

BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO

Chad Kister,)	
)	
Complainant,)	
)	
v.)	Case No. 11-3467-TP-CSS
)	
AT&T Ohio,)	
)	
Respondent.)	

AT&T OHIO'S MOTION TO COMPEL

AT&T Ohio¹, Respondent herein, pursuant to Ohio Admin. Code §4901-1-23, moves to compel discovery with regard to its first set of interrogatories and first request for production of documents that were served on Respondent on September 19, 2012. A memorandum in support of this motion is attached. AT&T Ohio has filed, contemporaneously, a motion for a continuance of the hearing scheduled for December 13, 2012 to a mutually agreeable date after the Complainant has fully responded to the discovery.

Respectfully submitted,

AT&T Ohio

By: /s/ Jon F. Kelly
Jon F. Kelly
AT&T Services, Inc.
150 E. Gay St., Room 4-A
Columbus, Ohio 43215
(614) 223-7928

Its Attorney

¹ The Ohio Bell Telephone Company is a public utility in Ohio and provides certain Commission-regulated services and other non-regulated services. The Complainant used the name "AT&T" in his complaint. The Ohio Bell Telephone Company uses the name AT&T Ohio, which is used in this pleading.

MEMORANDUM IN SUPPORT OF
AT&T OHIO'S MOTION TO COMPEL

In order to prepare to put on its defense at the hearing scheduled in this matter, AT&T Ohio served some very basic discovery on the Complainant on September 19, 2012. Among other things, AT&T Ohio sought the names of Complainant's potential witnesses, Complainant's notes, logs, or other documents pertaining to the allegations of the Complaint, and copies of all documents that the Complainant intends to introduce as exhibits at the hearing. All of this information is relevant to the case because it will provide basic information about the case the Complainant plans to present at the scheduled hearing. Without this information, AT&T Ohio's ability to prepare and present its defense will be substantially impaired. AT&T Ohio is entitled to receive this information in a timely manner under the Commission's rules in order to give it time to review the information, ascertain the appropriate responses, identify, schedule, and prepare witnesses to help present its defense, and to prepare for the hearing.

The discovery request is attached as Exhibit A. AT&T Ohio's extensive efforts to obtain responses to its discovery, and Complainant's very limited responses, are set forth in Exhibit B. Counsel's affidavit concerning those efforts is attached as Exhibit C. The only response from the Complainant has been a link to an audio recording that Complainant apparently plans to use at the hearing. This is a totally inadequate response to the discovery requests. Complainant has not objected to any of the requested discovery.

For all of the foregoing reasons, AT&T Ohio's motion to compel should be granted.

Respectfully submitted,

AT&T Ohio

By: /s/ Jon F. Kelly

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AT&T Services, Inc.
150 E. Gay St., Room 4-A
Columbus, Ohio 43215
(614) 223-7928

Its Attorney

11-3467.motion to compel

BEFORE
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Complainant,)	
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AT&T Ohio,)	
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RESPONDENT'S FIRST SET OF INTERROGATORIES
AND FIRST REQUEST FOR PRODUCTION OF DOCUMENTS

Respondent AT&T Ohio¹ submits this first set of interrogatories and requests for production of documents to Complainant to be answered in writing under oath as provided by the rules of the Public Utilities Commission of Ohio, Ohio Administrative Code §§ 4901-1-19 and 4901-1-20.

You are requested to supplement your responses in accordance with the requirements of Ohio Administrative Code § 4901-1-16 (D) and (E).

You are requested to produce requested documents, by mail or in person, no later than October 9, 2012, at the offices of Jon F. Kelly, AT&T Services, Inc., 150 E. Gay St., Room 4-A, Columbus, OH 43215.

For purposes of these interrogatories, the following definitions apply:

(A) The term "Complainant" means Chad Kister, his agents, or others acting on his behalf.

¹ The Ohio Bell Telephone Company uses the name AT&T Ohio.

(B) "Document" includes any written or recorded or graphic matter, however produced or reproduced, including but not limited to: correspondence, telegrams, e-mails or other written, typed or printed communications, contracts, agreements, notes in any form, memoranda, diaries, voice recording tapes, microfilms, microfiche, pictures, data processing cards or disks, computer tapes and other computer generated and stored information or data base, calendars, or any writings or graphic matter, including copies containing marginal notes or variations of any of the foregoing, now or previously in your possession.

(C) "You" or "yours" means Chad Kister, his agents, or others acting on his behalf.

(D) "Identify" when referring to a person or business organization means to state the name, business address, primary business telephone number and title, if applicable, of the person or business organization.

(E) "Respondent" means AT&T Ohio, its officers, agents, employees or others acting on its behalf.

INTERROGATORY NO. 1: Please state the names and addresses of each person having personal knowledge of any of the facts or circumstances alleged in the Complaint filed by you with the Public Utilities Commission of Ohio.

ANSWER:

ANSWER:

INTERROGATORY NO. 2: Please identify each witness you will call at the hearing in this matter and provide the address and telephone number for each such witness.

ANSWER:

REQUEST FOR PRODUCTION NO. 1: Please provide copies of any notes, logs, correspondence, compilations, or other documents in your possession pertaining to the allegations of the Complaint.

REQUEST FOR PRODUCTION NO. 2: Please provide copies of all documents you intend to introduce as exhibits at the hearing in this matter.

VERIFICATION

(Signature)

Typed name: Chad Kister

State of Ohio)
)
) ss.
)
County of _____)

Before me, a notary public qualified in said county and state, came _____, who swore to and subscribed the foregoing responses to Interrogatories No. 1 - 2 before me this _____ day of _____, 2012.

Notary Public

My Commission expires:

Respectfully submitted,

AT&T Ohio

By: /s/ Jon F. Kelly

Jon F. Kelly

AT&T Services, Inc.

150 E. Gay St., Room 4-A

Columbus, Ohio 43215

(614) 223-7928

Its Attorney

11-3467.discovery

Certificate of Service

I hereby certify that a copy of the foregoing has been served this 19th day of
September, 2012 by e-mail on the party shown below.

/s/ Jon F. Kelly

Jon F. Kelly

Chad Kister
4592 Bessemer Road
Nelsonville, Ohio 45764

ckister@chadkister.com

KELLY, JON (Legal)

From: KELLY, JON (Legal)
Sent: Wednesday, September 19, 2012 10:56 AM
To: 'chadkister@gmail.com'
Subject: RE: Chad Kister v. AT&T Ohio, Case No. 11-3467-TP-CS
Attachments: 11-3467.discovery.first set to complainant.9-19-12.pdf

Mr. Kister,

Enclosed is a discovery request that you should complete and return to me prior to the scheduled October 10th hearing at the PUCO in your case. Please contact me if you have any questions. Thank you for your courtesy.

Jon F. Kelly
General Attorney
AT&T Services, Inc.
150 E. Gay Street, Rm. 4-A
Columbus, Ohio 43215
Telephone: 614 223 7928
Fax: 614 223 5955
jk2961@att.com

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KELLY, JON (Legal)

From: KELLY, JON (Legal)
Sent: Friday, October 19, 2012 2:41 PM
To: 'chadkister@gmail.com'
Subject: Chad Kister v. AT&T Ohio, Case No. 11-3467-TP-CS
Attachments: 11-3467.discovery.first set to complainant.9-19-12.pdf

Mr. Kister,

I am still awaiting your responses to my discovery request sent on September 19th, which is now past due. I need your responses in order to prepare for the hearing in this case. Please let me know when I can expect to receive your responses. Thank you for the courtesy.

Jon F. Kelly
General Attorney
AT&T Services, Inc.
150 E. Gay Street, Rm. 4-A
Columbus, Ohio 43215
Telephone: 614 223 7928
Fax: 614 223 5955
jk2961@att.com

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KELLY, JON (Legal)

From: chadkister@gmail.com on behalf of Chad Kister [ckister@chadkister.com]
Sent: Friday, October 19, 2012 3:24 PM
To: KELLY, JON (Legal)
Subject: Re: Chad Kister v. AT&T Ohio, Case No. 11-3467-TP-CS

Jon,

To start with, can you download the audio clip from UA police Lt. Ernie Ankrom?

Chad

On Fri, Oct 19, 2012 at 2:41 PM, KELLY, JON (Legal) <jk2961@att.com> wrote:

Mr. Kister,

I am still awaiting your responses to my discovery request sent on September 19th, which is now past due. I need your responses in order to prepare for the hearing in this case. Please let me know when I can expect to receive your responses. Thank you for the courtesy.

Jon F. Kelly
General Attorney

AT&T Services, Inc.

150 E. Gay Street, Rm. 4-A
Columbus, Ohio 43215
Telephone: [614 223 7928](tel:6142237928)
Fax: [614 223 5955](tel:6142235955)
jk2961@att.com

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General Attorney

AT&T Services, Inc.

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Columbus, Ohio 43215
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--
Chad Kister
4592 Bessemer Rd.; Nelsonville, OH 45764
ckister@chadkister.com
(740) 753-3000 (740) 707-4110
www.chadkister.com
www.arcticrefuge.org

KELLY, JON (Legal)

From: chadkister@gmail.com on behalf of Chad Kister [ckister@chadkister.com]
Sent: Tuesday, October 30, 2012 12:20 PM
To: KELLY, JON (Legal)
Subject: discovery

My house has been broken into, and I have three pending false charges. Many files have been erased on my computers, and I am looking for backups. Because much of the evidence is in audio recordings, requiring much work to listen to and sort out, it is quite a burdensome process. If AT&T can provide recordings, that would save much of my efforts, as my recordings include everything, not just conversations with AT&T personnel.

Chad

--

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KELLY, JON (Legal)

From: KELLY, JON (Legal)
Sent: Tuesday, November 13, 2012 12:18 PM
To: 'chadkister@gmail.com'
Subject: RE: discovery

Mr. Kister,

Based on the information you have provided, I cannot provide any recordings.

I will listen to the one recording you provided a link to.

I must insist that you fully comply with my September 19, 2012 discovery request as soon as possible, including, among the other matters specified, any exhibit you plan to introduce at the hearing. I need to review those exhibits in order to prepare our defense and to have the appropriate people present to counter your claims at the hearing.

If you are having difficulty preparing for the December 13th hearing under the circumstances you describe, I would be willing to discuss postponing the hearing to a later date.

Thank you for your courtesy.

Jon F. Kelly
General Attorney
AT&T Services, Inc.
150 E. Gay Street, Rm. 4-A
Columbus, Ohio 43215
Telephone: 614 223 7928
Fax: 614 223 5955
jk2961@att.com

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From: chadkister@gmail.com [<mailto:chadkister@gmail.com>] **On Behalf Of** Chad Kister
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Subject: discovery

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Chad

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www.arcticrefuge.org

State of Ohio)
)
) ss.
)
County of Franklin)

AFFIDAVIT OF JON F. KELLY

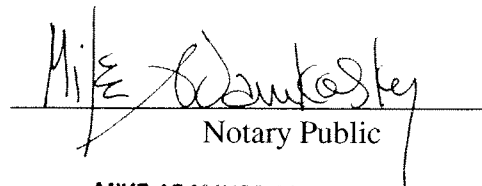
Jon F. Kelly, being first duly cautioned and sworn, deposes and says as follows:

1. I am counsel to The Ohio Bell Telephone Company, where my office address is 150 E. Gay Street, Room 4-A, Columbus, Ohio 43215.
2. AT&T Ohio is a fictitious name for The Ohio Bell Telephone Company and is registered as such with the Ohio Secretary of State.
3. I am representing the Company in the case entitled Chad Kister v. AT&T Ohio, PUCO Case No. 11-3467-TP-CSS.
4. I served discovery on the Complainant on September 19, 2012 which included a first set of interrogatories and a first request for production of documents.
5. The exchange of e-mails concerning Complainant's unresponsiveness to the discovery requests is attached to the motion to which this affidavit is also attached.
6. The Company's ability to prepare its defense is substantially impaired by the Complainant's refusal to respond fully and completely to the discovery requests.



Jon F. Kelly

Sworn to and subscribed before me this 20st day of November, 2012.



Notary Public
MIKE ADAMKOSKY
NOTARY PUBLIC, STATE OF OHIO
MY COMMISSION EXPIRES 06-05-16

Certificate of Service

I hereby certify that a copy of the foregoing has been served this 20th day of
November, 2012 by e-mail on the party shown below.

/s/ Jon F. Kelly

Jon F. Kelly

Chad Kister
4592 Bessemer Road
Nelsonville, Ohio 45764

ckister@chadkister.com

This foregoing document was electronically filed with the Public Utilities

Commission of Ohio Docketing Information System on

11/20/2012 12:41:36 PM

in

Case No(s). 11-3467-TP-CSS

Summary: Motion to compel and memorandum in support electronically filed by Jon F Kelly on behalf of AT&T Ohio