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**Attorneys for Plaintiffs**

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RISHA ENTERPRISE, ENGINEERING :  
AND PLANNING, INC. and WINFRED :  
DONAHUE'S ANSWERING SERVICE, :  
on behalf of themselves and all others :  
similarly situated, :  
:  
:  
Plaintiffs, :  
:  
:  
vs. :  
:  
VERIZON NEW JERSEY, INC., formerly :  
known as Bell Atlantic-New Jersey, Inc., :  
:  
Defendant. :  
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SUPERIOR COURT OF NEW JERSEY  
LAW DIVISION: MIDDLESEX COUNTY  
DOCKET NO:

Civil Action

**CLASS ACTION COMPLAINT  
AND JURY DEMAND**

Plaintiffs Risha Enterprises, Engineering and Planning and Winifred Donahue's Answering Service, on behalf of themselves and all others similarly situated, sues Defendant Verizon New Jersey, Inc. for breach of contract and violations of the New Jersey Consumer Fraud Act by and through their undersigned counsel, and state:

**NATURE OF THE ACTION**

1. This is a class action for breach of contract, violations of the New Jersey Consumer Fraud Act, N.J.S.A. 56:8-1, et seq., unjust enrichment and other claims as set forth herein. The plaintiff Class, as defined more specifically in paragraph 7 below, consists of all of defendant Verizon New Jersey, Inc.'s business customers with fewer than five telephone lines billed to an

account that, at any time since September 27, 1999, have been charged a monthly service charge for an auxiliary phone line in excess of the permitted tariff for such service filed with the New Jersey Board of Public Utilities ("BPU").

### **JURISDICTION AND VENUE**

2. This is an action for damages that exceed the jurisdictional minimum of this Court.

3. Venue in this action properly lies in Middlesex County based on the fact that plaintiff Risha's principal place of business is located in Middlesex County.

### **PARTIES**

4. Plaintiff Risha Enterprises, Engineering and Planning, Inc. ("Risha") is a New Jersey corporation with its principal place of business located at 878 Georges Road, Monmouth Junction, Middlesex County, New Jersey.

5. Plaintiff Winifred Donahue's Answering Service ("Donahue") is a sole proprietorship with its principal place of business located at 182 Nassau Street, Suite 304, Princeton, Mercer County, New Jersey.

6. As used herein, "named plaintiffs" refers to named plaintiffs Risha and Donahue and "plaintiffs" refers to named plaintiffs and all other putative Class members.

7. Defendant Verizon New Jersey Inc. ("Defendant" or "Verizon New Jersey") is incorporated under the laws of the State of New Jersey and its corporate headquarters is located at 540 Broad Street, Newark, New Jersey, 07101. Verizon New Jersey is a wholly owned subsidiary of Verizon Communications, Inc. ("Verizon Inc."). Verizon Inc. is one of the world's leading providers of communications services. Verizon Inc. provides local business telephone service in New Jersey, thirty-one other states and the District of Columbia.

8. Verizon New Jersey is the successor company to Bell Atlantic-New Jersey, Inc., which operated under that name from January 1994 until July 30, 2000.

### CLASS ACTION ALLEGATIONS

9. This action is brought and may properly proceed as a class action, pursuant to the provisions of Rule 4:32 of the New Jersey Court Rules. Named plaintiffs bring this action on behalf of themselves and all others similarly situated. The Class is defined as follows:

All past and present Verizon New Jersey local business telephone customers with accounts with fewer than five lines per billing account that, at any time on or after September 27, 1999, (the Class Period) were charged and paid a monthly service charge for any auxiliary line that exceeded the filed rate for such service.

Specifically excluded from this Class is any person or entity in which defendant has a controlling interest, and the officers, directors, employees, affiliates, subsidiaries, legal representatives, heirs, successors and their assigns of any such person or entity, together with any immediate family member of any officer, director or employee of said companies. Also excluded from membership in the Class is any Judge or Magistrate presiding over this action and members of their families within the third degree of relationship.

10. The Class for whose benefit this action is brought is so numerous that joinder of all members is impracticable.

11. There are questions of law or fact common to the members of the Class that predominate over questions affecting only individual members. These common questions include:

- a) Whether defendant has charged any of its business customers a fee for auxiliary telephone lines in excess of the service charge set by the tariff filed with the BPU;
- b) Whether it is a breach of contract to charge plaintiffs a service charge for auxiliary lines in excess of the filed rate;
- c) Whether defendant's actions violate the New Jersey Consumer Fraud Act, N.J.S.A. 56:8-1, et seq. ("the CFA") and, if so, the proper measure of damages and triple damages;

- d) Whether defendant is liable to plaintiffs for equitable fraud and/or common law fraud;
- e) Whether defendant's actions have proximately caused injury to plaintiffs;
- f) Whether defendant's actions were sufficiently wrongful to entitle plaintiffs to punitive damages; and
- g) Whether defendant has been unjustly enriched by overcharging members of the Class for auxiliary line service.

12. The named plaintiffs' claims are typical of the claims of the members of the Class, since all such claims arise out of defendant's charging its New Jersey local business telephone customers with fewer than five lines per billing account a service charge for auxiliary lines in excess of the filed rate.

13. The named plaintiffs have no interests antagonistic to those of the Class.

14. The Class, of which the named plaintiffs are members, is readily identifiable.

15. The named plaintiffs will fairly and adequately protect the interests of the Class, and have retained competent counsel experienced in the prosecution of class actions and consumer litigation.

16. A class action is superior to other available methods for the fair and efficient adjudication of this controversy since it is economically impractical for members of the Class to prosecute individual actions.

17. The prosecution of separate actions by individual members of the Class would run the risk of inconsistent or varying adjudications, which would establish incompatible standards of conduct for the defendant in this action. Prosecution as a class action will eliminate the possibility of repetitious litigation.

18. A class action will cause an orderly and expeditious administration of the claims of the Class and will foster economies of time, effort and expense.

19. Named Plaintiffs do not anticipate any difficulty in the management of this litigation as a class action.

### **SUBSTANTIVE ALLEGATIONS**

20. In New Jersey, the amount which Verizon New Jersey may charge a business customer for an auxiliary business phone line is set by tariff (a published schedule of rates filed by a public utility) filed with the BPU.

21. As used herein, an "auxiliary line" refers to an individual auxiliary exchange access line which is in addition to the primary individual exchange access line, as described in the tariff.

22. An "auxiliary exchange access line" is described in the tariff as "an individual exchange access line which terminates at a station location in a station set/terminal or in key telephone facilities, and is furnished to supplement: Business message rate individual exchange access lines and private branch exchange service."

23. On July 6, 1994, the BPU issued a new tariff, effective immediately, which increased the monthly service charge on auxiliary lines by approximately \$1.01 per auxiliary line for business customers with five telephone lines or more charged to the same account.

24. This new tariff did not increase the monthly service charge for auxiliary lines of business customers with fewer than five phone lines charged to the same account.

25. This resulted in a two-tiered fee structure on auxiliary lines for Verizon New Jersey business customers. Those customers with five or more telephone lines on a billing account would pay approximately \$1.01 more each month for each auxiliary line than those business customers with fewer than five phone lines on a billing account.

26. Verizon New Jersey has failed to properly implement this two-tiered scheme, and has charged business customers with fewer than five phone lines on a billing account the extra \$1.01 per month for each auxiliary line.

27. As a result, Verizon New Jersey 's business customers with fewer than five telephone lines on a billing account have been overcharged from approximately \$1.01 to approximately \$3.03 per month, depending upon the number of auxiliary lines on their account.

28. On numerous occasions, Verizon New Jersey has been notified that it has been improperly overcharging these business customers.

29. Despite these notifications, Verizon New Jersey has failed to make corrections to its billing system necessary to bill the appropriate charge set by the tariff and has failed to reimburse improperly billed customers. As a result, Verizon New Jersey business customers have been, and continue to be, improperly overcharged.

30. Named plaintiffs have been or currently are Verizon New Jersey local business telephone customers with accounts that have fewer than five lines per billed account.

31. Currently, and at all times during the Class Period, the monthly service charge on auxiliary lines for business accounts with fewer than five telephone lines per account has been set by the published schedule of rates filed with the BPU. This schedule of rates sets a monthly service fee for each auxiliary line of an account with four or fewer lines, which is approximately \$1.01, less than the monthly service fee for each auxiliary line for business accounts with five or more telephone lines.

32. At all times during the Class Period, in the tariff region where Risha is located, the filed rate for monthly service charges for each auxiliary line of accounts of business customers with fewer than five telephone lines per account has been \$7.82.

33. Notwithstanding the filed rate, beginning on November 30, 2001 and continuing to the present, Verizon New Jersey has and continues to actually charge Risha a monthly service charge of \$8.83 for an auxiliary line on its account that has fewer than five lines.

34. The amount charged to Risha was and continues to be in excess of the filed rate by \$1.01 for the auxiliary line per month. Thus far, the cumulative amount defendant overcharged plaintiff has been in excess of \$10, not including taxes or surcharges.

35. Verizon New Jersey's monthly bills to Risha provide no indication that the auxiliary line charge is improper, and the charge is not descriptively itemized. For example, on Risha's January 11, 2002 monthly phone bill, the line item that includes the auxiliary line charge is merely labeled "Monthly charges Jan 11 to Feb 10."

36. Notwithstanding repeated customer complaints and notice of its non-compliance with the applicable tariff, Verizon New Jersey has failed to make corrections to its billing system necessary to bill the correct service charges for auxiliary lines as set by the tariff, nor has it reimbursed members of the class, other than on a case by case basis, in response to specific complaints.

37. At all times during the Class Period, in the tariff region where Donahue is located, the filed rate for monthly service charges for each auxiliary line of accounts of business customers with fewer than five telephone lines per account has been \$7.07.

38. Notwithstanding the filed rate, beginning on May 17, 1996 and continuing forward until January 1999, Verizon New Jersey has actually charged Donahue a monthly service charge of \$8.08 for each of the three auxiliary lines on its account which has fewer than five lines.

39. The amount charged to Donahue was in excess of the filed rate by \$1.01 per auxiliary line per month, meaning that Verizon New Jersey overcharged Donahue \$3.03 each month. The

cumulative amount defendant overcharged plaintiff during the period May 17, 1996 until January 1999 was in excess of \$93, not including taxes or surcharges.

40. Verizon New Jersey's monthly bills to Donahue provided no indication that the auxiliary line charge was improper, and the charge is not descriptively itemized. For example, on Donahue's November 17, 1998 phone bill, the line item that includes the auxiliary line charge is merely labeled "Monthly charges."

### **COUNT I**

#### **(Breach of Contract)**

41. The named plaintiffs, on behalf of themselves and all others similarly situated, repeat and reallege all prior factual allegations as if set forth at length herein.

42. The tariff filed with the BPU which sets Verizon New Jersey's monthly service charge on auxiliary lines for business customers with fewer than five telephone lines per billing account constitutes a term of contract for service between Verizon New Jersey and the Class.

43. Verizon New Jersey breached its contract with plaintiffs and the Class through its continuing practice of charging a fee approximately \$1.01 in excess of the monthly service rate set by tariff.

44. Plaintiff and the Class have suffered damages as a result of this breach of contract by defendant.

### **COUNT II**

#### **(Consumer Fraud)**

45. The named plaintiffs, on behalf of themselves and all others similarly situated, repeat and reallege all prior factual allegations as if set forth at length herein.

46. Verizon New Jersey's practice of charging a rate in excess of the filed tariff constitutes an unconscionable commercial practice, deception, fraud, false promises, false pretenses

and/or misrepresentations in its interactions with plaintiffs, in violation of the CFA, N.J.S.A. 56:8-1 et. seq.

47. Verizon New Jersey knowingly, with intent or with reckless indifference, concealed, suppressed and/or omitted material facts concerning service charges it billed plaintiffs and the class in violation of the CFA, and with the intent that others would rely on the omission.

48. Plaintiffs and the Class have suffered an ascertainable loss, which is a result of defendant's conduct.

### **COUNT III**

#### **(Unjust Enrichment)**

49. The named plaintiffs, on behalf of themselves and all others similarly situated, repeat and reallege all prior factual allegations as if set forth at length herein.

50. By charging plaintiffs and the Class a service charge for auxiliary lines in excess of the filed rate, Verizon New Jersey wrongfully collected overcharges from its unsuspecting customers and to the detriment of plaintiffs and the Class. Plaintiffs paid these excessive charges to Verizon New Jersey, which retained the benefits of these charges for itself.

51. By virtue of the foregoing, Verizon New Jersey has been unjustly enriched, and plaintiffs and the Class are entitled to a judgment requiring Verizon New Jersey to disgorge and reimburse plaintiffs and the Class all sums unlawfully obtained.

**WHEREFORE**, named plaintiffs, on behalf of themselves and all others similarly situated, demand judgment against Verizon New Jersey, jointly, severally or in the alternative, as follows:

- a. For actual damages;
- b. For compensatory damages;

- c. For punitive damages;
- d. For treble damages pursuant to N.J.S.A. §56:8-19;
- e. For reasonable attorneys' fees and costs of suit in connection with this action;
- f. For disgorgement of all charges collected by defendant in excess of the filed rate;
- g. For pre-judgment and post-judgment interest; and
- h. For such other and further relief as plaintiffs and the Class may be entitled or as the Court deems equitable and just.

**JURY DEMAND**

Plaintiffs demand a trial by jury on all issues subject to trial.

**NOTICE TO ATTORNEY GENERAL OF ACTION**

A copy of this complaint will be mailed to the Attorney General of the State of New Jersey within ten days after the filing with the Court, pursuant to N.J.S.A. § 56:8-20.

Dated: September 27, 2002

**SEEGER WEISS LLP  
Attorneys for Plaintiffs**

By: \_\_\_\_\_

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**DESIGNATION OF TRIAL COUNSEL**

Pursuant to Rule 4:25-4, Christopher A. Seeger, Esq. of Seeger Weiss LLP is hereby designated as trial counsel for the plaintiffs in the above matter.

Dated: September 27, 2002

**SEEGER WEISS LLP**

By: 

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**Attorneys for Plaintiffs**

**CERTIFICATION**

Pursuant to R. 4:5-1, I hereby certify to the best of my knowledge that the matter in controversy is not the subject of any other action pending in any court or the subject of a pending arbitration proceeding, nor is any other action or arbitration proceeding contemplated. I further certify that I know of no party who should be joined in the action at this time.

Dated: September 27, 2002

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**Attorneys for Plaintiffs**