications and  
17 Energy in its Cable and Consumer Divisions for two years.

18 **Q. PLEASE DESCRIBE YOUR DUTIES AS STRATEGIC COMPLIANCE**  
19 **IMPLEMENTATION MANAGER.**

20 A. As Strategic Compliance Implementation Manager, I am responsible for ensuring that One  
21 Communications and its affiliates are in compliance with all relevant state and federal  
22 telecommunications regulations. In addition, I oversee One Communications' responses to

1 all law enforcement requests, serve as the One Communications' CPNI/Red Flags/Privacy  
2 compliance manager, coordinate One Communications' compliance trainings, and handle  
3 matters related to network outages and emergency preparedness. Finally, I am responsible  
4 for responding to all criminal and civil subpoenas for call detail records.

5 **Q. AS A RESULT OF YOUR TRAINING AND EXPERIENCE, ARE YOU FAMILIAR**  
6 **WITH THE FEDERAL AND STATE OF OHIO LAWS AND REGULATIONS**  
7 **THAT APPLY TO TELECOMMUNICATION COMPANIES, LIKE ONE**  
8 **COMMUNICATIONS, INCLUDING BUT NOT LIMITED TO ANTI-SLAMMING**  
9 **REGULATIONS?**

10 A. Yes.

11 **Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY IN THIS PROCEEDING?**

12 A. As a One Communications manager, the purpose of my testimony in this proceeding is to  
13 outline the material facts of this case. An additional purpose of my testimony, based on my  
14 training and experience as an attorney versed in telecommunications law, is to explain the  
15 regulatory structure applicable to slamming complaints and to identify the principal legal  
16 authorities this Commission should ultimately consider in reviewing Dr. William Steven  
17 Gandee, D.C. and Dr. Brian Longworth, D.C.'s ("Complainants'") Complaints.

## II. FACTUAL BACKGROUND

18 **Q. ARE YOU FAMILIAR WITH THE MATERIAL FACTS OF THIS CASE?**

19 A. Yes.

20 **Q. WHY?**

21 A. Because I have reviewed One Communications' business records that relate to  
22 Complainants' Complaints. I have attached copies of these records to my testimony as

1 Exhibit RW1. I also responded to inquiries from the Complainants' counsel regarding these  
2 matters prior to the Complainants filing their Complaints.

3 **Q. DOES ONE COMMUNICATIONS MAINTAIN THESE RECORDS IN THE**  
4 **COURSE OF ITS REGULARLY CONDUCTED BUSINESS ACTIVITIES?**

5 A. Yes.

6 **Q. ARE THE COPIES OF ONE COMMUNICATIONS' BUSINESS RECORDS THAT**  
7 **YOU HAVE ATTACHED TO YOUR TESTIMONY TRUE AND ACCURATE**  
8 **COPIES OF THE ORIGINALS?**

9 A. Yes.

10 **Q. COULD YOU PLEASE EXPLAIN THE MATERIAL FACTS OF THIS CASE?**

11 A. Certainly. In 2002, a Dr. Keith S. Ungar, D.C. obtained telephone service at his Arlington  
12 Road, Akron, Ohio offices, known as the "Center for Natural Medicine," from One  
13 Communications or its predecessor company.

14 In September 2006, Dr. Ungar asked One Communications to obtain transfers of the  
15 telephone numbers (330) 896-8500 and (330) 724-5521, which The Ohio Bell Telephone  
16 Company d/b/a AT&T Ohio ("AT&T") had previously assigned to Complainants' AT&T  
17 accounts (the "Telephone Numbers"), to One Communications under Dr. Ungar's One  
18 Communications account. In response to Dr. Ungar's request, One Communications  
19 informed him that he would have to verify his authority to request the transfer by executing  
20 a "letter of agency" ("LOA").

21 On October 31, 2006, Dr. Ungar provided One Communications with an executed  
22 LOA (attached hereto as Exhibit RW2) in which he represented in writing to One  
23 Communications that he possessed the legal authority necessary to request the transfer of the

1 Telephone Numbers from AT&T to One Communications, and in which Dr. Ungar further  
2 represented that he desired to make One Communications the carrier providing service to  
3 him via the Telephone Numbers.

4 Shortly after Dr. Ungar submitted the LOA to One Communications, and in reliance  
5 upon Dr. Ungar's representations, One Communications submitted a "port request" in order  
6 to obtain transfers of the Telephone Numbers.

7 In response to the port request, AT&T ported the Telephone Numbers to One  
8 Communications under Dr. Ungar's account. One Communications then began providing  
9 service via the Telephone Numbers, billing Dr. Ungar's account for those services.

10 **Q. HOW DOES THIS CASE INVOLVE COMPLAINANTS THEN?**

11 A. Beginning in March 2008, approximately one-and-one-half years after AT&T ported the  
12 Telephone Numbers to One Communications at Dr. Ungar's request, Complainants  
13 contacted One Communications and requested that it remove the Telephone Numbers from  
14 Dr. Ungar's account and release the Telephone Numbers to them. The Complainants  
15 explained that they had some time earlier entered into a joint business venture with Dr.  
16 Ungar but now wished to end that business relationship. They sought to remove the  
17 Telephone Numbers from Dr. Ungar's account and receive service themselves via the  
18 Telephone Numbers at a different location.

19 **Q. WHY DIDN'T ONE COMMUNICATIONS COMPLY WITH COMPLAINANTS'**  
20 **REQUEST?**

21 A. One Communications' records do not indicate that Complainants, or the business entities  
22 that they own, Health First Chiropractic Clinic, Inc. and Gandee Chiropractic Life Center,  
23 Inc., have at any time been a customer of One Communications. Nor do One

1 Communications' business records indicate that Dr. Ungar ever granted either Dr. Gandee  
2 or Dr. Longworth authority to make changes to his account. Instead, Dr. Ungar and Ms.  
3 Ryka Moore are identified within One Communications' billing records as the only  
4 authorized customer contacts regarding any service associated with Dr. Ungar's One  
5 Communications' account. Thus, One Communications declined Complainants' request on  
6 the basis that Complainants were not identified on the account as individuals authorized to  
7 make changes to services provided under the account. Moreover, as I noted before, Dr.  
8 Ungar had been receiving service via the Telephone Numbers for about sixteen months  
9 before Complainants apparently became dissatisfied with that situation.

10 **Q. DID COMPLAINANTS TAKE ANY ACTION IN RESPONSE TO ONE**  
11 **COMMUNICATIONS' REFUSAL TO RELEASE THE TELEPHONE NUMBERS**  
12 **TO THEM?**

13 **A.** Yes. Complainants complained to One Communications that the Telephone Numbers had  
14 been "slammed."

15 **Q. WHAT DO YOU MEAN BY THE TERM "SLAMMED?"**

16 **A.** Slamming is an industry term used to describe a carrier's unauthorized transfer of a  
17 customer from its preferred carrier to the carrier seeking the transfer.

18 **Q. HOW DID ONE COMMUNICATIONS RESPOND TO COMPLAINANTS'**  
19 **SLAMMING COMPLAINT?**

20 **A.** One Communications directed Complainants to contact the Public Utilities Commission of  
21 Ohio ("PUCO") or Federal Communications Commission ("FCC") if they believed that the  
22 transfer of the Telephone Numbers from AT&T to One Communications in September 2006  
23 was unauthorized. One Communications also explained to Complainants that by law they

1 do not own a property interest in the Telephone Numbers.

2 In January 2009, Complainants then filed the instant slamming complaints against  
3 One Communications with the PUCO. Complainants also filed a Third Party Complaint  
4 against One Communications in the Summit County Court of Common Pleas alleging  
5 conversion, negligence, constructive trust, and damages.

### III. COMPLAINANTS' SLAMMING COMPLAINT

6 **Q. IN YOUR OPINION AS AN EXPERT IN TELECOMMUNICATIONS**  
7 **REGULATION, DO THE FACTS YOU HAVE JUST DESCRIBED CONSTITUTE**  
8 **A VIOLATION OF OHIO'S ANTI-SLAMMING LAWS?**

9 A. No.

10 **Q. WHY NOT?**

11 A. There was no violation because One Communications' actions complied with all  
12 applicable telecommunications regulations vis-à-vis Dr. Ungar's request to port the  
13 Telephone Numbers from AT&T to One Communications.

14 **Q. PLEASE EXPLAIN YOUR REASONING HOW ONE COMMUNICATIONS**  
15 **COMPLIED WITH ALL APPLICABLE REGULATIONS VIS-À-VIS DR.**  
16 **UNGAR'S REQUEST TO PORT THE TELEPHONE NUMBERS FROM AT&T**  
17 **TO ONE COMMUNICATIONS.**

18 A. To begin, Ohio Administrative Code §4901:1-5-09 provides in pertinent part that  
19 "Telecommunications providers, in the course of submitting or executing a change on  
20 behalf of a subscriber in the selection of a telecommunications provider, shall obtain  
21 authorization from the subscriber and verification of that authorization in accordance

1 with the rules and procedures prescribed by the federal communications commission  
2 (FCC) at 47 C.F.R. 64.1100 to 64.1170 . . . .”

3 Title 47 C.F.R. §64.1130 in turn provides three methods a carrier can use to verify  
4 an authorization to transfer service: (1) an LOA; (2) electronic authorization; and (3)  
5 third-party verification.

6 In this case, One Communications obtained authorization and verification from  
7 Dr. Ungar in a signed LOA that provided One Communications with verified evidence  
8 that Ungar had the authority to request that the Telephone Numbers be ported from  
9 AT&T to his account with One Communications. Thus, One Communications met all  
10 conditions necessary to lawfully ask AT&T to port the Telephone Numbers to it based on  
11 Dr. Ungar’s request.

12 **Q. MUST THE LOA MEET ANY REGULATORY REQUIREMENTS ITSELF?**

13 A. Yes. Title 47 C.F.R. §64.1130 lists numerous requirements for the LOA. Specifically, “the  
14 letter of agency must be printed with a type of sufficient size and readable type to be clearly  
15 legible and must contain clear and unambiguous language that confirms: (1) The  
16 subscriber’s billing name and address and each telephone number to be covered by the  
17 preferred carrier change order; (2) The decision to change the preferred carrier from the  
18 current telecommunications carrier to the soliciting telecommunications carrier; (3) That the  
19 subscriber designates [the submitting carrier] to act as the subscriber’s agent for the preferred  
20 carrier change; (4) That the subscriber understands that only one telecommunications carrier  
21 may be designated as the subscriber’s interstate or interLATA preferred interexchange  
22 carrier for any one telephone number. . . . ; and (5) That the subscriber may consult with  
23 the carrier as to whether a fee will apply to the change in the subscriber’s preferred carrier.”



1 In addition, this rule requires that the LOA be signed and dated by the subscriber to the  
2 telephone lines requesting the preferred carrier change.

3 **Q. IN YOUR EXPERT OPINION, DID THE LOA THAT DR. UNGAR SUBMITTED**  
4 **TO ONE COMMUNICATIONS MEET THE REGULATORY REQUIREMENTS**  
5 **YOU JUST DESCRIBED?**

6 A. Yes, Dr. Ungar's LOA complies with all of the regulatory requirements I just described, and  
7 again I have attached a copy of it to my testimony as Exhibit RW2 to demonstrate as much.

8 **Q. IS THE COPY OF THE LOA YOU HAVE ATTACHED TO YOUR TESTIMONY A**  
9 **TRUE AND ACCURATE COPY OF THE ORIGINAL?**

10 A. Yes.

11 **Q. DOES ONE COMMUNICATIONS MAINTAIN THE LOA IN THE COURSE OF**  
12 **ITS REGULARLY CONDUCTED BUSINESS ACTIVITIES?**

13 A. Yes.

14 **Q. NOTWITHSTANDING WHAT YOU HAVE JUST DESCRIBED, AFTER ONE**  
15 **COMMUNICATIONS RECEIVED DR. UNGAR'S LOA, DID IT HAVE ANY DUTY**  
16 **TO DETERMINE WHETHER DR. UNGAR WAS IN FACT THE SUBSCRIBER**  
17 **OF SERVICES WITH AT&T FOR THE TELEPHONE NUMBERS AND**  
18 **THEREFORE HAD ACTUAL AUTHORITY TO REQUEST THAT THE**  
19 **TELEPHONE NUMBERS BE TRANSFERRED?**

20 A. No, it did not.

21 **Q. WHY NOT?**

22 A. A carrier, such as One Communications, does not have the ability to access the billing  
23 records of another carrier, such as AT&T. Therefore, One Communications cannot

1 investigate whether Dr. Ungar was truly the "subscriber" of services with AT&T for the  
2 Telephone Numbers before it made the port request to AT&T.

3 At one time the FCC rules would have held carriers strictly liable when a purported  
4 subscriber did not have actual authority to request a services change. However, those rules  
5 were challenged, and in *AT&T Corp. v. Federal Communications Commission*, 323 F.3d  
6 1081 (D.C. Cir. 2003), the D.C. Circuit Court held that imposing an "actual authorization"  
7 standard on carriers exceeded the FCC's authority under the relevant organic statute. After  
8 *AT&T Corp.*, the FCC held that an LOA was clear and convincing evidence that its required  
9 verification procedures have been complied with, even in the absence of actual  
10 authorization. The FCC came to that conclusion in the case of *In the Matter of*  
11 *Communicate Tech Sys., LLC*, 21 F.C.C.R. 3409, 3410-11, 206 WL 845499, \*1-2 (March  
12 31, 2006). All subsequent FCC slamming determinations have been consistent.

13 **Q. IF NO REGULATION REQUIRED ONE COMMUNICATIONS TO**  
14 **INVESTIGATE DR. UNGAR'S ACTUAL AUTHORITY TO TRANSFER THE**  
15 **TELEPHONE NUMBERS, WHY DIDN'T ONE COMMUNICATIONS TRANSFER**  
16 **THE TELEPHONE NUMBERS BACK TO COMPLAINANTS WHEN THEY**  
17 **FIRST REQUESTED THAT ONE COMMUNICATIONS DO SO?**

18 **A.** There are two explanations for this refusal, one of which I alluded to before when describing  
19 the factual background of this case.

20 First, it is required under state and federal law that carriers must direct a party  
21 alleging slamming to the FCC or the PUCO for complaint resolution. One  
22 Communications did so.

23 Second, as I said before, One Communications' customer records reflected that Dr.

1 Ungar and Ms. Moore were the only two persons authorized to seek changes to the service  
2 provided to Dr. Ungar's One Communications account. Neither of Complainants was  
3 authorized to make changes to that service. Because customer privacy rules do not permit  
4 carriers to release information or to make service changes to a customer's account based on  
5 change requests from unauthorized individuals, I believe One Communications acted  
6 properly in refusing Complainants' request to remove the Telephone Numbers from Dr.  
7 Ungar's account.

8 **Q. COULD YOU PLEASE EXPLAIN THE CUSTOMER PRIVACY RULES TO**  
9 **WHICH YOU JUST REFERRED?**

10 A. Yes. The rules I am referring to, known as Customer Proprietary Network Information  
11 ("CPNI") rules, are designed to protect customers against the unauthorized use or disclosure  
12 of account information. Title 47 U.S.C. §222(h)(1) defines CPNI as "information that relates  
13 to the quantity, technical configuration, type, destination, location, and amount of use of a  
14 telecommunications service, subscribed to by any customers of a telecommunications  
15 carrier, and that is made available to the carrier by the customer solely by virtue of the  
16 carrier-customer relationship; and information contained in the bills pertaining to telephone  
17 exchange service or telephone toll service received by a customer of a carrier."

18 Every telecommunications carrier has a statutory duty to protect the  
19 confidentiality and sanctity of its customers' accounts under 47 U.S.C. §222(a). In 2007,  
20 the FCC enacted specific rules which apply when an individual contacts a carrier by  
21 telephone regarding a customer account in the case of *Telecommunications Carriers' Use*  
22 *of CPNI and Other Customer Information*, CC Docket Nos. 96-115, WC Docket No. 04-  
23 46, Report and Order and Notice of Further Rulemaking, FCC 07-22, ¶¶ 13-20 (rel. April

1 2, 2007). In response to the FCC's order and in compliance with its rules, One  
2 Communications does not use or disclose a customer's account information, or make  
3 service or account changes, in response to inquiries without proper authorization.

4 The PUCO shares this view of the importance of customer account privacy. In  
5 *Telecommunications Carriers' Use of CPNI and Other Customer Information*, CC  
6 Docket Nos. 96-115 and RM-11277, Comments of the Public Utilities Commission of  
7 Ohio at 32 (filed April 13, 2006), the PUCO stated that "The Ohio Commission believes  
8 that customers should ultimately be in charge of the disclosure of their CPNI and,  
9 consequently encourages the [FCC] to require telecommunications service providers to  
10 obtain customer authorization prior to disclosing CPNI to *any* third party." In addition,  
11 Ohio Admin. Code §4901:1-5-05(C) requires that "telecommunications providers in  
12 possession of [CPNI must] protect customer information in accordance with 47 U.S.C.  
13 222 . . . ."

14 Complainants did not have authorization from Dr. Ungar to use or have access to  
15 services, the Telephone Numbers, or other CPNI related to Dr. Ungar's One  
16 Communications account. Therefore, One Communications acted properly, and in  
17 conformance with FCC and PUCO CPNI requirements, when it denied the Complainants'  
18 March 2008 request to change the services on Dr. Ungar's One Communications'  
19 account.

20 Q. YOU MENTIONED EARLIER THAT THE COMPLAINANTS' DID NOT HAVE  
21 AN "OWNERSHIP INTEREST" IN THE TELEPHONE NUMBERS. COULD  
22 YOU PLEASE EXPLAIN?

1 A. Yes. The Complainants asserted that because they had used the Telephone Numbers for  
2 many years before they were transferred to Dr. Ungar's account, they therefore had an  
3 ownership interest or a property right in the Telephone Numbers with which One  
4 Communications interfered. Because under federal law no one has a property right in a  
5 telephone number, the Complainants are wrong.

6 Q. **COULD YOU PLEASE EXPLAIN THE LAW YOU ARE REFERRING TO?**

7 A. Yes. Courts have found that no one can have a property interest in a telephone  
8 number. In the Matter of StarNet, Inc., 355 F.3d 634, 637 (7<sup>th</sup> Cir. 2004). At most, a  
9 subscriber may "use" a given number. According to the FCC,

10 The Communications Act of 1934, as amended (the Act), grants  
11 the [FCC] exclusive jurisdiction over those portions of the North  
12 American Numbering Plan that pertain to the United States. . . .  
13 Telephone numbers are a public resource and neither carriers nor  
14 subscribers 'own' their telephone numbers.

15 In the Matter of Toll-Free Access Codes, 22 F.C.C.R. 21573, 21573-74 (2007) (internal  
16 footnotes and quotations omitted). Ohio carriers' retail product guides also make this  
17 clear. See Choice One Ohio Retail Product Guide No. 3, Section 2.1.3.H (available at  
18 <http://www.onecommunications.com/uploadedFiles/clohproductguide.pdf>) ("The  
19 Customer obtains no property right or interest in the use of any specific type of facility,  
20 service, equipment, number, process, or code.").

21 Although subscribers may take their telephone numbers with them when  
22 switching to another carrier, that is not because the subscriber has any property right or  
23 ownership interest in that number. Rather, telephone number portability is required  
24 because it promotes competition between telecommunications carriers. In the Matter of  
25 Telephone Number Portability, CC Docket No. 95-116, First Report and Order and  
26 Further Notice of Proposed Rulemaking, FCC 96-286, ¶ 2 (rel. July 2, 1996). Therefore,

1 Complainants had no property right or ownership interest in the Telephone Numbers with  
2 which One Communications interfered.

**IV. COMPLAINANTS' "WRONGFUL DETENTION" COMPLAINT**

3 **Q. ARE THE TELEPHONE NUMBERS STILL ASSIGNED TO DR. UNGAR'S ONE**  
4 **COMMUNICATIONS' ACCOUNT THEN?**

5 A. No, they are not.

6 **Q. WHAT HAPPENED TO THE TELEPHONE NUMBERS?**

7 A. Based on Complainants' directives, AT&T eventually requested that One Communications  
8 port the Telephone Numbers to AT&T accounts, presumably to Complainants' AT&T  
9 accounts.

10 **Q. HOW DID IT COME TO PASS THAT AT&T EVENTUALLY DID SUBMIT PORT**  
11 **REQUESTS TO ONE COMMUNICATIONS REGARDING THE TELEPHONE**  
12 **NUMBERS?**

13 A. There is a different history for each of the numbers and I'll discuss each number separately.  
14 First, I'll discuss the number (330) 724-5521, the number originally assigned to Dr.  
15 Gandee's AT&T account.

16 By May 2009, Dr. Ungar wished to disconnect phone number (330) 724-5521 from  
17 his account. By requesting that One Communications no longer provide service to him via  
18 that number, Dr. Ungar relinquished control over the number. Normally, when a customer  
19 stops paying for service via a telephone number, that number would be released to a general  
20 pool of numbers and it eventually gets assigned on a random basis to another carrier to use.  
21 However, rather than release that number to the general pool, One Communications held the  
22 number due to the instant litigation. A few months later, on September 18, 2009, at Dr.

1 Gandee's direction, One Communications received a request from AT&T to port that  
2 number to an AT&T account—presumably Dr. Gandee's account.

3 **Q. IN YOUR OPINION AS AN EXPERT IN TELECOMMUNICATIONS**  
4 **REGULATION, DID ONE COMMUNICATIONS' CONDUCT IN PORTING DR.**  
5 **GANDEE'S TELEPHONE NUMBERS BACK TO HIS AT&T ACCOUNT ONLY**  
6 **AFTER IT RECEIVED A PORT REQUEST FROM AT&T VIOLATE ANY**  
7 **TELECOMMUNICATIONS LAW OR REGULATION?**

8 A. No.

9 **Q. WHY NOT?**

10 A. The answer to that question relates back to the regulations I previously described. A carrier  
11 cannot port a telephone number to a different carrier unless it receives a port request from  
12 that carrier. On several occasions after Dr. Ungar gave up his claim to Dr. Gandee's  
13 number, One Communications informed Dr. Gandee's counsel that it could transfer his  
14 number to AT&T only after One Communications received a port request from AT&T to do  
15 so. One Communications, however, did not receive a port request from AT&T until  
16 September 2009. If One Communications had not held onto the number, and released it to  
17 the number pool in May 2009 as it certainly could have done, the number would very likely  
18 have been assigned to another carrier by then and would no longer have been available to  
19 AT&T for use by Dr. Gandee.

20 **Q. WHAT HAPPENED TO THE NUMBER THAT WAS ORIGINALLY ASSIGNED**  
21 **TO DR. LONGWORTH'S AT&T ACCOUNT?**

22 A. That story is a bit more complicated and requires me to explain the case in the Summit  
23 County Court of Common Pleas that the Complainants brought against One

1 Communications.

2 **Q. PLEASE EXPLAIN THE CASE YOU ARE REFERRING TO.**

3 A. As I noted briefly above, the case I am referring to was originally brought by Dr. Ungar  
4 against Complainants in the Summit County Court of Common Pleas regarding the business  
5 relationship among those parties. Within that suit, Complainants filed a third-party  
6 complaint against One Communications and a counterclaim against Dr. Ungar, seeking an  
7 order from the court that the Telephone Numbers be reassigned to them and asserting that  
8 One Communications was liable to them for conversion, negligence and damages because it  
9 had slammed them.

10 **Q. WHAT HAPPENED IN THAT CASE?**

11 A. In May of 2009, a magistrate heard evidence to determine who should control the Telephone  
12 Numbers. One Communications participated in that hearing to explain the facts, but took no  
13 position regarding who should properly control the Telephone Numbers. Based on the  
14 magistrate's recommendation, on June 9, 2009, the court issued a Judgment Entry ordering  
15 One Communications to transfer the (330) 896-8500 telephone number to Dr. Longworth.  
16 The court did not issue an order regarding the (330) 724-5521 phone number because, as I  
17 just explained, by that time Dr. Ungar had given up any claim to that number, and One  
18 Communications represented to the Court that it would honor a proper port request  
19 concerning that number, if it should receive one from Dr. Gandee's chosen provider (which  
20 One Communications eventually received from AT&T in September 2009).

21 **Q. WHAT HAPPENED TO COMPLAINANTS' CLAIMS FOR DAMAGES AGAINST**  
22 **ONE COMMUNICATIONS IN THE SUMMIT COUNTY CASE?**

23 A. In January 2010, the Summit County Court dismissed those claims, holding that the



1 Complainants' claims against One Communications were subject to the exclusive  
2 jurisdiction of the PUCO because they were based on slamming allegations. The  
3 Complainants appealed that decision and the Court of Appeals, Ninth Judicial District, has  
4 not yet issued its decision on the Complainants' appeal.

5 **Q. IN YOUR OPINION AS AN EXPERT IN TELECOMMUNICATIONS**  
6 **REGULATION, DID ONE COMMUNICATIONS' CONDUCT IN PORTING DR.**  
7 **LONGWORTH'S TELEPHONE NUMBER BACK TO HIS AT&T ACCOUNT**  
8 **LESS THAN ONE MONTH AFTER THE SUMMIT COUNTY COURT OF**  
9 **COMMON PLEAS ORDERED IT TO DO SO CONSTITUTE A VIOLATION OF**  
10 **ANY TELECOMMUNICATIONS LAW OR REGULATION?**

11 A. No.

12 **Q. WHY NOT?**

13 A. If Dr. Longworth had believed that One Communications was not acting quickly enough to  
14 port his telephone number to his AT&T account, his remedy would have been to seek a  
15 contempt of court sanction from the Court that issued the order, not to bring his grievance to  
16 the PUCO. Also, as with the (330) 724-5521 number, One Communications could only port  
17 the number to AT&T after it had received a port request from AT&T to do so. Therefore, it  
18 was the responsibility of the Complainants to contact AT&T to ensure that AT&T requested  
19 the numbers be ported to it in a timely fashion.

## V. CONCLUSION

20 **Q. DOES THIS CONCLUDE YOUR PRE-FILED DIRECT TESTIMONY?**

21 A. Yes.

## Client Care Call Notation Tool (View History)

Account 0003218432 CENTER FOR NATURAL MEDICINE

**Short Description:** SuperScreen Note

**Create Date:** 3/17/2008 11:28:35 AM

**Remarks:**

3/17/2008 11:28:35 AM apiuser

DLR // WILL SEND PMT FOR 589.49 BY 3/21// SET PAR// NC-AJ

**Assigned To:** nco\_12

**Caller's Name:** PATTY

**Short Description:** Client Initiated Complaint > Billing

**Create Date:** 3/17/2008 10:24:16 AM

**Remarks:**

3/17/2008 10:24:16 AM mlabbook

Internal Investigation In Progress.

**Assigned To:** mlabbook

**Caller's Name:** X

**Short Description:** SuperScreen Note

**Create Date:** 2/15/2008 3:06:26 PM

**Remarks:**

2/15/2008 3:06:26 PM apiuser

IN- ADV THAT CHECK FOR \$563.34 WAS MILE DOUT THIS MORNING SETUP PAR FOR MAILING TIME NC-MR

**Assigned To:** nco\_08

**Caller's Name:** PAT

**Short Description:** SuperScreen Note

**Create Date:** 2/15/2008 9:35:46 AM

**Remarks:**

2/15/2008 9:35:46 AM apiuser

DL-LEFT MESSAGE NC-GE

**Assigned To:** nco\_08

**Caller's Name:** FEMALE

**Short Description:** Saville Note

**Create Date:** 2/15/2008 9:35:21 AM

**Remarks:**

2/16/2008 5:18:08 AM Administrator

Call left voicemail

TRT - U0

**Assigned To:** ccrnotes

**Caller's Name:**

**Short Description:** Balance/Payment Inquiry > Balance Inquiry

**Create Date:** 12/12/2007 11:49:30 AM

**Remarks:**

12/12/2007 11:49:30 AM elapinsk

Called and just wanted to know what they billed per line provided that for her

**Assigned To:** elapinsk

**Caller's Name:** Pat

EXHIBIT RW1

Short Description: Add/Modify Product/Service > Additional Line

Assigned To: slepinski

Create Date: 11/30/2007 12:14:49 PM

Caller's Name: Coleen

Remarks:

11/30/2007 12:14:49 PM slepinski

Client called to see if we could service the number 330-644-1411 for her called NPAC and it has not been ported but it is in a different rate center

Short Description: Saville Note

Assigned To: cxnotes

Create Date: 11/7/2007 9:06:50 PM

Caller's Name:

Remarks:

11/8/2007 5:11:27 AM Administrator

RENEWAL CREDIT CREATED FOR SERVICE LOCATION: 000135881

RENEWAL CREDIT CALCULATION FOR 2007/11/07

EXPCHSY3P - \$ 12.10

EXPCHSY3P - \$ 12.10

EXPCHSY3P - \$ 12.10

EXPCHSY3P - \$ 12.10

EXPCHSY3P - \$ 12.10

EXPCHSY3P - \$ 12.10

EXPCHSY3P - \$ 12.10

EXPCHSY3P - \$ 12.10

EXPCHSY3P - \$ 12.10

TOTAL CREDIT \$ 108.90

ACCT - U2

Short Description: Saville Note

Assigned To: cxnotes

Create Date: 4/7/2007 7:52:01 PM

Caller's Name:

Remarks:

4/10/2007 5:17:29 AM Administrator

UNIQUE TRUCK ROLL CHARGE ID#: 000000000350371

CHARGE SUBMITTER ID: tmccoy

TICKET #: 00864624

NUMBER OF HOURS: .00

ACCT - U2

Short Description: External Dispatch Charge

Assigned To: tmccoy

Create Date: 4/7/2007 6:10:19 AM

Caller's Name: ANOY (ONE CALL)

Remarks:

4/7/2007 6:10:19 AM Administrator

Ticket #00864624

Short Description: SuperScreen Note

Assigned To: afagan

EXHIBIT RW1

Create Date: 4/4/2007 4:44:27 PM

Caller's Name: patty

Remarks:

4/4/2007 4:44:28 PM apluser

static on line TT # 00864624, double checked hunt group it is correct in the switch

Short Description: SuperScreen Note

Assigned To: afagan

Create Date: 3/19/2007 1:07:35 PM

Caller's Name: patty

Remarks:

3/19/2007 1:07:35 PM apluser

password for VM reset again

Short Description: SuperScreen Note

Assigned To: afagan

Create Date: 3/19/2007 1:17:16 PM

Caller's Name: patty

Remarks:

3/19/2007 1:17:16 PM apluser

reset password again

Short Description: SuperScreen Note

Assigned To: afagan

Create Date: 3/7/2007 4:20:48 PM

Caller's Name: lina

Remarks:

3/7/2007 4:20:48 PM apluser

spoke with vendor. ps and locate is done, MDT is fixed. Tina is going on site tomorrow and we will fix the

Short Description: Saville Note

Assigned To: cxnotes

Create Date: 3/2/2007 9:17:55 AM

Caller's Name:

Remarks:

3/9/2007 3:10:02 PM Administrator

Call left voicemail

DLC - LM WITH LISA. NC-TS

TRT - UO

Short Description: TMS Attrition Risk Task

Assigned To: afagan

Create Date: 2/26/2007 7:57:25 AM

Caller's Name: kelli

Remarks:

2/26/2007 7:57:25 AM apluser

TMS TASK ATTRITION

TASK NUMBER: 353135

TASK SEQ: 1

CREATE DATE: 26-FEB-07

CREATE USER: AFAGAN

Date of last: 26-FEB-07

Reached Client?: Y

Contact name: kelli

task disposition: Satisfied

Primary Reason for leaving:

What could Choice One have done differently to save this client?

Is service out to client? N

Has client received competitor bid? N

If yes, competitor name:

New products/pricing proposed?: N  
ICB Requested?: N  
Key Sub-Issue:  
Current Tracker Status: Safe  
New Tracker Status: Safe  
Notes:

**Short Description:** Saville Note  
**Create Date:** 2/24/2007 5:40:18 AM  
**Remarks:**

**Assigned To:** cxnotes  
**Caller's Name:**

2/28/2007 8:45:21 AM Administrator  
Sent deny service letter 1197.54  
ACCT - U2

**Short Description:** Explain Current Product/Service > Exchange  
**Create Date:** 2/23/2007 1:53:05 PM  
**Remarks:**

**Assigned To:** thumpner  
**Caller's Name:** Keith

2/23/2007 1:53:05 PM thumpner  
Andy/Team called re the line 350-475-2658 point to next line in hunt to VM

**Short Description:** Saville Note  
**Create Date:** 2/23/2007 11:09:55 AM  
**Remarks:**

**Assigned To:** cxnotes  
**Caller's Name:**

2/28/2007 8:45:21 AM Administrator  
Call left voicemail  
LEFT MSG WITH MICHELLE TO RET CALL. NC-CS  
TRT - U0

**Short Description:** SuperScreen Note  
**Create Date:** 2/23/2007 8:11:27 AM  
**Remarks:**

**Assigned To:** afagan  
**Caller's Name:** tina

2/23/2007 8:11:27 AM afagan  
submitted to tina and locate 3 lines

**Short Description:** SuperScreen Note  
**Create Date:** 2/22/2007 1:13:46 PM  
**Remarks:**

**Assigned To:** afagan  
**Caller's Name:** tina

2/22/2007 1:13:46 PM apluser  
spoke with vendor about hunt group

**Short Description:** Saville Note  
**Create Date:** 2/19/2007 12:43:52 PM  
**Remarks:**

**Assigned To:** cxnotes  
**Caller's Name:**

3/2/2007 5:22:27 PM Administrator  
Call left voicemail  
LEFT MSG WITH PATTY TO RET CALL. NC-CS  
TRT - U0

**Short Description:** SuperScreen Note  
**Create Date:** 2/14/2007 1:14:54 PM  
**Remarks:**

2/14/2007 1:14:54 PM apiuser  
customer lines going to VM after 4 rings like it should.

**Assigned To:** afagan  
**Caller's Name:** keth

**Short Description:** SuperScreen Note  
**Create Date:** 2/2/2007 4:17:15 PM  
**Remarks:**

2/2/2007 4:17:15 PM apiuser  
fixed VM through repair

**Assigned To:** afagan  
**Caller's Name:** pat

**Short Description:** SuperScreen Note  
**Create Date:** 1/26/2007 11:52:02 AM  
**Remarks:**

1/26/2007 11:52:02 AM apiuser  
hunt group B has new DID VM per OMS # 3819000

**Assigned To:** afagan  
**Caller's Name:** keth

**Short Description:** SuperScreen Note  
**Create Date:** 1/26/2007 11:45:51 AM  
**Remarks:**

1/26/2007 11:45:51 AM apiuser  
re-designed hunt groups and existing DID VM is for hunt group A per OMS # 3813981

**Assigned To:** afagan  
**Caller's Name:** keth

**Short Description:** SuperScreen Note  
**Create Date:** 1/17/2007 2:22:17 PM  
**Remarks:**

1/17/2007 2:22:17 PM apiuser  
ADVISED CHECK WAS SENT ON THE 11TH OF JAN SET PAR FOR THE 22ND FOR 582.06 CHECK # 1430 TO ALLOW MAIL TIME. NC-CS

**Assigned To:** nco\_01  
**Caller's Name:** ALICIA

**Short Description:** Saville Note  
**Create Date:** 1/17/2007 2:21:40 PM  
**Remarks:**

3/2/2007 5:22:27 PM Administrator  
SET PAR FOR THE 22ND OF JAN FOR 582.06. NC-CS  
TRT - UO

**Assigned To:** cxnotes  
**Caller's Name:**

**Short Description:** Saville Note  
**Create Date:** 1/17/2007 12:08:05 PM  
**Remarks:**

3/2/2007 5:22:27 PM Administrator

**Assigned To:** cxnotes  
**Caller's Name:**

DLR LEFT MSG RE PAST DUE-NC/TD  
TRT - UO

Short Description: Saville Note  
Create Date: 1/12/2007 5:59:52 AM  
Remarks:  
1/12/2007 5:22:27 PM Administrator  
Sent Reminder letter 1145.69  
ACCT - 102  
Assigned To: afagan  
Caller's Name:

Short Description: SuperScreen Note  
Create Date: 11/29/2006 11:54:16 AM  
Remarks:  
11/29/2006 11:54:16 AM apiuser  
left another message for dr. ungarr  
Assigned To: afagan  
Caller's Name: receptionist

Short Description: SuperScreen Note  
Create Date: 11/29/2006 11:16:21 AM  
Remarks:  
11/29/2006 11:16:21 AM apiuser  
left another message for dr. ungarr  
Assigned To: afagan  
Caller's Name: receptionist

Short Description: Order Status > Line Add  
Create Date: 11/29/2006 10:15:44 AM  
Remarks:  
11/29/2006 10:15:44 AM grenkens  
Keith was transferred to me, very upset. Regarding pons 1615382 & 1616414. These are to port two ff tns to us. Keith received a letter advising these tns were to be added to his residence address, not his business address. He said he was very clear with Andy Fagan that these two ff tns were to port to us & be physically installed at his business address. He requested Andy call him back to straighten this out.  
Assigned To: grenkens  
Caller's Name: Keith Ungar

Short Description: New Order Status > Update Provided  
Create Date: 11/29/2006 10:07:45 AM  
Remarks:  
11/29/2006 10:07:45 AM acarrozo  
Dr. Ungar called in reference to a letter he rec'd and open orders. I connected him with Gabby (client services)  
Assigned To: afagan  
Caller's Name: Dr. Ungar

Short Description: SuperScreen Note  
Create Date: 11/28/2006 3:12:11 PM  
Remarks:  
11/28/2006 3:12:11 PM apiuser  
called keith again no contact yet.  
Assigned To: afagan  
Caller's Name: receptionist

Short Description: SuperScreen Note  
Create Date: 11/28/2006 12:01:55 PM  
Assigned To: afagan  
Caller's Name: Keith

**Remarks:**

11/28/2006 12:08:55 PM apiuser  
left message regarding FF #s

**Short Description:** SuperScreen Note  
**Create Date:** 11/17/2006 12:04:07 PM  
**Remarks:**

**Assigned To:** afagan  
**Caller's Name:** Internal

11/17/2006 12:04:07 PM apiuser  
I had to re-submit orders to port line because they are existing FF#. I submitted 2 mac orders

**Short Description:** SuperScreen Note  
**Create Date:** 11/16/2006 8:36:34 AM  
**Remarks:**

**Assigned To:** afagan  
**Caller's Name:** Internal

11/16/2006 8:36:34 AM apiuser  
contract renewal 12 month term loyalty bonus oms # 3602810

**Short Description:** SuperScreen Note  
**Create Date:** 10/19/2006 11:28:05 AM  
**Remarks:**

**Assigned To:** afagan  
**Caller's Name:** keith

10/19/2006 11:28:05 AM apiuser  
faxed over revised SA and LOA. need to check account in 3 months to review usage

**Short Description:** Saville Note  
**Create Date:** 10/12/2006 12:42:11 AM  
**Remarks:**

**Assigned To:** extnotes  
**Caller's Name:**

10/13/2006 5:17:03 AM Administrator  
UNIQUE TRUCK ROLL CHARGE ID#: 010000000812672  
CHARGE SUBMITTER ID: eles  
TICKET #: 00793383  
NUMBER OF HOURS: .00  
ACCT: 02

**Short Description:** External Dispatch Charge  
**Create Date:** 10/11/2006 6:00:19 AM  
**Remarks:**

**Assigned To:** eles  
**Caller's Name:** Andy c1

10/11/2006 6:00:19 AM Administrator  
Ticket #00793383

**Short Description:** SuperScreen Note  
**Create Date:** 10/6/2006 10:18:02 AM  
**Remarks:**

**Assigned To:** afagan  
**Caller's Name:** keith

10/6/2006 10:18:02 AM apiuser  
left message about TI and proposal



**Short Description:** SuperScreen Note

**Create Date:** 10/5/2006 4:32:34 PM

**Remarks:**

10/5/2006 4:32:34 PM apiuser  
residences TT # 793383 checking number at prem.

**Assigned To:** afagan

**Caller's Name:** internal

**Short Description:** SuperScreen Note

**Create Date:** 9/27/2006 9:06:28 AM

**Remarks:**

9/27/2006 9:06:28 AM apiuser  
sent over new SA and proposal to save customer

**Assigned To:** afagan

**Caller's Name:** keth

**Short Description:** SuperScreen Note

**Create Date:** 9/20/2006 1:42:25 PM

**Remarks:**

9/20/2006 1:42:25 PM apiuser  
tag and locate TT # 787205

**Assigned To:** afagan

**Caller's Name:** internal

**Short Description:** SuperScreen Note

**Create Date:** 9/20/2006 1:40:45 PM

**Remarks:**

9/20/2006 1:40:45 PM apiuser  
submitted tag and locate

**Assigned To:** afagan

**Caller's Name:** internal

**Short Description:** SuperScreen Note

**Create Date:** 9/20/2006 1:26:37 PM

**Remarks:**

9/20/2006 1:26:37 PM apiuser  
said that he wants 2 line ported from AT&T ( 330-724-5521 and 330-896-8500) and swapped with numbers that are not being used.

**Assigned To:** afagan

**Caller's Name:** Kieth

**Short Description:** SuperScreen Note

**Create Date:** 9/20/2006 9:33:15 AM

**Remarks:**

9/20/2006 9:33:15 AM apiuser  
left another message for the doc

**Assigned To:** afagan

**Caller's Name:** receptionist

**Short Description:** SuperScreen Note

**Create Date:** 9/19/2006 3:06:32 PM

**Remarks:**

9/19/2006 3:06:32 PM apiuser  
called left message on cell # 330-495-1111

**Assigned To:** afagan

**Caller's Name:** dr ungar

**Short Description:** Stville Note

**Assigned To:** ex notes

Create Date: 9/19/2006 1:20:37 PM

Caller's Name:

Remarks:

9/20/2006 5:16:51 AM Administrator

Call left voicemail

TMR - 00

Short Description: SuperScreen Note

Assigned To: nco\_08

Create Date: 9/19/2006 1:20:31 PM

Caller's Name: KEITH

Remarks:

9/19/2006 1:20:31 PM apluser

ADV THAT HE MAILED OUT PAYMENT OVER THE WEEKEND DID NOT HAVE CHECK # 50 NO PAR SETUP NC-MR

Short Description: Correspondence > Product/Service

Assigned To: afagan

Create Date: 9/18/2006 4:36:29 PM

Caller's Name: Keith

Remarks:

9/18/2006 4:36:29 PM afagan

Dr. Unger called about poring over some numbers and pricing. I connected him to Andy's voicemail.

Short Description: SuperScreen Note

Assigned To: afagan

Create Date: 9/18/2006 10:13:15 AM

Caller's Name: Internal

Remarks:

9/18/2006 10:13:15 AM apluser

faxed copy of contracts.

Short Description: SuperScreen Note

Assigned To: afagan

Create Date: 9/18/2006 9:55:58 AM

Caller's Name: Keith

Remarks:

9/18/2006 9:55:58 AM apluser

customer confirmed that they originally order these lines and now does not need them. He would not give me the opportunity to save or propose new agreement. His intention was to try and close 4 lines then void. I informed customer that we would still bill all ETP's. Total ETP's are \$523.58. The customer requested copy of contract. I will fax over as soon as possible.

Short Description: Transfer > CDR

Assigned To: mfagan

Create Date: 9/18/2006 9:45:13 AM

Caller's Name: Keith

Remarks:

9/18/2006 9:45:13 AM mfagan

Transferred call to CDR - AFagan

Client called to question etp's and lines that he has, Several are not used. I advised that we do not track the use of the lines but that I could xfer to cam to discuss the added costs of etp's etc.

Short Description: Account Inquiry > Contract Length

Assigned To: szawistowski

Create Date: 9/12/2006 10:05:50 AM

Caller's Name: Kathy

Remarks:

9/12/2006 10:05:50 AM szawistowski

client is cling to obtain to inform on acc. advised need for

**Short Description:** Saville Note  
**Create Date:** 9/12/2006 5:43:17 AM  
**Remarks:**

**Assigned To:** cxnotes  
**Caller's Name:**

9/13/2006 5:17:09 AM Administrator  
Sent Reminder letter 791.10  
ACCT - U2

**Short Description:** SuperScreen Note  
**Create Date:** 6/30/2006 8:48:58 AM  
**Remarks:**

**Assigned To:** afagan  
**Caller's Name:** receptionist

6/30/2006 8:48:58 AM apiuser  
left vmail

**Short Description:** Add/Modify Product/Service > Calling Features  
**Create Date:** 5/22/2006 4:10:34 PM  
**Remarks:**

**Assigned To:** elees  
**Caller's Name:** Tina

5/22/2006 4:10:34 PM elees  
Tina called in saying that they do NOT have 1729 hooked up internally and callers are intermittently going to RNA when calls hit it. I removed it from the hunt and updated TBS records with Ebony to reflect the new order per her phone system 7246, 9288, 3200, 7600 and back to the beginning in a circular group. I also toggled off the /CFDAAC on all lines in the hunt except line 1 per her request. She didn't even know that they had V-mail. I instructed her how to use that.

**Short Description:** Explain Current Product/Service > Exchange  
**Create Date:** 5/22/2006 4:09:37 PM  
**Remarks:**

**Assigned To:** elaiwall  
**Caller's Name:** Eric in repair

5/22/2006 4:09:37 PM elaiwall  
Eric requested that I place a records only order to change the hunt group.  
circular hunt:  
380-644-7246  
380-644-9288  
380-645-3200  
380-645-7600  
380-644-7246  
  
REMOVE 1729  
  
6/6/2006 4:08:58 PM elaiwall  
port# 1507538  
  
Status Set to Closed.

**Short Description:** SuperScreen Note  
**Create Date:** 2/21/2006 1:16:27 PM  
**Remarks:**

**Assigned To:** afagan  
**Caller's Name:** receptionist

2/21/2006 1:16:27 PM apiuser  
left contact info

**Short Description:** Saville Note

**Create Date:** 10/29/2005 12:47:21 AM

**Remarks:**

10/11/2005 6:18:00 AM Administrator  
UNIQUE TRUCK ROLL CHARGE ID#: 0000000002355749  
CHARGE SUBMITTER ID: mvanhook  
TICKET #: 00661765  
NUMBER OF HOURS: .00  
NOTES: 330-644-9292  
ACCT - U2

**Assigned To:** cxnotes

**Caller's Name:**

**Short Description:** External Dispatch Charge

**Create Date:** 10/28/2005 6:00:21 AM

**Remarks:**

10/28/2005 6:00:21 AM Administrator  
330-644-9292 Ticket #00661765

**Assigned To:** mvanhook

**Caller's Name:** kathy

**Short Description:** SuperScreen Note

**Create Date:** 10/20/2005 12:32:24 PM

**Remarks:**

10/20/2005 12:32:24 PM apuser  
client print in full by check for: 349.52 net

**Assigned To:** lncs\_107

**Caller's Name:** client

**Short Description:** Saville Note

**Create Date:** 10/12/2005 5:49:51 AM

**Remarks:**

10/13/2005 5:18:36 AM Administrator  
Sent Reminder letter  
ACCT - U2

**Assigned To:** cxnotes

**Caller's Name:**

**Short Description:** Saville Note

**Create Date:** 9/12/2005 5:27:49 AM

**Remarks:**

9/13/2005 5:17:29 AM Administrator  
Sent Reminder letter  
ACCT - U2

**Assigned To:** cxnotes

**Caller's Name:**

**Short Description:** SuperScreen Note

**Create Date:** 8/25/2005 2:32:13 PM

**Remarks:**

8/25/2005 2:32:13 PM apuser  
lft msg for anniversary call.

**Assigned To:** sbrewer

**Caller's Name:** keith

**Short Description:** Explain Current Product/Service > Vozemail

**Assigned To:** sfoetman

Create Date: 8/2/2005 4:41:48 PM

Caller's Name: Kathy

Remarks:

8/2/2005 4:41:48 PM steedman

Reviewed voicemail capabilities/functionality with client

Short Description: SuperScreen Note

Assigned To: sbrewer

Create Date: 5/31/2005 4:54:29 PM

Caller's Name: kathy

Remarks:

5/31/2005 4:54:29 PM apluser

Spoke w/ Kathy- she said that line #2 is having static..

She said that it is not internal... Line - 330 644 9280 IS HAVING THE STATIC... CALLING CLIENT SERVICE.

Short Description: Delete Product/Service > Exchange

Assigned To: cwright

Create Date: 5/24/2005 4:48:28 PM

Caller's Name: DR UNGER

Remarks:

5/24/2005 4:48:28 PM cwright

Dr Unger called to verify lines on the acct. he will check this out because he believes he does not use all the lines and will call back to cancel some once he knows.

Short Description: Client Initiated > Notice of Payment Made

Assigned To: mseeley

Create Date: 3/28/2005 5:03:29 PM

Caller's Name: Cathy

Remarks:

3/28/2005 5:03:29 PM mseeley

cc pymt \$346.50 - Auth Code: 423545

Short Description: Saville Note

Assigned To: cxtotes

Create Date: 3/22/2005 6:17:37 AM

Caller's Name:

Remarks:

3/23/2005 6:17:37 AM Administrator

Sent deny service letter

ACCT - U2

Short Description: Saville Note

Assigned To: cxtotes

Create Date: 3/12/2005 5:54:02 AM

Caller's Name:

Remarks:

3/15/2005 6:17:43 AM Administrator

Sent Reminder letter

ACCT - U2

Short Description: SuperScreen Note

Assigned To: sbrewer

Create Date: 1/31/2005 3:22:41 PM

Caller's Name: Keith

Remarks:

1/31/2005 3:22:41 PM apluser

Left msg for Keith

**Short Description:** Explain Current Product/Service > Voicemail  
**Create Date:** 12/8/2004 9:35:33 AM  
**Remarks:**

**Assigned To:** jjeske  
**Caller's Name:** Jackie

12/8/2004 9:35:33 AM jjeske  
Reviewed voicemail capabilities/functionality with client.

**Short Description:** Saville Note  
**Create Date:** 9/29/2004 10:17:33 PM  
**Remarks:**

**Assigned To:** exmotes  
**Caller's Name:**

10/11/2004 5:17:33 AM Administrator  
UNIQUE TRUCK ROLL CHARGE ID#: 00000000000000000000000000000000  
CHARGE SUBMITTER ID: breynolds  
TICKET #: 00505624  
NUMBER OF HOURS: 00  
ACCT: U2

**Short Description:** External Dispatch Charge  
**Create Date:** 9/29/2004 6:00:16 AM  
**Remarks:**

**Assigned To:** breynolds  
**Caller's Name:** jackie

9/29/2004 6:00:16 AM Administrator  
Ticket #00505624

**Short Description:** Status > Trouble Ticket Status  
**Create Date:** 9/27/2004 10:45:05 AM  
**Remarks:**

**Assigned To:** wdcleveland  
**Caller's Name:** JACKIE

9/27/2004 10:45:05 AM wdcleveland  
Client called to get status on ticket. Advised client that ticket is in stand paper status.

**Short Description:** Sales/Check Up > No Current Opportunity  
**Create Date:** 5/6/2004 2:41:37 PM  
**Remarks:**

**Assigned To:** sbrewer  
**Caller's Name:** KEITH

5/6/2004 2:41:37 PM sbrewer  
LFT MSG FOR KEITH TO CALL ME.

**Short Description:** Add/Modify Product/Service > Calling Features  
**Create Date:** 3/25/2004 1:38:19 PM  
**Remarks:**

**Assigned To:** lbalevar  
**Caller's Name:** Janice-sales

3/25/2004 1:38:19 PM lbalevar  
customer called to add call forwarding variable to 645-2600 per order in file

**Short Description:** Explain Current Product/Service > Feature  
**Create Date:** 3/24/2004 3:24:37 PM  
**Remarks:**

**Assigned To:** bhnlicka  
**Caller's Name:** RYKA

3/24/2004 3:24:37 PM bhnlicka

Ryka called requesting how to do the call forward ... \*72 then dial the # to be forwarded to ... if no one answers ... repeat and it will be forwarded ... \*73 to deactivate.

**Short Description:** Order Status > Feature  
**Create Date:** 3/9/2004 4:06:41 PM  
**Assigned To:** pollock  
**Caller's Name:** Ryka  
**Remarks:**  
3/9/2004 4:06:41 PM pollock  
Ryka called inquiring on order to get hunt grp. and cust stated that she also wanted cl fwd rd on line 615-7600. finished order 1008434 that was on hold for pending order to complete.

**Short Description:** Explain Current Product/Service > Other  
**Create Date:** 3/5/2004 4:00:10 PM  
**Assigned To:** swielgus  
**Caller's Name:** RYKA  
**Remarks:**  
3/5/2004 4:00:10 PM swielgus  
Per pc with Ryka calling in to cancel the forwarding on 330-645-7600  
I have placed order in TBS

**Short Description:** Add/Modify Product/Service > Calling Features  
**Create Date:** 1/27/2004 1:31:02 PM  
**Assigned To:** tchristenson  
**Caller's Name:** RYKA  
**Remarks:**  
1/27/2004 1:31:02 PM tchristenson  
Adding Hunt gp B per client, 2 lines

**Short Description:** Add/Modify Product/Service > Calling Features  
**Create Date:** 1/22/2004 12:29:45 PM  
**Assigned To:** cbonnin  
**Caller's Name:** Rika  
**Remarks:**  
1/22/2004 12:29:45 PM cbonnin  
client called to change the hunt group, placed tbs order

**Short Description:** Billing > Address/Name Change  
**Create Date:** 1/22/2004 12:17:36 PM  
**Assigned To:** tchristenson  
**Caller's Name:** Keith  
**Remarks:**  
1/22/2004 12:17:36 PM tchristenson  
per Keith adding Ryka. Movie as contact on account also.

**Short Description:** Explain Current Product/Service > Other  
**Create Date:** 1/22/2004 12:13:48 PM  
**Assigned To:** tchristenson  
**Caller's Name:** Reiche  
**Remarks:**  
1/22/2004 12:13:48 PM tchristenson  
advised that Keith wld need to cb to make changes and discuss acct.

**Short Description:** Explain Current Product/Service > Voicemail  
**Create Date:** 11/4/2003 1:03:55 PM  
**Assigned To:** bhalla  
**Caller's Name:** JACQUE CARR  
**Remarks:**

7/31/2003 1:03:05 PM bhallika

Reviewed voicemail capabilities/functionality with client. Faxed voice mail instructions.

**Short Description:** Explain Current Product/Service > Other

**Create Date:** 7/31/2003 1:53:26 PM

**Remarks:**

7/31/2003 1:53:26 PM jjeske

Client having trouble dialing International went over instructions also gave them 10 10 288 00 for international directory assistance

7/31/2003 2:10:50 PM jjeske

Status set to Closed.

**Assigned To:** jjeske

**Caller's Name:** Kelth Ungar

**Short Description:** Explain Current Product/Service > Other

**Create Date:** 7/15/2003 1:38:08 PM

**Remarks:**

7/15/2003 1:38:08 PM cwilliams

client said wanted to have a ticket set up for land echo on line.

**Assigned To:** mwilliams

**Caller's Name:** Jackie

**Short Description:** Sales/Check Up > Opportunity Discussed

**Create Date:** 7/11/2003 10:55:58 AM

**Remarks:**

7/11/2003 10:55:58 AM lprevost

discussed new line

**Assigned To:** lprevost

**Caller's Name:** Ryka

**Short Description:** Listing > Add

**Create Date:** 5/6/2003 11:53:19 AM

**Remarks:**

5/6/2003 11:53:19 AM aschnee

sent request to directory to add listing for 400 under Dr. Kelth Ungar also sent request to remove forwarding on line 350-345-3200

**Assigned To:** aschnee

**Caller's Name:** KATHY UNGAR

**Short Description:** Sales/Check Up > No Current Opportunity

**Create Date:** 4/23/2003 10:57:08 AM

**Remarks:**

4/23/2003 10:57:08 AM khill

called ketih to intro self as rep left a message

**Assigned To:** khill

**Caller's Name:** kelth

**Short Description:** Explain Current Product/Service > Exchange

**Create Date:** 11/26/2002 12:29:58 PM

**Remarks:**

11/26/2002 12:29:58 PM jackson

gave client all numbers being billed for by ci

**Assigned To:** jackson

**Caller's Name:** KATHY UNGAR



# Choice One

Communications

1 Gojo Plaza Suite 100  
Akron, OH 44311

330.782.3000 Phone  
330.379.2202 Fax

## Order Desk Fax Coversheet / Check Sheet

Salesperson:

Stephen Kale

Number of pages including cover sheet

17

Salesperson

Admin

✓
✓
✓
✓
✓

✓
✓
✓

Check Sheet

Electronic Cover Sheet

Original Signed Agreement

Local Bill Copy

Long Distance Bill Copy

\*Resporg.

\*\*800 Bill Copy

\*\*\*Contract Acknowledgement Form

Customer Name: Center for Natural Medicine

IMAN # 834066.02

Comments:

ChoiceOne Communications		Services Summary & Sales Order Coversheet	
1. Client Name: <u>Center for Natural Medicine</u> 2. Client Billing Tel#: <u>330-645-6778</u> 3. Client e-mail Address: _____ 4. Client appointment date: _____ 5. Client appointment time: _____		6. Documents sent with sales order: <input checked="" type="checkbox"/> Service Agreement <input type="checkbox"/> ICS <input type="checkbox"/> ISP Transfer Letter <input type="checkbox"/> ChoiceXchange Frm <input type="checkbox"/> InterNet LOA <input type="checkbox"/> Distance Map <input type="checkbox"/> ChoiceOnePlus <input type="checkbox"/> Number Resrv Confm <input type="checkbox"/> Resp Org <input type="checkbox"/> ChoicePath <input type="checkbox"/> Tax Exempt Docs <input type="checkbox"/> CSR <input type="checkbox"/> Directory Pages <input type="checkbox"/> Current Bill Copy 7. Total pages sent: _____ 8. Total number of T-1s ordered: _____	
Salesperson-Billing System: <u>Kale, Stephen A</u> <u>5361</u>		Agent Manager ID: _____	
Salesperson-SOT: <u>Kale, Stephen A</u> <u>5361</u>		Agency (PBP): _____	
Sales Office: <u>Akron</u>		Agent ID: _____	
		Referral Agent: _____	
ChoicePath: _____		Web Hosting: _____	
ChoiceXchange: <u>0.00</u> <u>25.00</u> <u>2</u>		NAT: _____	
ChoiceOnePlus: <u>0.00</u> <u>25.00</u> <u>2</u>		Firewall: _____	
Voicemail: _____		VPN: _____	
ChoiceNetJet: <u>0.00</u> <u>89.00</u> <u>1</u>			
DSO: _____			
1. Is this a CLEC to CLEC Conversion? <input type="checkbox"/> Yes If yes, name of CLEC: _____ 2. Does client currently have DSL? <input type="checkbox"/> Yes If yes, name of provider: _____ 3. Does client require hunting? <input checked="" type="checkbox"/> Yes 4. Does client require toll-free services? <input type="checkbox"/> Yes 5. Does client require calling cards? <input type="checkbox"/> Yes 6. Does client require fast forward numbers? <input type="checkbox"/> Yes 7. Does client require abbreviated dialing? <input type="checkbox"/> Yes		8. Does client require voice mail? <input checked="" type="checkbox"/> Yes 9. Is client converting all lines to CWON? <input checked="" type="checkbox"/> Yes 10. Does client require account codes? <input type="checkbox"/> Yes 11. Is client transferring any domain names? <input type="checkbox"/> Yes If yes, name of domain: _____ 12. Is a ChoicePath order also being submitted for this client? <input type="checkbox"/> Yes 13. Does client require all orders cut on same day? <input type="checkbox"/> Yes	
Notes: Port 1, add 1. Tom Randa to submit data order.			
1. Order Type <input checked="" type="checkbox"/> New <input type="checkbox"/> Add <input type="checkbox"/> Move <input type="checkbox"/> VODSL		2. Collocation <u>CVTPOH02 - Akron</u> <u>533 Portage Lakes, Akron</u>	
3. Market <u>AKRON</u>			
4. SOT # <u>834066.02</u>		5. TBS # _____	
6. IManage # <u>834066</u>		7. SIC <u>00000 - Other</u>	



# Application for Service, Letter of Agency, and Agreement Choice One / US Xchange

100 Chestnut Street, Suite 700 Rochester, NY 14604-2417  
Client Services: 1-888-832-6801

Salesperson: Kala, Stephen A - 5361

A. Randall - 5344

## Client Information

Client Billing Name:	Center for Natural Medicine		Contact:	Dr Keith Ungar	Tel. #:	330-844-7246	
Billing Address:	2828 S Arlington Road						
City:	AKRON	County:	SUMMIT	State:	OH	Zip:	44312
Site Contact:	Dr Keith Ungar	Tel. #:	330-844-7246	Billing Contact:	Dr Keith Ungar		
Location Name:	Residence						
Location Type:	<input type="checkbox"/> Suite:	<input type="checkbox"/> Floor:	<input type="checkbox"/> Room:	<input type="checkbox"/> Apt:			
Street Address:	608 Gougher Road						
City:	AKRON	County:	SUMMIT (44318)	State:	OH	Zip:	44319
Ownership:	<input checked="" type="checkbox"/> Corporation	State of Incorporation:	OH	Federal ID #:	34-1928706		
	<input type="checkbox"/> Sole Proprietor	Proprietor's Name:		Social Security #:			
	<input type="checkbox"/> Partnership	Name of Partner 1:		Social Security #:			
		Name of Partner 2:		Social Security #:			
		Name of Partner 3:		Social Security #:			

## Local, IntraLATA, Intrastate, Interstate, and Data Services & Products (only selected as checked)

<input checked="" type="checkbox"/> ChoiceXchange - Local Dial Tone	<input type="checkbox"/> ChoiceOnePlus - Calling Card
<input checked="" type="checkbox"/> ChoicePath - T-1/DSO Voice and/or Data/Internet	<input checked="" type="checkbox"/> ChoiceNetJet - Digital Subscriber Line (DSL) Internet Access
<input checked="" type="checkbox"/> ChoiceOnePlus - 1 + Long Distance - IntraLATA	<input type="checkbox"/> ChoiceNetPath - Dedicated Internet Products
<input checked="" type="checkbox"/> ChoiceOnePlus - 1 + Long Distance - IntraLATA	<input type="checkbox"/> Web Hosting
<input type="checkbox"/> ChoiceOnePlus - "Toll-Free"	
<input type="checkbox"/> Modern Agreement Attached (required for DSL)	

Term of Agreement in Months: 60

**Party to Agreement:** As used in this Agreement, "Choice One" means the subsidiary or affiliate of Choice One Communications, Inc., as appropriate in the Client's state(s), to provide service to Client as a certified telecommunications entity, including US Xchange entities, which d.b.a. as Choice One and Choice One Communications in certain states. This Agreement incorporates by reference the Acceptable Use Policy ("AUP"), is controlled by the relevant state and federal tariffs, and incorporates regulations for interstate interexchange long distance published at [www.choiceone.com](http://www.choiceone.com).

**Obligations of Choice One:** This form constitutes an Application for Service, CPNI form and notice, Letter of Agency, and, upon acceptance by Choice One, an Agreement between Client and Choice One. No Agreement shall be enforceable until accepted by Choice One. Choice One may, at its sole discretion, reject the application for service of any Client based on failure to comply with the application, insufficient, or unsatisfactory installation information or Client credit information, or may require a deposit from Client at any time.

**Client Satisfaction Guarantee:** Should the Client have a "quality of service problem" that Choice One is unable to resolve (defined as a major service outage), caused exclusively by Choice One, the Client may transfer back to its previous provider(s) (or other provider(s) if no prior provider(s)) at no charge from Choice One (paragraph D, under Client Initiated Early Termination below, will no longer apply). Choice One will pay only the carrier(s) reasonable and customary tariffed charges for a standard conversation. Client agrees that all current and pending Choice One invoices must be satisfied prior to release and conversion. This guarantee does not apply to the speed or availability of DSL service to the Client or to web hosting services.

**Price Guarantee:** If Client agrees to a 12-month, or longer, term: 1) Choice One will not increase Client's basic tariffed monthly recurring service rates for the chosen service(s) during the term, and 2) should Choice One's tariffed monthly recurring rates for the chosen service(s) under the same term plan decrease during the term, the Client shall have the option of converting to a new Service Agreement of equal to or longer term duration than the original full term expiring on the new rate(s). This guarantee does not apply to web hosting services. If Client is in good standing under this Agreement and has no past due invoices (or DSL is with a new order), and Choice One cannot install DSL service as ordered, Choice One will waive DSL installation charges.

**Client Initiated Early Termination:** If Client has selected a Term of Agreement in Months, as noted above, Client agrees:

- to convert to Choice One for local, intraLATA/intrastate/interstate/international LD, data, Internet, and/or other services, per this completed form and to be obligated for the quantity of services installed and any CPE (Client Premise Equipment) installed;
- that new/additional line service(s) requested by Client at the original location and locations added subsequent to the date below will be covered by this Agreement and the LOA, and have the same ending Term as this Agreement, if applicable;
- that changes in line quantities or usage volumes after activation will be covered by volume discounts and usage minimums/guarantees in applicable tariffs; and
- that should the Client cancel this Agreement after installation but prior to the end of any Term, to repay Choice One the difference between what the Client has paid at the current term's discounted rates per the Client's Service Agreement, and the same service(s) at rates for the nearest lesser completed term, plus: all waived non-recurring charges, promotional consideration, subsidy consideration, or equipment credit provided since the beginning of the Term; dedicated circuit term plus early termination penalties; any usage minimums; and the fee, if any, for failure to return CPE provided by Choice One.

**ChoiceOne® Freeway Service:** This service, where available, applies only to local calls among on-net Choice One clients. Local usage / toll charges may apply to other calls or calls over duration limits. Limits may apply to ISP calls. More terms and conditions are described in applicable tariffs.

KSU

### Application for Service, Letter of Agency, and Agreement for Local, IntraLATA LD, Intrastate/Interstate/International LD and/or Other Services Continued

**Severability, Waiver, and Disconnect for Violation of Laws or Tariffs.** In the event that any term or provision of this Agreement shall be declared invalid, illegal, or unenforceable, in any respect, by any court or regulatory agency of competent jurisdiction, such invalidity, illegality, or unenforceability shall not in any manner affect the validity or enforceability of any other term or provision of this Agreement. Failure by either party to enforce a provision of this Agreement shall not constitute subsequent waiver of such provision. CHOICE ONE MAY DISCONNECT SERVICE IN ACCORDANCE WITH THE APPLICABLE TARIFF(S) OR BREACH OF THIS AGREEMENT (e.g., under court order, for non-payment, illegal use of service, violation of Federal/State/Local laws, the AUP, and violation of FCC/PUC rules). The Client agrees that there have been no representations other than those expressly set forth herein or by written signed amendment as allowed.

#### Payment Obligations, Termination Prior to Installation, Alteration, Billing, and Ending Date of Agreement

- The Client is responsible for timely payment of all charges for the services and quantities ordered, installed, or used (per contract or tariff, as applicable), EUL, PLOC, taxes, fees, minimum usage fees, and charges for services furnished to the Client. For orders cancelled prior to installation, the Client must pay: 1-month minimum billing, plus applicable one-time charges, set up fees, waived non-recurring charges, promotional consideration, subsidy consideration, and equipment credits provided; any fee assessed for a failure to return leased equipment; any minimum usage fees; and dedicated circuit plan penalties applied to Choice One. There are no fees for services not installed due to technical limitations or by decision of Choice One. SERVICE AGREEMENT AMENDMENTS OR WAIVERS ARE VALID ONLY IF AUTHORIZED, WRITTEN, AND SIGNED BY BOTH A CURRENT CHOICE ONE VICE PRESIDENT AND THE CLIENT.
- Local services are billed pro-rata from the start of service to the end of the current billing period and for one additional billing period in advance.
- All past due invoices are subject to interest at the rate of 1.5% per month or the highest rate allowed by law, if lower.
- Choice One must receive written notice of any dispute within thirty (30) days, or other period as required by applicable tariff, after the invoice date or such invoice shall be deemed correct and binding.
- Client agrees to pay all costs of collection, including reasonable attorney's fees, incurred by Choice One in the collection of any and all breach of contract actions, bankruptcy (any form), and past due amounts. A fee, as allowed by law or tariff, may be charged for each check returned for insufficient funds.
- The Ending Date of this Agreement shall be the date of the Client's first invoice advanced by the number of months noted in the Term on page 1. Except where prohibited by law, on the Ending Date, this Service Agreement will automatically renew for a new Term equal to the prior Term unless Client returns as declined the renewal notice sent between 60 and 30 days prior to the Ending Date. Appropriate then-current tariffed recurring term rates will apply upon any renewal, and month-to-month tariffed rates will apply to services used after the end of any term that is not renewed as a term agreement by the Client.

**Assignment.** Client may not assign its rights or obligations under this Agreement without the prior express written consent of Choice One. Any attempted assignment, or attempted change of control or sale of Client's equity or assets (including but not limited to a sale of or lease assignment for the service location(s) of the Client) will automatically terminate this Agreement and all sums due hereunder shall be immediately due and payable. Assignee shall have no rights to the telephone numbers used by Client. Choice One may assign the Service Agreement at any time without prior notice.

**Liability.** Choice One's liability to the Client and to third parties for any and all causes of action is set forth in Choice One's applicable state and federal tariffs, and the AUP, and these shall govern in all cases and are incorporated herein by reference. For all interstate domestic interexchange services, Choice One and Client adopt herein all of the rate and service provisions in the applicable interexchange tariff(s) and/or documents published at [www.choiceone.com](http://www.choiceone.com). No agent or employee of any other carrier shall be deemed to be either for Choice One. Client agrees that Choice One may contact Client via email for service and marketing notifications (e.g., service initiation, product, service, and marketing information). The Client or user will hold Choice One, its officers, directors, employees, and agents harmless from any liability (including, but not limited to, errors in content, information, or viruses) arising from Choice One's communication with the Client via e-mail or the Internet.

**Governing Law and Venue.** This Agreement shall be construed and governed by the laws of the State of New York, excluding its laws concerning conflict of laws. The parties consent to the exclusive personal jurisdiction and venue of the New York Federal and/or State Courts. Any action arising under the Agreement shall be brought in a Federal or State Court located in Monroe County, New York.

I warrant that I have the legal authority to bind the undersigned to this Agreement and that I am free of any third-party obligation preventing me from authorizing, Choice One Communications Inc., and/or its subsidiaries and/or authorized agents (collectively "Choice One") to act as my agent for the purpose of TAKING ANY AND ALL ACTIONS REQUIRED (including the removal of any account protection / freezes) required to implement the LOCAL, DATA, INTERNET, INTRALATA LD, INTRASTATE LD, INTERSTATE / INTERNATIONAL LD, and/or other services described herein (and all future incremental services of the same type(s)), for all my physical service and billing locations as noted on this form, or added by me later, including changing my primary long distance carrier(s) and/or my local exchange carrier(s) to Choice One from any current carrier(s). Notwithstanding any agency rule or law to the contrary, this Letter of Agency is valid until revoked by me in writing or by a subsequent valid authorization. I authorize Choice One to notify all appropriate parties, including my current local and/or long distance telephone company(ies), of this decision, and to make the necessary changes for my current and future services without further permission.

I direct my chosen intraLATA and/or intrastate/interstate/international long distance company(ies), if not Choice One, to comply with Choice One's current applicable access tariff(s). Choice One may obtain any records from my local, data, Internet, intraLATA long distance, and/or intrastate/interstate/international long distance phone company(ies) necessary to provide these services. I understand that I may choose only one carrier per telephone number for intraLATA/interstate/international services and, in some states, up to one more carrier per line for intraLATA services. I may be charged a tariffed fee for changing my long distance and/or local phone company(ies), and I understand that I may inquire of Choice One what fees will apply, if any, to these changes. I authorize Choice One and/or its authorized agents to make any and all inquiries necessary for the purpose of obtaining credit information.

I hereby indemnify and hold harmless Choice One, its employees, and agents, from any liability resulting from any credit inquiry, numbering issue, directory listing issue, delay of service issue, loss of business demand, CPNI issue, or liability to me or any third-party for any pre-existing contract (including any minimum payment or usage agreement, or any Centrex or Centrex-like agreement) or obligation I may have regarding my local, data, Internet, intraLATA long distance, and/or intrastate/interstate/international long distance services. I agree that I have no property rights to any telephone numbers assigned to me. I agree that all calling cards ordered hereunder have a \$75.00 per card per month limit, unless I agree to and qualify for a different credit limit.

Company Name: Center for Natural Medicine

Authorized Signature: [Signature]

Title: PRESIDENT

Authorized By (Print): KERITH S. RANGAR

Date: 6/26/02

**DATA SERVICES (applicable if ordered on page 1)**

**IP Addresses:** IP addresses are not portable and not assigned for independent administration or distribution. Client understands that IP assignments are not guaranteed and may be modified as required by Choice One and/or the American Registry for Internet Numbers (ARIN).

**Acceptable Use Policy:** Use of the Choice One's network for Internet access and activity on the Internet must comply with the then-current version of the Choice One Acceptable Use Policy ("AUP") which is made a part of this Agreement and is available at the following URL: [www.choiceone.com/aup.html](http://www.choiceone.com/aup.html), and may change at any time.

**E-Mail (CLIENT ACKNOWLEDGEMENT REQUIRED)**

(Client Initials): By initialing here, Client IS NOT ordering e-mail services at this time, and understands that Client may order e-mail services at any time hereafter, however by delaying an order, Client understands e-mail services will be DELAYED for a minimum of two weeks after an access line is installed.

**Domain Names:** Choice One shall, upon request by Client, perform an availability search, reserve and register Client's desired Domain Name with an accredited Domain Name registration entity. Client will be billed directly by the vendor for registration fees. Choice One does not guarantee that Client will be assigned its desired name, and Choice One is not responsible for any Domain Name that has been issued to any other entity. Client warrants that either Client is the owner of, or is duly authorized by the owner to use, any trademark or name requested or allocated as its Domain Name. Client further warrants that neither Client's nor Choice One's use of registration of Client's Domain Name constitutes infringement of any other entity's Intellectual Property Rights. Choice One shall not undertake to resolve any disputes or litigation on Client's behalf involving Domain Name registration, and Client agrees that it shall indemnify, hold harmless, and defend Choice One against any disputes involving Domain Name use or registration. Client shall be deemed the author and owner of Client's Domain Name and its attendant intellectual rights.

**Inside Wiring (CLIENT ACKNOWLEDGEMENT REQUIRED)** For data services only, Client (circle one) requests ☒ Choice One services at prevailing rates to install inside wire necessary to turn up the selected service(s), where the installation of inside wire requires no more than 200 feet of wire within Client premises and, in the sole discretion of Choice One, does not require a complex wiring solution ("Complex Wiring"). Client agrees that Choice One is not required to provide Complex Wiring under this Agreement.

THE CPE EQUIPMENT SERVICES PROVIDED BY CHOICE ONE ARE PROVIDED "AS IS." CHOICE ONE MAKES NO WARRANTY OF ANY KIND, EXPRESSED OR IMPLIED, INCLUDING BUT NOT LIMITED TO, ANY WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE OR NON-INFRINGEMENT, OR ANY WARRANTY REGARDING THE RELIABILITY OR SUITABILITY FOR A PARTICULAR PURPOSE OF ITS SERVICES. ALL WARRANTY PROVISIONS IN CHOICE ONE'S CURRENT TARIFFS AND THE AUP APPLY. CLIENT UNDERSTANDS AND ACKNOWLEDGES THAT CHOICE ONE EXERCISES NO CONTROL OVER THE NATURE, CONTENT OR RELIABILITY OF THE INFORMATION RESIDING ON OR PASSING THROUGH ITS NETWORK. NO ORAL OR WRITTEN INFORMATION OR ADVICE GIVEN BY CHOICE ONE, ITS DEALERS, AGENTS OR EMPLOYEES SHALL CREATE A WARRANTY AND CLIENT MAY NOT RELY ON ANY SUCH INFORMATION OR ADVICE. CHOICE ONE MAKES NO WARRANTY OF ANY KIND, EITHER EXPRESSED OR IMPLIED, REGARDING THE QUALITY, ACCURACY OR VALIDITY OF THE INFORMATION AND/OR DATA RESIDING ON OR PASSING THROUGH ANY NETWORK. USE OF ANY INFORMATION OBTAINED FROM OR THROUGH SERVICES PROVIDED BY CHOICE ONE WILL BE AT CLIENT'S OWN RISK.

CLIENT ACKNOWLEDGES THAT CHOICE ONE IS NOT LIABLE FOR ANY ERRORS OR INTERRUPTION IN THE SERVICES, WHETHER WITHIN OR OUTSIDE THE CONTROL OF CHOICE ONE. UNDER NO CIRCUMSTANCES SHALL THE CLIENT HOLD CHOICE ONE RESPONSIBLE FOR ANY FORM OF DAMAGES OR LOSSES (INCLUDING WITHOUT LIMITATION ANY DIRECT, INDIRECT, CONSEQUENTIAL OR INCIDENTAL DAMAGES OR LOSSES) SUFFERED FROM, BUT NOT LIMITED TO ERRORS, DELAYS, LOSS OF INFORMATION, OR INTERRUPTIONS IN SERVICE CAUSED BY CLIENT, CHOICE ONE, OR A THIRD PARTY'S NEGLIGENCE, FAULT, MISCONDUCT OR FAILURE TO PERFORM OR FROM ANY FAULT, FAILURE, DEFECT OR DEFICIENCY IN ANY SERVICE, LABOR, MATERIAL WORK OR PRODUCT FURNISHED IN CONNECTION WITH THESE SERVICES. CLIENT UNDERSTANDS THAT TELECOMMUNICATION AND/OR NETWORK ACCESS SERVICES MAY BE TEMPORARILY UNAVAILABLE FOR SCHEDULED OR UNSCHEDULED MAINTENANCE AND FOR OTHER REASONS WITHIN AND OUTSIDE OF THE DIRECT CONTROL OF CHOICE ONE.

UNDER NO CIRCUMSTANCES DO ANY SUCH ERRORS, DELAYS, INTERRUPTIONS IN SERVICES OR LOSS OF INFORMATION NULLIFY OR MODIFY THESE TERMS AND CONDITIONS. CHOICE ONE IS NOT RESPONSIBLE FOR ANY DAMAGES OF ANY KIND CLAIMED AS A RESULT OF ERRORS OR OMISSIONS OF DIRECTORY LISTINGS OR ADVERTISING OF ANY KIND. THE CLIENT AND CHOICE ONE AGREE TO BE BOUND BY AND COMPLY WITH ALL REGULATIONS, POLICIES, LAWS AND BACKBONE CARRIER REGULATIONS RELATING TO INTERNET SERVICES, INCLUDING BUT NOT LIMITED TO, ACCESS BY MINORS, BULK EMAIL, SPAM, CONTENT, AND OBSCENITY, AND CHOICE ONE'S THEN CURRENT AUP.

**Original and Annual Notice for CPNI (applies to all services)**

This constitutes an ORIGINAL and ANNUAL NOTICE of Client's rights concerning Client Proprietary Network Information (CPNI). CPNI is commonly called the "Client record" and includes the Client's service(s) selection(s), any demographic information gathered, optional features the Client has ordered, and usage data for services. CPNI does not include a Client's name and address. CPNI is protected under Federal law and/or regulations. Choice One has an obligation to protect the confidentiality of CPNI, and the Client has rights regarding the use and confidentiality of CPNI. By signing this form, Client is authorizing Choice One to have access to Client's CPNI to enhance Choice One's ability to offer products and services tailored to the Client's needs, and to offer the broadest range of services to Clients while protecting Client's CPNI rights. Client may disapprove Choice One's use(s) of CPNI at any time by written notification to Choice One at 100 Chestnut Street, Suite 600, Rochester, NY 14604-2421. Withdrawal by Client will not affect the provision, management, or quality of service(s) Client receives from Choice One.

**Acceptance of CPNI Rights and Permission for Choice One to Exercise CPNI Obligations**

I hereby acknowledge that I have the legal authority to and do hereby authorize Choice One Communications, Inc. and/or its employees, subsidiaries, including US Xchange Inc. and its subsidiaries, and authorized agents (collectively "Choice One") to record, maintain, modify, use, and/or exchange my CPNI, as defined under federal or state law or regulation, to install and manage my telecommunications services, as I have previously directed Choice One on a Letter of Agency and Service Agreement. I also authorize Choice One to use my CPNI to determine if additional local, long distance, data, Client premise equipment, Internet, wireless, and/or other services would be of benefit to me and to present same for my review.

I understand that allowing Choice One to make such services available to me may enhance the benefit(s) of my existing service(s) and enhance Choice One's ability to offer products and services tailored to my needs. I understand that I am under no obligation regarding such new services presented to me, unless I agree to accept them. I acknowledge that I understand my rights and obligations as contained in this Notice and Agreement, and hereby indemnify and hold harmless Choice One from any and all liability resulting from Choice One's actions regarding my CPNI or Client records.

Company Name: Center for Natural Medicine

Authorized Signature: [Signature]

Title: PROSIDENT

Authorized By (Print): KATHA S. UNKAR

Date: 6/26/02

**Web Site Development and Hosting (applicable if ordered on page 1)****Web Site Hosting (CLIENT ACKNOWLEDGEMENT REQUIRED)**

(Write "YES" if selected, "NO" if not) NO Client agrees to have Choice One host a Web site for the Client on servers provided by Choice One and made accessible to Internet/ Web users worldwide. The Client will provide all the necessary information for Choice One to host the web site. Limitations on the complexity, sophistication of design and content, and traffic management to and from the Web site apply. The client agrees to pay all appropriate hosting fees upon the earlier of: A) the client's approval of the Web site, or B) thirty (30) days after signing this Service Agreement. Additional maintenance and changes to the Web site will be billed at the then current rates for post design work.

Client warrants that, if the Web site supplied to Choice One, either Client is the owner of, or is duly authorized by the owner to use, any and all information, graphics, pictures, textual descriptions, servicemarks, trademarks, or other intellectual property, and any and all other information of any type on the Web site. Client further warrants that neither Client's nor Choice One's use constitutes infringement of any other entity's Intellectual Property Rights. Client agrees that it shall indemnify, hold harmless, and defend Choice One against any disputes involving such information, intellectual property, and the Web site itself.

**ChoiceNetJet DSL Modem / T-1 CPE Agreement (applicable if ordered on page 1)**

**Application** Client agrees that the DSL Modem / T-1 CPE (collectively "CPE") described herein will be used by Client at its service address and only in association with the service(s) provided to Client by Choice One under the terms and conditions of the Service Agreement which is attached hereto. Client shall have the use of such CPE during the initial term, any renewal term, or until cancellation or termination of the associated Service Agreement, whichever is earlier.

**Terms of CPE Usage** Client shall not be required to compensate Choice One for the use of the CPE during the term of this Service Agreement, except as noted herein. For a DSL Modem, should Client (a) cancel or terminate this Service Agreement within one year after the effective date of the initial term of this Agreement, for reasons other than the Quality of Service Guarantee provision of this Agreement or (b) fail to return the DSL Modem as set forth herein, Client shall be required to pay Choice One the amount of Three Hundred Fifty Dollars and No Cents (\$350.00) per DSL Modem. To avoid this charge, the DSL Modem must be returned to a Choice One office within 30-days of termination of DSL service.

A Recovery Fee of \$1,800.00 will apply per CPE unit (except for DSL Modems) that is not recovered by Choice One. To avoid this charge, Choice One must retrieve the CPE, or it must be returned in good working order to a Choice One office within 30-days of termination of the service supported by the CPE. Client shall at all times permit and cause its landlord to permit full and complete access upon demand to the CPE for any purpose, including, but not limited to removal, by Choice One or its authorized agents. Client agrees to pay Choice One a one-time charge in the event Client requests and receives an upgrade to the CPE prior to the expiration of this Service Agreement.

Client agrees to return a DSL Modem to the local Choice One sales office, in good condition (subject to reasonable wear and tear) within thirty (30) days following: (a) the expiration of an initial or renewal term of this Service Agreement, (b) cancellation pursuant to the Quality of Service Guarantee provision in this Service Agreement, or (c) termination or cancellation of this Service Agreement prior to its termination date. Client is required to reimburse Choice One the amount set forth herein, for a failure to return the DSL Modem as set forth in this Section. Client is required to reimburse Choice One for any loss of, or damage to, any CPE while on Client's premises, including but not limited to, loss or damage caused by its landlord (or its agents), agents, employees or independent contractors of Client through any negligence, or willful misconduct, or loss due to theft, fire, or other similar event.

Neither Client, nor its landlord or any third party, shall obtain, nor shall any such party assert, any property right, lien, or any other interest in any CPE furnished by Choice One. All right, title and interest to such CPE remains, at all times, solely with Choice One. Client shall be responsible for, and all costs associated with, providing space on its premises and/or electrical power for any CPE.

**Limitation of Liability** Any defective CPE shall be replaced or repaired by Choice One without cost to Client; provided, however, that such defect was not caused by the negligence or willful misconduct of Client, or for any reason by a third party. Choice One is not liable for any defacement of or damage to the premises of Client, authorized joint user, or landlord resulting from the furnishing of or access to any CPE on such premises or the installation or removal thereof, when such defacement or damage is not the result of negligence or willful misconduct on the part of the agents or employees of Choice One.

Client Initials: KSa

**CENTER FOR NATURAL MEDICINE**

2828 S. Arlington Rd.  
Akron, OH 44312  
330-644-7246

**FAX COVER SHEET**

*The documents accompanying this transmission contain confidential health information that is legally privileged. This information is intended only for the use of the individual or entity named above. The authorized recipient of this information is prohibited from disclosing this information to any other party unless required to do so by law or regulation and is required to destroy the information after its stated need has been fulfilled.*

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To: Andy Lagan From: Dr. Lagan  
Fax: 1-866-454-1226 Page(s) (Including Cover) 4  
Phone: \_\_\_\_\_ Date: \_\_\_\_\_  
Re: \_\_\_\_\_ CC: \_\_\_\_\_

Additional Comments:



OCT. 30. 2006 3:02PM CHOICE ONE

NO. 434 P. 1



100 Chestnut Street, Suite 700  
Rochester, New York 14604  
Main Phone Number: (866)307-1226  
Main Fax Number (866)454-1226 or (585)530-2878  
Andrew Ragan (866) 307-1226 x 4180

# Fax

Date: 10-19-06 Pages (including cover page): \_\_\_\_\_  
To: Dr. Hager \_\_\_\_\_  
Company: \_\_\_\_\_  
Fax Number: 330-644-9292 \_\_\_\_\_  
Phone Number: \_\_\_\_\_  
From: A. F. Hager c: \_\_\_\_\_  
Re: \_\_\_\_\_  
LOA with new numbers & Existing  
numbers

☐ Urgent ☐ For Review ☐ Please Comment ☐ Please Reply ☐ Please Recycle

OCT. 30. 2006 3:02PM CHOICE ONE

NO. 434 P. 2



**Loyalty has its rewards.  
Here's how to get yours.**

**Loyalty Bonus Account Renewal Form****Extend Your Service For:**

- 12 months and get 1 Month FREE
- 36 months and get 4 months FREE
- 60 months and get 6 months FREE

**Hurry, Loyalty Bonus contract renewal offer ends October 30th, 2006**

**YES, I would like a Choice One Client Loyalty Bonus. Please renew my Choice One services at the location(s) listed below according to the terms and conditions included in this offer (refer to the following pages for complete terms and conditions).**

**Please initial your renewal term below.**

- ☐ **SIX MONTHS FREE (with 60 months of extended service and savings)**  
☐ **FOUR MONTHS FREE (with 36 months of extended service and savings)**  
☒ **ONE MONTH FREE (with 12 months of extended service and savings)**

**CENTER FOR NATURAL MEDICINE**

Business Name

  
Authorized signature

3218432

Account Number

330-644-7246

Phone Number

10/6/2006

Date

2628 S ARLINGTON RD

Akron, Ohio 44312

Service Location 1

608 Gougher RdAkron, Ohio 44319

Service Location 2

Service Location 3

Loyalty Bonus credits will be applied to monthly line recurring charges only (flat rate clients will receive 1/2 off their flat rate for the applicable months), and will be applied as follows; for a 60-month extension, in months 13, 25, 30, 37, 49 and upon completion of the 60-month extension; for a 36-month extension, in months 13, 25, 30 and upon completion of the 36-month extension; for a 12-month extension upon completion of the 12-month extension.

Once you have initialed the renewal term above and signed this renewal agreement, please fax or mail back the form to:

Attention: Andrew Fagan  
Phone: 866-307-1226x4180

Mailing Address: 100 Chestnut St  
Rochester, NY 14604

Fax Number: 866-454-1226

OCT. 30. 2006 3:04PM CHOICE ONE

NO. 434 P. 5

## LETTER OF AGENCY

1. Subscriber's billing name:

Center for Natural Medicine

2. Subscriber's billing address:

2028 S. Arlington Rd. Akron, OH 44312

3. Each telephone number to be covered by the preferred carrier change order (list all numbers):

330-724-5521, 330-896-8500,Existing numbers: 330-245-1729, 330-475-0065, 330-475-0052, 330-644-1448,

4. By submitting this LOA, I:

330-644-7240, 330-644-9298, 330-644-9292, 330-645-3200,  
330-645-7000

- A. authorize Choice One Communications Inc. and/or its subsidiaries and/or authorized agents (collectively "Choice One") to act as my agent for the purpose of taking all actions hereunder in connection with my preferred carrier change;
- B. warrant that I am free of any third-party obligation preventing me from doing so, and that I have the legal authority to execute this LOA;
- C. desire to make Choice One my preferred carrier;
- D. understand that only one carrier may be designated as my interstate or intraLATA preferred interexchange carrier for any one telephone number;
- E. understand that Choice One, my preferred carrier, will be the carrier directly setting my rates;
- F. authorize Choice One to notify all appropriate parties, including my current local and/or long distance telephone company(ies), of this decision and to make the necessary changes for my current and future services without further permission;
- G. direct my chosen intraLATA and/or intrastate/interstate/international long distance company(ies), if not Choice One, to comply with Choice One's current applicable access tariff(s). Choice One may obtain any records from my local, data, Internet, intraLATA long distance, and/or intrastate/interstate/international long distance phone company(ies) necessary to provide these services;
- H. may be charged a tariffed fee for changing my long distance and/or local phone company(ies), and I understand that I may inquire of Choice One what fees, if any, will apply to these changes;
- I. authorize Choice One and/or its authorized agents to make any and all inquiries necessary for the purpose of obtaining credit information.

Client Name:

Kenneth S. Chomars

Client Authorized Signature:

[Signature]

Print Name &amp; Title:

Kenneth S. Chomars Pres

**From:** Morey, Theresa  
**Sent:** Thursday, July 24, 2008 4:36 PM  
**To:** 'ContactThePUCO@puc.state.oh.us'  
**Subject:** Center for Natural Medicine Case: TSKI072408OI

**Attachments:** Center for Natural Medicine.pdf

One Communications reviewed this case and offers the following information:

Attached is a signed service agreement for this account to transition to One Communications, at that time called Choice One Communications.

The Agreement is signed by a Keith Unger who has listed himself as the President of the corporation. Our records indicate that he is the contact on the account.

Please contact me should you require additional information.

please reference previous case # WGAN032708LV which was regarding this account as well.

Thank you

**Theresa Morey**  
Service Analyst  
One Communications  
315.701.4511 direct  
585.278.1702 fax

---

**From:** ContactThePUCO@puc.state.oh.us [mailto:ContactThePUCO@puc.state.oh.us]  
**Sent:** Monday, March 31, 2008 12:59 PM  
**To:** Inquiry  
**Subject:** Initial Complaint. Case: WGAN032708LV

PUBLIC UTILITIES COMMISSION OF OHIO

Initial Submission of a Consumer Complaint  
Please respond within 10 business days

**CUSTOMER:** William Gandee  
**COMPANY:**  
**ADDRESS:** 3577 S Arlington

Akron, OH 44312

**SERVICE ADDRESS:** 3577 S Arlington, Akron OH, 44312, Summit  
**CASE ID:** WGAN032708LV  
**AIQ:**

**NIQ:** (330) 724-5521  
**CBR:** (330) 807-1166

DESCRIPTION OF ISSUE/CONCERN:

He Theresa.....thanks for confirming this is a customer of One Communications. Here is the information I was supplied, and hopefully I can explain it right.

Mr. Gandee alleges he had the number for 30 years and it was in his name. He had it through ATT. He recently learned that One Communications became the provider of it in February of 2007. He said that another doctor in the building, last name Unger, switched it to One Communications without his authorization. Is there anyway you can determine who actually called and set this account up? TPV?

I'd appreciate any information you can provide!

Stephen Watson  
Compliance Investigator  
Investigation and Audit Division

614-995-2008 Fax

OCT. 30, 2006 3:04PM CHOICE ONE

NO. 434 P. 5

## LETTER OF AGENCY

1. Subscriber's billing name:

Center for Natural Medicine

2. Subscriber's billing address:

2028 S. Arlington Rd. Phoenix, AZ 85012

3. Each telephone number to be covered by the preferred carrier change order (list all numbers):

330-724-5521, 330-896-8500,Existing Numbers: 330-245-1729, 330-475-0045, 330-475-0052, 330-644-1440,

4. By submitting this LOA, I:

330-644-7244, 330-644-9200, 330-644-9292, 330-645-3200,  
330-645-7400

- A. authorize Choice One Communications Inc. and/or its subsidiaries and/or authorized agents (collectively "Choice One") to act as my agent for the purpose of taking all actions hereunder in connection with my preferred carrier change;
- B. warrant that I am free of any third-party obligation preventing me from doing so, and that I have the legal authority to execute this LOA;
- C. desire to make Choice One my preferred carrier;
- D. understand that only one carrier may be designated as my interstate or intraLATA preferred interexchange carrier for any one telephone number;
- E. understand that Choice One, my preferred carrier, will be the carrier directly setting my rates;
- F. authorize Choice One to notify all appropriate parties, including my current local and/or long distance telephone company(ies), of this decision and to make the necessary changes for my current and future services without further permission;
- G. direct my chosen intraLATA and/or intrastate/interstate/international long distance company(ies), if not Choice One, to comply with Choice One's current applicable access tariff(s). Choice One may obtain any records from my local, data, Internet, intraLATA long distance, and/or intrastate/interstate/international long distance phone company(ies) necessary to provide these services;
- H. may be charged a tariffed fee for changing my long distance and/or local phone company(ies), and I understand that I may inquire of Choice One what fees, if any, will apply to these changes;
- I. authorize Choice One and/or its authorized agents to make any and all inquiries necessary for the purpose of obtaining credit information.

Client Name:

Kenneth S. Unruh

Client Authorized Signature:

[Signature]

Print Name &amp; Title:

Kenneth S. Unruh Pres