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**IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
IN AND FOR THE COUNTY OF KING**

BRIGHTSTAR WIRELESS, INC.,

Plaintiff,

v.

T-MOBILE USA, INC. d/b/a T-
MOBILE, and SPRINT SOLUTIONS,
INC. n/d/b/a T-MOBILE,

Defendant.

No.:

COMPLAINT

Plaintiff Brightstar Wireless, Inc. (“Brightstar Wireless” or “Plaintiff”) files this Complaint seeking relief against Defendant T-Mobile USA, Inc. d/b/a T-Mobile (“T-Mobile”) and Sprint Solutions, Inc., n/d/b/a T-Mobile (“Sprint”) (T-Mobile and Sprint are each a “Defendant” and collectively “Defendants”), and alleges and says as follows:

1. Brightstar Wireless brings this action to recover for T-Mobile’s and Sprint’s fraud and predatory business practices that destroyed Brightstar Wireless’s business as an authorized dealer of mobile services and products.

I. PARTIES

2. Brightstar Wireless is a corporation organized and existing under the laws of Utah and with its principal place of business in Brigham City, Utah.

1 3. Prior to being forced out of business by T-Mobile, Brightstar Wireless had
2 operations in Arkansas, Alabama, Florida, Illinois, Mississippi, New Mexico, Texas, Utah, and
3 Wisconsin.

4 4. Defendant T-Mobile is a corporation organized and existing under the laws of
5 Delaware, with a headquarters in Bellevue, Washington.

6 5. Defendant Sprint is a Missouri corporation with its principal place of business at
7 6200 Sprint Parkway, Overland Park, Kansas 66251.

8 **II. JURISDICTION AND CHOICE OF LAW**

9 6. Jurisdiction in this Court is proper because T-Mobile has its principal place of
10 business in this state.

11 7. T-Mobile forced Brightstar Wireless to execute contracts, including Retailer
12 Services Agreements (“RSAs”) that contain clauses requiring JAMS arbitration in Seattle,
13 Washington and provide that “[t]his Agreement and the rights and obligations of the parties under
14 this Agreement will be construed in accordance with and will be governed by the laws of the
15 State of Washington, without regard to the conflict of laws or choice of law provisions.”

16 8. If the T-Mobile Agreements are set aside as fraudulent (as they should be), the
17 Washington choice of law and arbitration provisions would not apply.

18 9. Brightstar Wireless fully reserves (and hereby states in the alternative) the right
19 to proceed on any of its claims under the companion laws of any state, including Utah, Florida,
20 Illinois, and the other states where Brightstar Wireless had operations affected by T-Mobile’s
21 conduct, in addition breaches of Washington law pled below.

22 **III. FACTUAL BACKGROUND**

23 **A. Founding of Brightstar Wireless.**

24 10. Plaintiff Brightstar Wireless, Inc. was formed by Bart Bess and Jay Palmer in
25 2006, originally operating in Utah and growing to nine states with 114 stores.

26 11. Prior to the merger with T-Mobile, Brightstar Wireless was one of the largest
27 Sprint dealers in the country.

1 **B. Brightstar Wireless Exceeded as an Authorized Sprint Dealer and Expanded its**
2 **Footprint at Sprint's Behest.**

3 12. Brightstar Wireless excelled as one of Sprint's oldest, largest, and top-performing
4 dealers.

5 13. Brightstar Wireless experienced annual growth as a dealer and was a Platinum
6 Partner recipient for numerous years.

7 14. Brightstar Wireless partnered hand-in-hand with Sprint, meeting with Sprint
8 executives quarterly, and being told that it was integral to Sprint's success.

9 15. In 2017, Sprint and T-Mobile explored a highly publicized potential merger.

10 16. That merger ultimately did not happen.

11 17. Immediately following the announcement that the 2017 merger would not go
12 through, Sprint contacted many of its dealers, including Brightstar Wireless, and actively
13 encouraged them to "open as many stores as possible." These statements were made by Sprint's
14 then CEO Marcello Claure in phone calls and video conferences in 2017 with Mr. Bess and Mr.
15 Palmer, as well as other Sprint dealers.

16 18. On November 4, 2017, Sprint executive Cody Welker forwarded Brightstar
17 Wireless, and other legacy Sprint dealers, an email from Marcelo Claure, stating that Sprint
18 "ended merger negotiations with T-Mobile" and "believe[d] strongly in the long-term prospects
19 for Sprint as a stand-alone company."

20 19. The email went on to say: "Continuing our journey as a stand-alone company
21 takes courage, and will require tremendous determination. To succeed, we must focus on
22 flawlessly executing our strategy. We can't let anything distract us from reaching our goals –
23 going our own way means Sprint's success is in our hands."

24 20. In addition, at a dealer summit that took place during January 29-31, 2018, Sprint
25 heavily encouraged dealers, including Brightstar Wireless, to grow and add new locations.

26 21. Mr. Claure and other Sprint executives, including Cody Welker, Sprint's Director
27 of Dealer Channels, and Tracy Nolan, Sprint's President of Dealer Channels, specifically
28 encouraged dealers, including Brightstar Wireless, to open as many stores as possible in order to

1 meet specific growth targets set by Mr. Claire, and which, according to Mr. Claire, Sprint would
2 report to Wall Street.

3 22. In order for Sprint to grow rapidly and meet the established targets, Sprint offered
4 growth incentives for dealers to open additional stores.

5 23. Sprint's encouragement to Brightstar Wireless and other dealers to expand their
6 locations continued right up until the new merger with T-Mobile was announced.

7 24. In reliance on Sprint's inducement's, Brightstar Wireless acquired 24 stores
8 located in Texas and on the gulf coast.

9 25. Brightstar Wireless further continued to expand its total stores by the time the
10 Sprint/T-Mobile merger was announced.

11 **C. Sprint and T-Mobile Announced Their Merger and Promised Limited Post-Merger**
12 **Closures.**

13 26. Despite Sprint's efforts to conceal its merger plans from dealers like Brightstar
14 Wireless, there were rumors that Sprint and T-Mobile might merge.

15 27. When Brightstar Wireless inquired about whether there would be a merger, Sprint
16 indicated that there would not be, and again instructed Brightstar Wireless to continue growing
17 and opening as many new stores as possible.

18 28. In repeatedly encouraging Brightstar Wireless to open and acquire new stores,
19 Sprint concealed the truth about the merger from Brightstar Wireless (and other dealers).

20 29. Upon information and belief, Sprint knew its statements about the merger were
21 false and were made to protect Sprint's position in the merger, as well as profit Sprint and its
22 executives in the coming merger, from which they profited greatly based on the growth induced
23 by the misrepresentations and concealments.

24 30. Upon information and belief, Sprint concealed the truth about the planned merger
25 from its own employees that were responsible for communicating with Sprint dealers, and either
26 directed them to mislead Sprint dealers about the status of merger talks with T-Mobile or fed
27 them intentionally false information intended for it to be relayed to Sprint dealers, including
28 Brightstar Wireless.

1 31. By way of example, during a Brightstar Wireless Leadership Summit in Park City,
2 Utah in April 2018, John Stevens, a then Sprint Regional President, assured Brightstar Wireless
3 that he had personally spoken with Mr. Claire and could provide assurance that no merger would
4 take place between Sprint and T-Mobile.

5 32. Two days later, on April 29, 2018, Sprint and T-Mobile announced that they had
6 reached a definitive merger agreement.

7 33. After the merger was announced, Sprint and T-Mobile launched a public
8 campaign to avoid it being challenged by Sprint dealers like Brightstar Wireless.

9 34. Among other public appearances to promote the merger, Marcelo Claire and
10 T-Mobile's CEO John Legere, jointly appeared on CNBC's "Squawk on the Street" program on
11 April 30, 2018.

12 35. During that joint appearance, they stated that the new proposed merger would
13 create thousands of jobs and would result in hundreds and hundreds of new stores being opened.
14 A link to the video of program where these statements were made is here -
15 <https://www.cnbc.com/video/2018/04/30/t-mobile-and-sprint-ceos-on-mega-merger.html>. Mr.
16 Claire's and Mr. Legere's statements on that program are incorporated by reference.

17 36. Messrs. Claire and Legere made the same claims – that both jobs and stores would
18 be added, not reduced, following the merger – during a Town Hall meeting with Sprint dealers,
19 including Brightstar Wireless, on October 22, 2018. The full transcript of their statements at that
20 meeting is available here - [https://www.fiercewireless.com/wireless/full-transcript-here-s-what-](https://www.fiercewireless.com/wireless/full-transcript-here-s-what-t-mobile-s-john-legere-told-sprint-s-town-hall-meeting)
21 [t-mobile-s-john-legere-told-sprint-s-town-hall-meeting](https://www.fiercewireless.com/wireless/full-transcript-here-s-what-t-mobile-s-john-legere-told-sprint-s-town-hall-meeting), and is incorporated by reference.

22 37. Mr. Legere additionally stated that "The New T-Mobile will open **600 new stores**
23 **to serve rural areas and small towns**" (emphasis in original) and that "we will offer a job with
24 the New T-Mobile to every single employee of T-Mobile and Sprint working in one of our retail
25 stores" following the merger during an April 4, 2019 posting to T-Mobile's website -
26 <https://www.t-mobile.com/news/un-carrier/new-t-mobile-creating-jobs>, which statements are
27 also incorporated herein.

1 38. Messrs. Claire and Legere made these statements to induce Brightstar Wireless,
2 and other legacy Sprint dealers, to continue following Sprint’s growth plan and to induce
3 Brightstar Wireless and other dealers to not oppose the merger or request that appropriate
4 regulators deny or contest the merger.

5 39. Messrs. Claire and Legere intended that Brightstar Wireless and other Sprint
6 dealers rely on these representations in executing post-merger agreements with T-Mobile so they
7 could complete their merger and enrich themselves, to the detriment of legacy Sprint dealers like
8 Brightstar Wireless.

9 40. Messrs. Claire and Legere also intended that Congress rely on these statements,
10 as well as those made in other public appearances and interviews, because they knew the merger
11 would be subject to scrutiny by Congress.

12 41. In fact, Messrs. Claire and Legere reiterated their claims that the merger would
13 not impact Sprint dealers and would in-fact result in more stores being opened, during joint
14 testimony sessions to Congress on June 27, 2018 and February 19, 2019.

15 42. After the merger was announced, Brightstar Wireless immediately asked Sprint
16 about the implications of the merger on Brightstar Wireless and sought merger protection in light
17 of its recent and rapid expansion at Sprint’s request.

18 43. In January 2019, Sprint and Brightstar Wireless executed two addenda to their
19 Authorized Representative Agreement to provide for “New Facility Payments” in the event of a
20 merger between Sprint and T-Mobile (together, the “Merger Protection Agreement”).

21 44. The Merger Protection Agreement required Brightstar Wireless to open ten doors
22 prior to March 31, 2019, a term that Brightstar Wireless complied with by January 31, 2019.

23 45. Pursuant to the Merger Protection Agreement, Sprint provided Brightstar
24 Wireless with merger protection in the form of tokens. Each token represented an agreement
25 from Sprint that Brightstar Wireless would be compensated a certain amount for each post-
26 merger store closure, along with payment of 80% of the balance of each store’s lease agreement.

27 46. Brightstar Wireless was not anticipating the need to use all the tokens it received.
28

1 47. Rather, based on Sprint’s representations and public statements by Messrs. Legere
2 and Claire, Brightstar Wireless reasonably anticipated that it would be permitted to continue
3 growing and acquiring additional stores after the merger, and that the tokens could be used as
4 necessary to address the closure of a far smaller number of future stores, consistent with the
5 percentage of post-merger closures Sprint and T-Mobile were forecasting.

6 48. Indeed, Scott Keen, Sprint’s then-Director of Dealer Channels (and who later
7 became a Director at T-Mobile), explicitly represented to Brightstar Wireless that the new
8 T-Mobile would close less than 10% of Brightstar Wireless’s stores.

9 49. Mr. Keen also told Brightstar Wireless that for a lot of the store closures,
10 Brightstar Wireless would be able to re-locate these stores and open them elsewhere, to keep
11 Brightstar Wireless as whole as possible.

12 50. In addition, in response to questions about what would happen to legacy Sprint
13 dealers’ stores located next to T-Mobile stores, Cody Welker told Brightstar Wireless, and other
14 legacy Sprint dealers, that close proximity to a T-Mobile store would not necessarily result in the
15 legacy Sprint dealer’s store being closed.

16 51. Instead, Mr. Welker represented that T-Mobile would make decisions on store
17 closures based on which store had a longer lease remaining and which store had a better overall
18 look to it.

19 **D. T-Mobile Coerced and Induced Brightstar Wireless to Enter into a New Agreement.**

20 52. Sprint and T-Mobile finalized the merger on April 1, 2020.

21 53. To obtain the necessary approvals from the Department of Justice and regulatory
22 agencies, T-Mobile made broad, sweeping promises to the government and to the public that the
23 merger would increase competition for consumers, result in the opening of new stores, create
24 more jobs, and that it would not produce anti-competitive behavior.

25 54. On April 24, 2020, representatives from T-Mobile – specifically Scott Keen and
26 Cody Welker – met with Brightstar Wireless to present T-Mobile’s post-merger dealer strategy
27 as it pertained to Brightstar Wireless.
28

1 55. In the presentation, T-Mobile announced that it would permanently close
2 approximately 45 of Brightstar Wireless's stores, which accounted for nearly 40% of Brightstar
3 Wireless's total stores.

4 56. Of the 45 stores, 30 stores were temporarily closed in light of the COVID-19
5 pandemic and were set to begin opening in a series of waves on May 7, 2020. T-Mobile told
6 Brightstar Wireless that 30 of the stores would now remain permanently closed.

7 57. Kristopher Kimmey, T-Mobile's Manager of Postpaid Dealer Channel Strategy,
8 emailed Mr. Bess and Mr. Palmer a copy of the PowerPoint presented to Brightstar Wireless
9 during this meeting the same day, copying Scott Keen (who at this time was a T-Mobile
10 employee) and others at T-Mobile.

11 58. During the meeting and in the presentation, T-Mobile made a number of
12 intentionally false misrepresentations:

- 13 a. T-Mobile represented the legacy Sprint store closures would be based on "extreme
14 proximity" to other T-Mobile stores.
- 15 b. T-Mobile misrepresented that it intended to "Ensure appropriate retail coverage
16 for both operating brands during initial integration period and beyond."
- 17 c. T-Mobile misrepresented that it intended to implement a "Similar # of closures
18 for legacy Sprint and TPR [T-Mobile Preferred Retailers]."
- 19 d. T-Mobile misrepresented that it had a plan to "Improve long term profitability"
20 for Brightstar Wireless and other legacy Sprint dealers.

21 59. Brightstar Wireless told T-Mobile that it was shocked and dismayed by the
22 number of closures, as well as the specific stores that T-Mobile selected to close, as
23 approximately half of the store closures were in Utah, where Brightstar Wireless was founded
24 and headquartered.

25 60. Further, these closures included over 70% of Brightstar Wireless's most profitable
26 stores.

27 61. Brightstar Wireless specifically questioned T-Mobile about the store closures in
28 Utah, as these stores had some of the best real estate locations in Utah.

1 62. Prior to the merger being finalized, Mr. Welker had represented to Brightstar
2 Wireless, and other legacy Sprint dealers, that stores closures would be based on store
3 performance and remaining lease terms.

4 63. In reality, T-Mobile elected to close the legacy Sprint dealer stores, while
5 allowing the T-Mobile stores to remain, even where the T-Mobile stores were lower performing
6 or located in locations with less visibility and traffic.

7 64. For example, in Harrisville, Utah, T-Mobile elected to close a Brightstar Wireless
8 location that was located on an end cap of a strip mall, with significant visibility and traffic.

9 65. In closing the Brightstar Wireless location, T-Mobile instead allowed a T-Mobile
10 store, which was located in the same strip mall with much less visibility and traffic, to remain
11 open.

12 66. Brightstar Wireless further questioned T-Mobile during a call on April 28, 2020,
13 about the number of stores to be closed in Utah, as many of the stores were not located within
14 close proximity to a T-Mobile store. In response, T-Mobile told Brightstar Wireless that these
15 closures were part of a T-Mobile pilot project for determining whether T-Mobile could generate
16 the same level of sales with far fewer stores within a geographic area.

17 67. Although Brightstar Wireless fought the location and number of store closures,
18 including by making multiple presentations to T-Mobile, they were ultimately unsuccessful.

19 68. The initial round of T-Mobile mandated closures represented a nearly 40%
20 reduction of Brightstar Wireless's locations, reducing its store count from 114 to 69.

21 69. Brightstar Wireless reasonably believed that these closures were the only closures
22 T-Mobile would institute.

23 70. Indeed, T-Mobile representatives Scott Keen and Cody Welker assured Brightstar
24 Wireless's principals that Brightstar Wireless would be "a growth partner" of T-Mobile's, that
25 Brightstar Wireless "would be well taken care of" and that there "would not be" another round
26 of closures. Scott Keen and Cody Welker added that Brightstar Wireless would be "one of the
27 few chosen growth partners of T-Mobile," which they said was evidenced by T-Mobile offering
28

1 the T-Mobile agreements as a 5-year contract, which, they stated, was only being offered to a
2 few select dealers.

3 71. Following the dealer strategy presentation, T-Mobile sent Brightstar Wireless a
4 package containing over 800 pages of documents, including 10 RSAs, personal guaranties and
5 other agreements (the "Agreement Package") on May 4, 2020, which required Brightstar
6 Wireless to wind down its existing agreements with Sprint, enter into ten Retailer Services
7 Agreements with T-Mobile, enter a Branded Asset Acknowledgement Agreement, and submit
8 individual guaranties executed by Messrs. Bess and Palmer.

9 72. The Agreement Package consisted of more than 800 pages of legal documents.

10 73. T-Mobile pressured Brightstar Wireless to sign these documents within nine days
11 and repeatedly emphasized that all terms were non-negotiable and that to be a T-Mobile agent,
12 Brightstar Wireless must sign these agreements.

13 74. Brightstar Wireless had no legitimate option of suing T-Mobile to avoid signing
14 the Agreement Package, because, if it did not sign them, Brightstar Wireless would lack the cash
15 flow from selling wireless services and products that it would have needed to fund litigation
16 against T-Mobile and Sprint, which were, conversely, well capitalized to resist a challenge (and
17 draw it out and punish Brightstar Wireless).

18 75. Indeed, T-Mobile has an unlawful pattern and practice of retaliating against
19 dealers that stand up to it.

20 76. Contemporaneously with its transmission of the Agreement Package, T-Mobile
21 falsely represented to Brightstar Wireless that it did not have to honor and would not honor
22 Sprint's obligations under Brightstar Wireless's existing dealer agreements with Sprint, which
23 obligations T-Mobile had assumed via the merger and by their terms were still effective.

24 77. T-Mobile also disclaimed any obligation to honor the Merger Protection
25 Agreement and tokens for store closure reimbursements that were specifically intended to protect
26 dealers like Brightstar Wireless from rapid post-merger store closures.

27 78. T-Mobile further advised Brightstar Wireless that, because Sprint no longer
28 existed, T-Mobile was not obligated to provide any benefits under the existing contracts and

1 would not allow Brightstar Wireless to sell any T-Mobile phones or services unless it signed the
2 Agreement Package.

3 79. T-Mobile took the entirely opposite position with respect to Brightstar Wireless's
4 burdens under the existing Sprint contracts, stating it would continue to enforce those burdens
5 against Brightstar Wireless until it signed the T-Mobile Agreement Package.

6 80. T-Mobile also stated that if Brightstar Wireless did not execute the Agreement
7 Package, T-Mobile would withhold the funds needed to remodel Brightstar Wireless's remaining
8 stores to convert them to T-Mobile branded locations.

9 81. T-Mobile required all legacy Sprint dealers, including Brightstar Wireless, to
10 remodel their stores under the new T-Mobile brand at a cost to the dealer of an undisclosed
11 amount at the time, but which later information revealed would cost approximately \$142,000 per
12 store.

13 82. At the time, T-Mobile misrepresented that it would allocate Brightstar Wireless
14 \$14,500 to "refresh" its stores, which concealed the true cost of remodeling.

15 83. T-Mobile therefore gave Brightstar Wireless an unrealistic and impractical
16 timeline to review and execute the 800+ pages of non-negotiable agreements to be eligible to
17 receive the remodel funds and continue operating, or else lose its business entirely.

18 84. As a practical matter, T-Mobile knew that Brightstar Wireless had no choice but
19 to sign the new T-Mobile agreements.

20 85. T-Mobile would hold Brightstar Wireless and other dealers to the restrictions in
21 the Sprint contracts (e.g., non-competition clauses), but would not allow Brightstar Wireless to
22 sell
23 T-Mobile branded products and services unless Brightstar Wireless signed the new Agreement
24 Package.

25 86. This combination of circumstances would entirely deprive Brightstar Wireless of
26 the ability to meet its expenses of approximately \$2.5 million per month in lease payments,
27 payroll, taxes, and debt service.
28

1 87. Prior to executing the Agreement Package, Brightstar Wireless again spoke with
2 Mr. Keen, Sprint's former Director of Dealer Channels who had been promoted to a similar
3 Director position at the new T-Mobile.

4 88. Specifically, in May 2020, Brightstar Wireless directly asked Mr. Keen whether
5 T-Mobile would institute any additional rounds of store closures.

6 89. Mr. Keen conveyed to Brightstar Wireless that T-Mobile would not engage in
7 another round of closures.

8 90. Messrs. Bess and Palmer of Brightstar Wireless repeatedly informed Mr. Keen
9 that another round of closures, if they occurred, would certainly have a "material adverse effect"
10 on Brightstar Wireless, particularly without growth (i.e., the ability to acquire more stores).

11 91. According to T-Mobile's representatives, the closures were part of a "shrink to
12 grow" strategy, pursuant to which T-Mobile would close – on a fair and reasonable basis – stores
13 that were in close proximity to one another and then allow dealers, like Brightstar Wireless, to
14 grow by adding new locations in new areas.

15 92. Indeed, multiple T-Mobile representatives repeatedly assured Brightstar Wireless
16 that T-Mobile was going to facilitate expansion and growth by Brightstar Wireless.

17 93. Specifically, Brightstar Wireless was told that it was in a unique position to grow
18 because of its rural footprint and T-Mobile's desire to expand stores in rural markets.

19 94. T-Mobile knew, but concealed from Brightstar Wireless, that unless a dealer was
20 a favored T-Mobile dealer, it would only be allowed (or more accurately, forced) to shrink, but
21 never to grow.

22 95. As Brightstar Wireless was not a favored legacy T-Mobile dealer, Brightstar
23 Wireless experienced a mandated "shrink, but not grow" strategy forced by T-Mobile.

24 96. Upon information and belief, at that time T-Mobile knew that it would make
25 multiple additional rounds of closures of Brightstar Wireless stores, and T-Mobile fraudulently
26 concealed this fact from Brightstar Wireless, including by instructing personnel, like Mr. Keen
27 and Cody Welker, not to disclose this fact to Brightstar Wireless and other dealers.
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1 97. Upon information and belief, T-Mobile disregarded the advice of the real estate
2 advisors upon which it normally relied in deciding which stores to slash and instead intentionally
3 closed legacy Sprint stores because its intent was to drive the legacy Sprint dealers out of
4 business.

5 98. Sprint’s and T-Mobile’s fraudulent misrepresentations and concealments were
6 intended to, and did, induce Brightstar Wireless to sign the T-Mobile Agreement Package.

7 99. Faced with the direct threat of having 69 stores with nothing to sell from them, as
8 well as the inability to negotiate terms and T-Mobile’s false representations there would be no
9 further store closures, Brightstar Wireless executed the Agreement Package on May 13, 2020.¹

10 **E. The Agreement’s Oppressive Terms.**

11 100. The Agreement Package consisted of ten RSAs and the Wind Down Addendum,
12 as well as other associated documents.

13 101. The RSAs and Wind Down Addendum in particular included provisions that were
14 false and oppressive, including: provisions that reduced Brightstar Wireless’s compensation,
15 releases that were induced by financial coercion and distress, and misrepresentations that Mr.
16 Bess and Mr. Palmer wanted to provide personal financial guaranties for the benefit of T-Mobile.

17 102. Brightstar Wireless only agreed to these terms under extreme economic duress.

18 103. The terms of the Agreements were ridiculously one-sided and, as Brightstar
19 Wireless now realizes, intended by T-Mobile to enable T-Mobile to drive Brightstar Wireless out
20 of business.

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26 _____
27 ¹ The parties executed ten Retailer Services Agreements, one for each market or “Area”
28 where Brightstar Wireless operated retail locations. All ten Retailer Service Agreements are
virtually identical and for the purposes of this demand, will be referred to collectively as the
“Agreement” or the “Agreement Package.”

1 **F. T-Mobile Engaged in a Pattern and Practice of Anti-Competitive Behavior to**
2 **Destroy Brightstar Wireless and Instituted Additional Closures Despite**
3 **Representations to the Contrary.**

4 104. Shortly after the Sprint/T-Mobile merger, T-Mobile began engaging in a litany of
5 anti-competitive, unfair, and deceptive behavior aimed at driving Brightstar Wireless and other
6 legacy Sprint retailers out of the marketplace.

7 105. T-Mobile manipulated search engine results to divert internet traffic and potential
8 business away from Brightstar Wireless and instead to legacy T-Mobile retailers and corporate
9 stores.

10 106. Specifically, T-Mobile was suppressing search engine results for Brightstar
11 Wireless locations so that they would not appear at all in a search engine query even though the
12 internet user was located in close or closest proximity to a Brightstar Wireless store location.

13 107. T-Mobile also engaged in a series of actions to hinder the performance of
14 Brightstar Wireless's existing stores and later, upon information and belief, used those same
15 performance metrics (which T-Mobile wrongfully suppressed) as a pretext to eliminate those
16 stores.

17 108. For example, T-Mobile promised that it would provide Brightstar Wireless with
18 permanent signage for their stores.

19 109. However, T-Mobile continued to delay the date by which Brightstar Wireless
20 would receive the signs. In the interim, Brightstar Wireless had only a banner, which was
21 unreadable outside of daylight hours.

22 110. As a result, the amount of traffic driven to Brightstar Wireless's locations was
23 significantly reduced, particularly in the evening.

24 111. Further, T-Mobile wrongfully interfered with Brightstar Wireless's relationship
25 with store landlords during the store closure process, which resulted in increased liability for
26 Brightstar Wireless.

27 112. For example, T-Mobile ordered the closure of Brightstar Wireless's store in
28 Irving, Texas, requiring Brightstar Wireless to terminate the lease early.

1 113. Accordingly, Brightstar Wireless exercised its right to terminate the lease
2 pursuant to a clause in the lease agreement that allowed Brightstar Wireless to terminate the lease
3 early when Sprint or T-Mobile elected to close the store.

4 114. Although the landlord initially approved the early termination, he subsequently
5 corresponded with T-Mobile via email with Douglas McDaniel, the Senior Manager of Retail
6 Portfolio Management. During these conversations, T-Mobile informed the landlord that,
7 because T-Mobile did not approve Brightstar Wireless to continue operating in that location, T-
8 Mobile would reimburse Brightstar Wireless for up to two years of the lease life.

9 115. Consequently, the landlord refused to release Brightstar Wireless from additional
10 payments under the lease, but T-Mobile has never compensated Brightstar Wireless for the two
11 years remaining on the lease.

12 116. T-Mobile also opened corporate stores in the same locations where it previously
13 required Brightstar Wireless to close their stores.

14 117. For example, T-Mobile closed Brightstar Wireless's store in Pensacola, Florida,
15 because it told Brightstar Wireless that it no longer needed a store in that location.

16 118. Brightstar Wireless closed the location, which required it to terminate its lease
17 early. Brightstar Wireless conveyed to the landlord that T-Mobile closed the store because it no
18 longer needed a store in that location.

19 119. T-Mobile then turned around and opened a corporate store in the same trade area.

20 120. Consequently, the landlord sued Brightstar Wireless for early termination of the
21 lease.

22 121. Finally, after Brightstar Wireless executed the Agreement Package, T-Mobile
23 began reducing or eliminating revenue streams that previously existed under the Sprint contracts
24 and that T-Mobile never represented would be impacted or changed under the new Agreement
25 Package.

26 122. Specifically, T-Mobile reduced or eliminated residual payments, rural spiffs, and
27 other forms of payment to Brightstar Wireless.

1 123. T-Mobile also inequitably determined chargebacks and took an inordinate amount
2 of time to resolve chargeback issues, which hamstrung Brightstar Wireless's ability to accurately
3 document/forecast cash flow.

4 124. Upon information and belief, T-Mobile planned to institute these changes prior to
5 the execution of the Agreement Package but concealed this fact from Brightstar Wireless to
6 induce it to execute the Agreement Package.

7 125. Against this backdrop, on November 16, 2020, approximately five months after
8 T-Mobile assured Brightstar Wireless that it would not be subject to additional closures, T-
9 Mobile announced that it was instituting a second round of store closures consisting of at least
10 26 store closures.

11 126. In addition, they were told that another six stores would be renewed for one year
12 only, and that T-Mobile would likely close those six stores after the one-year period ended.

13 127. T-Mobile also indicated that additional Brightstar Wireless stores may be in
14 jeopardy, as T-Mobile intended to annually announce store closures.

15 128. T-Mobile's announcement was contrary to its explicit representations via its
16 Director Scott Keen in May 2020 (in verbal communication with Mr. Bess and Mr. Palmer and
17 in a PowerPoint presentation T-Mobile provided to Brightstar Wireless) that there would be no
18 further Brightstar Wireless store closures after the initial round of closures.

19 129. T-Mobile stated that the additional closures were related to business judgment.
20 However, the basis for any judgments T-Mobile made were its own improper and anti-
21 competitive behavior, which prevented Brightstar Wireless from performing to its potential,
22 deflated its performance metrics, impeded its ability to operate existing stores optimally, and
23 precluded any realistic opportunity for expansion or growth.

24 130. Upon information and belief, T-Mobile disproportionately imposed the majority
25 of closures upon legacy Sprint dealers as part of its plan to eliminate, and have its legacy T-
26 Mobile dealers subsume, the unwanted Sprint dealers it acquired via the merger.

27 131. In short, T-Mobile relied on the Agreement Package (which it coerced and
28 fraudulently induced Brightstar Wireless to sign) to eliminate almost all of Brightstar Wireless's

1 stores while simultaneously prohibiting Brightstar Wireless from opening new locations (because
2 T-Mobile withheld its approval) or opening stores for a competing carrier (because the
3 fraudulently induced Agreement prohibited competition in any form).

4 132. Consistent with its intent and design, T-Mobile’s anti-competitive, unfair, and
5 deceptive conduct also ensured that Brightstar Wireless’s remaining stores would not operate at
6 the levels they did prior to the Sprint/T-Mobile merger.

7 133. Prior to Brightstar Wireless executing the Agreement Package with T-Mobile,
8 T-Mobile and Sprint stated that a dealer’s performance would be “the number 1 factor” for
9 T-Mobile’s future plans.

10 134. But once T-Mobile’s fraudulently-induced and one-sided Agreements with
11 Brightstar Wireless were in place, T-Mobile representative Doug Chartier admitted the truth in a
12 December 10, 2020 call with another legacy Sprint dealer, stating: “T-Mobile only acquired
13 Sprint for its network assets, not real estate or dealer distribution.” This was a new, completely
14 different, and contradictory message than any that T-Mobile or Sprint had previously
15 communicated.

16 135. Faced with the devastating impacts of T-Mobile’s fraud, deception, unfairness,
17 and hostility, Brightstar Wireless attempted to reason with T-Mobile. Brightstar Wireless sent
18 multiple emails to T-Mobile identifying the problems and requesting resolution.

19 136. T-Mobile willfully failed and refused to acknowledge its misconduct – much less
20 undertake any reasonable steps to correct it.

21 137. Throughout its relationship with Brightstar Wireless (and other legacy Sprint
22 dealers), T-Mobile engaged in a pattern and practice of anti-competitive, unscrupulous, and
23 unethical conduct, from which it then sought to immunize itself through unfairly-induced releases
24 which were the product of misrepresentations, treachery, lack of consideration, and financial
25 duress created by T-Mobile.

1 **G. T-Mobile’s Unlawful Conduct Forced Brightstar Wireless to Exit a Business in**
2 **Which it Had Flourished for Over 15 Years.**

3 138. Before they were forced to do business with T-Mobile, Messrs. Bess and Palmer
4 intended to grow and either maintain Brightstar Wireless as a closely-held business or to grow
5 the business and sell it for a profit. T-Mobile ruined either path for Brightstar Wireless’s future.

6 139. Once it became clear that T-Mobile’s actions would make it virtually impossible
7 for Brightstar Wireless to survive, let alone succeed or grow, Brightstar Wireless had little choice
8 but to exit the marketplace and sell its remaining business.

9 140. Even at this stage, T-Mobile tied Brightstar Wireless’s hands and wrongfully
10 interfered with Brightstar Wireless’s efforts to mitigate its damages.

11 141. In October 2020, Brightstar Wireless and Verge Mobile, LLC (“Verge”) entered
12 into negotiations for Verge to purchase Brightstar Wireless’s remaining stores.

13 142. However, T-Mobile, which is required to approve all such sales, also instituted its
14 purported “acquisition freeze” that blocked sales and acquisitions until November 2020.

15 143. Upon information and belief, the “acquisition freeze” was a mere pretext to drive
16 down the selling price for Brightstar Wireless’s, and other legacy Sprint dealers’, remaining
17 assets as T-Mobile allowed a number of acquisitions requested by its favored legacy T-Mobile
18 dealers to move forward during this time period.

19 144. Ultimately, the deal with Verge fell through due to T-Mobile’s strategic delay and
20 the continued forecast of additional store closures.

21 145. T-Mobile continued to exercise total control over who it could approve to acquire
22 Brightstar Wireless.

23 146. On information and belief, T-Mobile encouraged these specific retailers to acquire
24 Brightstar Wireless’s assets by representing they could do so at a far lower price than those assets
25 were worth.

26 147. On January 5, 2021, Brightstar Wireless signed an asset purchase agreement with
27 Connectivity Source (“Connectivity”) pursuant to which Connectivity was to purchase 51 stores
28 from Brightstar Wireless.

1 148. Additionally, Connectivity expressed interest in purchasing 24 additional
2 Brightstar Wireless locations in the Chicago, Illinois, and Milwaukee, Wisconsin.

3 149. However, Brightstar Wireless entered into a separate asset purchase agreement on
4 January 26, 2021, to sell its remaining stores in the Chicago and Milwaukee market to TCC
5 Wireless, LLC (“TCC”).

6 150. Notably, the final sales of Brightstar Wireless’s stores to Connectivity and TCC
7 were for amounts far less than the value of Brightstar Wireless before T-Mobile effectively
8 destroyed Brightstar Wireless’s business and reduced Brightstar Wireless from a top dealer to a
9 company whose principals had no legitimate choice aside from exiting the business.

10 151. For context, the sale prices to Connectivity and TCC (combined) were
11 approximately one-quarter of the amount stated in an LOI Brightstar Wireless was negotiating
12 with a potential buyer when the merger was announced.

13 152. T-Mobile also retained sole authority to approve the sales to Connectivity and
14 TCC.

15 153. After the sale agreement with Connectivity had been negotiated and T-Mobile had
16 given its approval, three days before the date set for closing, T-Mobile demanded that a release
17 be added to the sale agreement that covered all claims against T-Mobile as well as Connectivity,
18 and told Brightstar Wireless that it would not allow the sale to close unless Brightstar Wireless
19 executed the release.

20 154. The same was true with the transaction with TCC. After giving approval for
21 Brightstar Wireless’s sale to TCC, T-Mobile demanded that a release be added to the sale
22 agreement that covered all claims against T-Mobile, as well as TCC, six days before the date set
23 for closing. Again, T-Mobile told Brightstar Wireless that it would not allow the sale to close
24 unless Brightstar Wireless executed the release.

25 155. T-Mobile intentionally waited to spring the releases on Brightstar Wireless until
26 just prior to the scheduled closings, knowing that Brightstar Wireless could not afford to refuse
27 to sign the releases and risk losing the deals.

1 156. T-Mobile's roll-out of putative releases always came after the dealer was in no
2 position to stop the sales transactions (which T-Mobile already fraudulently promised it would
3 approve without additional conditions) because, among other reasons, related employee
4 terminations or transitions and lease arrangements were already underway, and the selling dealer
5 now faced a buyer who had rights against the selling dealer if it halted the transaction.

6 157. In each case, the sale was only occurring in the first place because T-Mobile had
7 devastated the selling dealer's business, thereby forcing the selling dealer to exit the business.
8 Brightstar Wireless's choices were simple: insolvency or fold to T-Mobile's unfair demands.

9 158. Faced with the complete devastation of its business and with no ability to fight
10 back against T-Mobile without the proceeds of the sales, Brightstar Wireless had no choice but
11 to execute the sale agreements with the release language mandated by T-Mobile, which Brightstar
12 Wireless only did under economic duress.

13 159. Brightstar closed the asset purchase agreements with Connectivity and TCC on
14 February 1, 2021.

15 **H. Sprint, and Then T-Mobile, Maintained a Mislabeled Franchise Arrangement with**
16 **Brightstar Wireless.**

17 160. Prior to the Sprint-T-Mobile merger, Sprint's relationship with Brightstar
18 Wireless was a mislabeled franchise relationship.

19 161. Sprint's agreement with Brightstar Wireless included a false statement that the
20 relationship was not a franchise.

21 162. After acquiring Sprint in the merger, T-Mobile unlawfully terminated the
22 franchise with Sprint.

23 163. Thereafter, T-Mobile's relationship with Brightstar Wireless was a mislabeled
24 franchise relationship.

25 164. T-Mobile's agreement with Brightstar Wireless included a false statement that the
26 relationship was not a franchise.

27 165. Both Sprint and T-Mobile engaged in unlawful conduct directed at Brightstar
28 Wireless that violated applicable franchise law, including the Washington Franchise Act.

1 166. Both Sprint and T-Mobile granted Brightstar Wireless and its locations the right
2 to offer, sell, or distribute goods and services – specifically Sprint and T-Mobile wireless services
3 and associated cellular phone products – under a marketing plan or system prescribed in
4 substantial part by Sprint and T-Mobile.

5 167. Brightstar Wireless’s operation was substantially associated with the trademarks,
6 service marks, trade names, advertising, or other commercial symbols designating, owned by, or
7 licensed by Sprint, T-Mobile, and their affiliates.

8 168. To a customer visiting a Brightstar Wireless store, the store appeared to be a
9 Sprint- or T-Mobile-owned store because of the extensive Sprint or T-Mobile signage and logos
10 appearing on the employee uniforms – all of which were mandated by Sprint and T-Mobile.

11 169. Brightstar Wireless was required to pay to Sprint, and then to T-Mobile, directly
12 or indirectly, franchise fees. Those fees included, without limitation:

- 13 a. improper and unauthorized chargebacks against Brightstar Wireless’s
- 14 commissions due from Sprint and T-Mobile;
- 15 b. the improper withholding of Brightstar Wireless’s earned CSAs or residuals
- 16 post-merger;
- 17 c. the forced-purchase of furniture, uniforms, services, phones, and accessories
- 18 from Sprint and T-Mobile-selected vendors, including Granite
- 19 Communications and Brightstar Corporation, which vendors, upon
- 20 information and belief, provided these goods and services to Brightstar
- 21 Wireless at a substantial mark-up that was directly passed on to Sprint or T-
- 22 Mobile;
- 23 d. the assessment of charges labeled as “penalties” or “fines” for items such as
- 24 missed training for employees, staff shortages, or findings in audits conducted
- 25 by or on behalf of Sprint or T-Mobile;
- 26 e. the required surrender of returned phones to Sprint or T-Mobile without any
- 27 refund to Brightstar Wireless for any portion of the phones;
- 28

- 1 f. Sprint's and T-Mobile's receipt of funds from vendors in return for allowing
2 those vendors to advertise in Brightstar Wireless stores;
- 3 g. charges for Brightstar Wireless's sales of accessories (which did not reflect
4 mere wholesale sales of accessories to Brightstar Wireless by Sprint and
5 T-Mobile at wholesale);
- 6 h. whenever there was a loss of goods (phones or accessories), which is a
7 guaranteed occurrence in any retail business due to damage, loss in transit,
8 theft, and other causes, T-Mobile required Brightstar Wireless to pay it the
9 full **retail** price for the lost goods, which was considerably more than T-
10 Mobile had paid for those goods – this alone represented thousands of dollars
11 in disguised franchise payments to T-Mobile each month;
- 12 i. markups on shipping fees; and
- 13 j. backend charges for co-op parts.

14 170. Both Sprint and T-Mobile failed to properly register as required for franchise
15 relationships and abused the franchise relationship.

16 171. Further, Defendants unlawfully terminated the Sprint franchise to Brightstar
17 Wireless when they forced the less favorable T-Mobile franchise relationship upon Brightstar
18 Wireless.

19 **I. T-Mobile is Liable for the Acts of Sprint.**

20 172. T-Mobile (or a parent company of T-Mobile) is the successor entity or parent of
21 Sprint.

22 173. As the acquiring entity, T-Mobile is liable for action or inactions of Sprint
23 occurring before or in connection with the Sprint-T-Mobile merger.

24 174. Further, as between Sprint and T-Mobile, there was a commingling of property
25 rights or interests, and it was apparent that they were intended to function as one, and, further, to
26 regard them as separate would aid the consummation of a fraud or wrong upon others.

1 175. Moreover, Sprint and T-Mobile conspired together and aided and abetted one
2 another to perpetrate the unlawful and wrongful actions and inactions that are the subject of this
3 Complaint.

4 **IV. CAUSES OF ACTION**

5 **FIRST CLAIM FOR RELIEF: FRAUD AND FRAUDULENT INDUCEMENT**

6 176. Brightstar Wireless realleges, as if fully set forth herein, each and every allegation
7 contained in the preceding paragraphs.

8 177. T-Mobile knowingly made the false representations to Brightstar Wireless that it
9 would not subject Brightstar Wireless to another significant reduction of its stores after the initial
10 closure of 45 stores and would allow Brightstar Wireless to expand and grow.

11 178. T-Mobile further concealed its plans to massively cut Brightstar Wireless's
12 number of locations, suppress its ability to succeed, and stifle its growth.

13 179. These representations and concealments were material and false.

14 180. Brightstar Wireless entered into the Agreement based on T-Mobile's
15 representations that it would not subject Brightstar Wireless to additional store closures and that
16 Brightstar Wireless would be allowed to acquire new stores and grow its number of locations
17 following the merger.

18 181. T-Mobile knew that the representations were false, and it acted in reckless
19 disregard as to the truth or falsity of the representations.

20 182. T-Mobile knew at the time it made the representations that it intended to close far
21 more of Brightstar Wireless's stores than it represented, and that it would do so within the first
22 two years of the Agreement.

23 183. T-Mobile made these misrepresentations and concealments of material facts with
24 the intent to deceive Brightstar Wireless, and they were made as a material inducement to
25 Brightstar Wireless to enter into the Agreement.

26 184. Brightstar Wireless was deceived by the misrepresentations and would not have
27 entered into the T-Mobile Agreement but for the misrepresentations.

1 185. Brightstar Wireless could not have learned the true facts through reasonable
2 diligence, and as a result, its reliance on T-Mobile's misrepresentations was justified and
3 reasonable.

4 186. T-Mobile's fraudulent misrepresentations and concealments of material fact
5 induced Brightstar Wireless to forego the more beneficial terms of the Sprint contract and cheated
6 Brightstar Wireless out of compensation to which Brightstar Wireless was entitled under the
7 Sprint contract.

8 187. As a direct and proximate result of T-Mobile's fraudulent misrepresentations,
9 Brightstar Wireless has suffered damages in an amount to be determined at trial, but certainly in
10 excess of \$50 million.

11 **SECOND CLAIM FOR RELIEF: NEGLIGENT MISREPRESENTATION**
12 **(IN THE ALTERNATIVE)**

13 188. Brightstar Wireless realleges, as if fully set forth herein, each and every allegation
14 contained in the preceding paragraphs.

15 189. Brightstar Wireless pleads negligent misrepresentation in the alternative to fraud
16 and fraudulent inducement.

17 190. As alleged herein, T-Mobile supplied misinformation (by direct statement and
18 concealment that misled Brightstar Wireless concerning the nature of the T-Mobile-Brightstar
19 Wireless relationship), including regarding future growth and store closures, which information
20 was material, false, and misleading.

21 191. T-Mobile knew that supplying this information to Brightstar Wireless would
22 induce Brightstar Wireless to execute the Agreement Package, and in supplying this information
23 T-Mobile intended to induce Brightstar Wireless to do so.

24 192. T-Mobile was negligent in obtaining and communicating this false information to
25 Brightstar Wireless.

26 193. Brightstar Wireless reasonably relied on this false information in deciding
27 whether to execute the Agreement Package.

28 194. T-Mobile's false information proximately caused damages to Brightstar Wireless.

1 195. As a result of T-Mobile's negligent misrepresentations, Brightstar Wireless has
2 suffered damages in an amount to be determined at trial, but certainly in excess of \$50 million.

3 **THIRD CLAIM FOR RELIEF: DECLARATORY JUDGMENT**

4 196. Brightstar Wireless realleges, as if fully set forth herein, each and every allegation
5 contained in the preceding paragraphs.

6 197. There is an actual and justiciable controversy among the parties regarding the
7 matters set forth in this Complaint.

8 198. The law, justice, and equity require a determination and declaration that, as a
9 result of Sprint's and T-Mobile's fraudulent inducement of the Agreements, they are invalid,
10 void, and of no effect, and Brightstar Wireless therefore remains in contract with Sprint and is
11 entitled to the rights, privileges, and payments, and has only the obligations set out in the
12 Authorized Representative Agreement between Sprint and Brightstar Wireless.

13 199. The law, justice, and equity require a determination and declaration that, as a
14 result of Sprint's and T-Mobile's fraudulent inducement of the T-Mobile Agreements and
15 unequal bargaining power, the choice of law provisions contained therein are void and without
16 effect.

17 200. The law, justice, and equity require a determination and declaration that the
18 putative releases contained in the Wind Down Addendums, Retailer Service Agreements, and
19 the Assignment and Assumption Agreements were procured through fraud, and/or unfair and
20 deceptive business practices, and/or improper coercion and economic duress, and/or are not
21 supported by valid consideration, and are therefore void and without effect.

22 201. The law, justice, and equity require a determination and declaration that the
23 relationships between Sprint and Brightstar Wireless, and then T-Mobile and Brightstar Wireless,
24 were franchise relationships, such that Sprint and T-Mobile are entitled to the benefits of a
25 franchisee under applicable law.

26 **FOURTH CLAIM FOR RELIEF: BREACH OF SPRINT CONTRACT**

27 202. Brightstar Wireless realleges, as if fully set forth herein, each and every allegation
28 contained in the preceding paragraphs.

1 203. If the Court determines that the Sprint contract remains in place, T-Mobile's and
2 Sprint's conduct as alleged herein breached that contract.

3 204. T-Mobile's and Sprint's conduct is the actual and proximate cause of damages to
4 Brightstar Wireless.

5 205. Brightstar Wireless has suffered damages in an amount to be determined at trial,
6 but certainly in excess of \$50 million.

7 **FIFTH CLAIM FOR RELIEF: BREACH OF THE T-MOBILE AGREEMENTS AND**
8 **WIND DOWN ADDENDUM**

9 206. Brightstar Wireless realleges, as if fully set forth herein, each and every allegation
10 contained in the preceding paragraphs.

11 207. If the Court determines that the Agreements remain in place, T-Mobile's and
12 Sprint's conduct as alleged herein breached those contracts.

13 208. T-Mobile's and Sprint's conduct is the actual and proximate cause of damages to
14 Brightstar Wireless.

15 209. Brightstar Wireless has suffered damages in an amount to be determined at trial,
16 but certainly in excess of \$50 million.

17 **SIXTH CLAIM FOR RELIEF: BREACH OF THE COVENANT OF GOOD FAITH**
18 **AND FAIR DEALING**

19 210. Brightstar Wireless realleges, as if fully set forth herein, each and every allegation
20 contained in the preceding paragraphs.

21 211. To the extent the Agreements are deemed to be valid contracts that were not
22 fraudulently induced, then T-Mobile is obligated by contract and common law to act in good
23 faith and to not do anything to deprive Brightstar Wireless of the fruits and benefit of the
24 Agreements.

25 212. T-Mobile breached this implied covenant of good faith and fair dealing and
26 injured Brightstar Wireless's right to receive the benefits of the Agreements by engaging in the
27 conduct described herein, including, without limitation:
28

- 1 a. Systematically eliminating a disproportionate share of Brightstar Wireless's
- 2 stores within the first two years of the Agreements;
- 3 b. Refusing to approve additional Brightstar Wireless stores and building
- 4 corporate stores in proximity to existing Brightstar Wireless locations; and
- 5 c. Otherwise suppressing Brightstar Wireless's ability to succeed as described
- 6 herein.

7 213. T-Mobile's actions are contrary to Brightstar Wireless's reasonable and justified
8 expectations under the Agreements.

9 214. T-Mobile's sweeping reduction of Brightstar Wireless's stores and refusal to
10 approve additional stores frustrate the essential purpose of the Agreement and Brightstar
11 Wireless is unable to obtain its full and expected benefits of the Agreement, including without
12 limitation, operating as a dealer of T-Mobile services and goods.

13 215. T-Mobile used the Termination of Locations provision to constructively gut the
14 essential purpose of the Agreements and to bind Brightstar Wireless and its owners to a non-
15 compete agreement where they could not compete in the marketplace all while T-Mobile
16 continued to systematically eliminate Brightstar Wireless stores, refused to allow Brightstar
17 Wireless to open new stores, and engaged in anti-competitive, unfair, and deceptive trade
18 practices to guarantee that Brightstar Wireless's remaining stores failed.

19 216. T-Mobile never intended to work with Brightstar Wireless. It only wanted signed
20 Agreements that would constrain Brightstar Wireless and hopefully obviate Brightstar Wireless's
21 ability to defend itself. Further, as T-Mobile possessed Brightstar Wireless's financial
22 information, it knew before Brightstar Wireless signed the Agreements that its actions would
23 effectively close down Brightstar Wireless.

24 217. T-Mobile's abrupt and systematic reduction of Brightstar Wireless's stores,
25 refusal to approve additional store acquisitions, and anti-competitive conduct to destroy
26 Brightstar Wireless's remaining stores have already caused and will continue to cause Brightstar
27 Wireless to suffer damages in an amount to be determined at trial, but certainly in excess of \$50
28 million.

1 **SEVENTH CLAIM FOR RELIEF: VIOLATION OF WASHINGTON UNFAIR**
2 **BUSINESS PRACTICES—CONSUMER PROTECTION ACT, RCW §§ 19.86.010 ET**
3 **SEQ.**

4 218. Brightstar Wireless realleges, as if fully set forth herein, each and every allegation
5 contained in the preceding paragraphs.

6 219. T-Mobile engaged in unfair and deceptive trade practices including, among other
7 things, the following:

- 8 a. Making false representations to induce Brightstar Wireless to sign the
9 Agreements and coercing Brightstar Wireless to do so or else forego the
10 ability to sell any T-Mobile phones or services;
- 11 b. Engaging in anti-competitive conduct to disadvantage and drive out Brightstar
12 Wireless (and other legacy Sprint dealers) while not subjecting legacy T-
13 Mobile dealers to such conduct;
- 14 c. Weaponizing the commercial relationship and knowingly applying
15 contractual terms in an unfair and improper manner contrary to the language
16 and spirit of the contracts, for the specific purpose of suppressing Brightstar
17 Wireless and driving it out of business; and
- 18 d. Representing in the Agreements that no franchise relationship would be
19 created but in fact, creating such a franchise relationship with Brightstar
20 Wireless, thereby manipulating the contractual relationship and abusing
21 Brightstar Wireless as a franchisee.

22 220. T-Mobile's unfair and deceptive trade practices affect trade and/or commerce
23 given that T-Mobile is engaged in the sale of assets, services, and commerce that directly or
24 indirectly affect the people of Washington state.

25 221. T-Mobile's unfair and deceptive trade practices affect the public because:

- 26 a. T-Mobile committed its anti-competitive acts in the course of its business;
- 27 b. T-Mobile's actions were part of a pattern or generalized course of conduct
28 which involved the intentional devastation of dealers like Brightstar Wireless;

- 1 c. T-Mobile's conduct is not isolated – it has engaged in a pattern and practice
2 of committing the wrongful actions and inactions addressed in this Complaint
3 – and is harmful to wireless dealers, employees, and customers;
- 4 d. T-Mobile has driven several viable and successful businesses out of the
5 marketplace;
- 6 e. T-Mobile has not complied with the letter and spirit of the representations that
7 it made to state and federal authorities to obtain approval of the Sprint-T-
8 Mobile merger;
- 9 f. Given T-Mobile's pattern, there exists an ongoing potential for T-Mobile to
10 continue its unlawful conduct; and
- 11 g. T-Mobile's actions have affected and continue to affect a large number of
12 consumers.

13 222. T-Mobile's unfair and deceptive conduct is the actual and proximate cause of
14 injury to Brightstar Wireless and has caused damages to Brightstar Wireless in an amount to be
15 determined at trial, but certainly in excess of \$50 million.

16 223. Brightstar Wireless is entitled to an award of damages caused by T-Mobile's
17 unlawful conduct, including reasonable attorneys' fees and statutory treble damages as provided
18 by RCW 19.86.090.

19 **EIGHTH CLAIM FOR RELIEF: VIOLATION OF WASHINGTON FRANCHISE**
20 **INVESTMENT PROTECTION ACT, RCW §§ 19.100.010 ET SEQ.**

21 224. Brightstar Wireless realleges, as if fully set forth herein, each and every allegation
22 contained in the preceding paragraphs.

23 225. Sprint was a franchisor and unlawfully sold an unregistered franchise in the State
24 of Washington in contravention of RCW 19.100. Upon information and belief, Sprint failed to
25 file a Notice of Claim for Exemption under WAC 460-80-100 and, in any event, was not exempt
26 from registration requirements.

27 226. Likewise, T-Mobile is a franchisor and T-Mobile unlawfully sold an unregistered
28 franchise in the State of Washington in contravention of RCW 19.100. Upon information and

1 belief, T-Mobile has failed to file a Notice of Claim for Exemption under WAC 460-80-100 and,
2 in any event, is thus not exempt from registration requirements.

3 227. As the acquiring entity, T-Mobile assumed Sprint's liabilities.

4 228. T-Mobile's business model and mode of operation is in fact a "franchise" as
5 defined in RCW 19.100.010(6)(a) in that:

- 6 a. T-Mobile granted Brightstar Wireless rights to engage in the business of
7 offering, selling, and distributing goods and services under marketing plans
8 pre-designed by T-Mobile;
- 9 b. the business opportunity granted to Brightstar Wireless was substantially
10 associated with a trademark, trade name, and other commercial symbols
11 owned by T-Mobile; and
- 12 c. T-Mobile collected disguised franchise fees from Brightstar Wireless, which
13 included, *inter alia*, forcing Brightstar Wireless into a consignment model
14 whereby Brightstar Wireless was forced to buy accessories from a particular
15 vendor and then sell at T-Mobile's prices with substantially reduced margins
16 and forcing Brightstar Wireless to buy phones from T-Mobile and no other
17 source.

18 229. Specifically, and without limitation, T-Mobile acted unfairly and deceptively and
19 engaged in an unfair method of competition in violation of RCW 19.100.180, by:

- 20 a. Failing to deal with Brightstar Wireless in good faith;
- 21 b. Requiring Brightstar Wireless to purchase goods or services from T-Mobile
22 or from an approved source of supply in the absence of any lawful purpose
23 justified on business grounds;
- 24 c. Unreasonably and arbitrarily discriminating between legacy T-Mobile dealers
25 and legacy Sprint dealers, such as Brightstar Wireless, in business dealings;
- 26 d. Requiring Brightstar Wireless to assent to a release or waiver which would
27 relieve T-Mobile from liability imposed by RCW 19.100.180;
- 28

- 1 e. Unreasonably and unnecessarily imposing on Brightstar Wireless standards of
2 conduct such as forcing Brightstar Wireless to purchase security equipment
3 that complied with only T-Mobile's specifications, mandating that new hires
4 be approved by T-Mobile, and mandating a minimum number of people on
5 sales floors at all times;
- 6 f. Refusing to renew without fairly compensating Brightstar Wireless for the fair
7 market value and good will;
- 8 g. Threatening to and actually terminating Brightstar Wireless's stores before the
9 expiration of its terms without good cause; and
- 10 h. Acting inconsistent with representations made to federal and state authorities
11 concerning commitments not to shut down productive stores or reduce
12 employment.

13 230. As a result of T-Mobile's violations of franchise law, Brightstar Wireless has
14 suffered damages in an amount to be determined at trial, but certainly in excess of \$50 million.

15 231. Brightstar Wireless has suffered damages by reason of T-Mobile's violation of
16 RCW 19.100 and is entitled to an award of damages thereof, including statutory treble damages
17 as provided by RCW 19.100.190(3).

18 **NINTH CLAIM FOR RELIEF: VIOLATION OF FLORIDA DECEPTIVE AND**
19 **UNFAIR TRADE PRACTICES ACT, §§ 501.201 ET SEQ (IN THE ALTERNATIVE)**

20 232. Brightstar Wireless realleges, as if fully set forth herein, each and every allegation
21 contained in the preceding paragraphs.

22 233. To the extent that the T-Mobile Agreements are deemed fraudulently induced and
23 unenforceable, which would void the provision setting Washington as the applicable jurisdiction,
24 Brightstar Wireless pleads Florida's Deceptive and Unfair Business Practices Act ("the Act") in
25 the alternative.

26 234. Section 501.204(1) provides that "unfair or deceptive acts or practices in the
27 conduct of any trade or commerce are hereby declared unlawful." The provisions of the Act shall
28

1 be “construed liberally to promote the protection” of the “consuming public and legitimate
2 business enterprises from those who engage in . . . deceptive[] or unfair acts or practices in the
3 conduct of any trade or commerce.” Fla. Stat. § 501.202 (2014).

4 235. Defendants were, at all times material to the allegations herein, engaged in “trade
5 or commerce” as defined by the Act. Fla. Stat. § 501.203 (2014).

6 236. As to the acquiring entity, T-Mobile assumed Sprint’s liabilities.

7 237. T-Mobile engaged in unfair and deceptive conduct.

8 238. T-Mobile’s unfair and deceptive conduct caused independent harm to consumers
9 in Florida and to Brightstar Wireless.

10 239. T-Mobile’s unfair and deceptive conduct is the actual and proximate cause of
11 injury to consumers and to Brightstar Wireless. T-Mobiles unfair and deceptive conduct has
12 caused damages to Brightstar Wireless in an amount to be determined at trial, but certainly in
13 excess of \$50 million.

14 240. Brightstar Wireless requests judgment against Defendants for damages, together
15 with attorneys’ fees and costs of suit pursuant to Sections 501.2105 and 501.211(2), Florida
16 Statutes, and such other and further relief as the court may deem proper.

17 **TENTH CAUSE OF ACTION: VIOLATION OF FLORIDA FRANCHISE ACT,**
18 **§§ 817.416 ET SEQ.**
19 **(IN THE ALTERNATIVE)**

20 241. Brightstar Wireless realleges, as if fully set forth herein, each and every allegation
21 contained in the preceding paragraphs.

22 242. To the extent the T-Mobile Agreements are deemed fraudulently induced and
23 unenforceable, which would void the provision setting Washington as the applicable jurisdiction,
24 Brightstar Wireless pleads Florida’s Franchise Act in the alternative.

25 243. Sprint was a franchisor, and upon information and belief, it violated Section
26 559.802 of Florida Statutes by failing to file an annual exemption from Florida’s Sale of Business
27 Opportunities Act and a filing fee.

1 244. Likewise, T-Mobile is a franchisor, and upon information and belief, it violated
2 Section 559.802 of Florida Statutes by failing to file an annual exemption from Florida's Sale of
3 Business Opportunities Act and a filing fee.

4 245. As the acquiring entity, T-Mobile assumed Sprint's liabilities.

5 246. Both Sprint's and T-Mobile's business model and mode of operation is in fact a
6 "franchise" as defined in Section 817.416 in that:

- 7 a. Sprint and T-Mobile and Brightstar Wireless were in a commercial relationship
8 of definite duration;
- 9 b. Sprint and T-Mobile granted Brightstar Wireless, the franchisee the right to offer,
10 sell, and distribute goods or services;
- 11 c. Brightstar Wireless, as the franchisee, is an independent business constituting a
12 component of T-Mobile's distribution system, and previously, Sprint's
13 distribution system; and
- 14 d. The operation of Brightstar Wireless's business franchise was substantially reliant
15 on Sprint and T-Mobile for the basic supply of goods.

16 247. Specifically, and without limitation, Sprint and T-Mobile violated Section
17 817.416, by:

- 18 a. Intentionally misrepresenting the prospects or chances for success of a proposed
19 or existing franchise by making the statements alleged herein. Specifically, Sprint
20 and T-Mobile significantly overstated the per-store per-month customer traffic,
21 but in reality, only T-Mobile Premium Retailer Stores were able to experience that
22 kind of high customer traffic. Thus, Sprint and T-Mobile misrepresented the
23 amount of profit Brightstar Wireless could realize.
- 24 b. Intentionally misrepresenting the known required total investment for such a
25 franchise by making the statements alleged herein. Specifically, T-Mobile
26 required all legacy Sprint dealers, including Brightstar Wireless, to remodel their
27 stores under the new T-Mobile brand at a cost to the dealer of an undisclosed
28 amount at the time, but which later information revealed would cost

1 approximately \$142,000 per store. At the time, T-Mobile misrepresented that it
2 would allocate cooperating legacy Sprint dealers necessary remodeling funds,
3 which concealed the true cost of remodeling.

4 c. Intentionally misrepresenting and/or failing to disclose efforts to sell or establish
5 more franchises that is reasonable to expect the market or market area to sustain
6 by making the statements alleged herein. Specifically, Sprint intentionally
7 misrepresented that it would be a “stand-alone” company and not merge with
8 T-Mobile and continued encouraging Brightstar Wireless to open new locations
9 in close proximity to existing T-Mobile stores. At the 2018 dealer summit, Sprint
10 falsely represented to dealers, including Brightstar Wireless, that it had 400+
11 doors approved for growth. However, right after the merger, T-Mobile wrongfully
12 closed hundreds of doors, including those of Brightstar Wireless’s. Sprint and
13 T-Mobile intentionally misrepresented the market’s ability to sustain opening of
14 new dealer locations.

15 248. T-Mobile’s misrepresentations, among others, are: the number of contemplated
16 store closures; the financial incentives that Brightstar Wireless would receive if it signed the
17 Agreements; and Brightstar Wireless’s likelihood of success of being a T-Mobile franchisee.

18 249. As a result of Sprint’s and T-Mobile’s representations, Brightstar Wireless was
19 tricked into entering into the various agreements alleged herein and investing millions of dollars.

20 250. Brightstar Wireless would not have executed the new T-Mobile Agreements and
21 invested substantial amount of time, effort, and money in establishing more stores but for Sprint’s
22 and T-Mobile’s misrepresentations and intentional concealment of material facts.

23 251. As a direct and proximate result of T-Mobile’s violations of Section 817.416,
24 Brightstar Wireless has suffered damages in an amount to be determined at trial, but certainly in
25 excess of \$50 million and is entitled to an award of damages thereof, including attorneys’ fees
26 and costs of the suit pursuant to Section 817.416(3) Florida Statutes.

1 **ELEVENTH CAUSE OF ACTION: VIOLATION OF ILLINOIS’S CONSUMER**
2 **FRAUD AND DECEPTIVE BUSINESS PRACTICES ACT, 815 ILL. COMP. STAT.**
3 **505/2**
4 **(IN THE ALTERNATIVE)**

5 252. Brightstar Wireless realleges, as if fully set forth herein, each and every allegation
6 contained in the preceding paragraphs.

7 253. To the extent that the T-Mobile Agreements are deemed fraudulently induced and
8 unenforceable, which would void the provision setting Washington as the applicable jurisdiction,
9 Brightstar Wireless pleads Illinois’s Consumer Fraud and Deceptive Business Practices Act (“the
10 Act”) in the alternative.

11 254. T-Mobile engaged in deceptive acts and practices, including among other things,
12 the following:

- 13 a. Making false representations to induce Brightstar Wireless to sign the Agreement
14 and coercing Brightstar Wireless to do so or else forego the ability to sell any
15 T-Mobile phones or services;
- 16 b. Engaging anti-competitive conduct to disadvantage and drive out Brightstar
17 Wireless (and other legacy Sprint dealers) while not subjecting legacy T-Mobile
18 dealers to such conduct;
- 19 c. Weaponizing the commercial relationship and using contractual terms to state
20 misrepresentations and to reading and applying terms to improperly operate in an
21 unfair fashion and contrary to the language and spirit of the contracts, read
22 completely in context, to cheat Brightstar Wireless, suppress it, and effectively
23 drive it out of business; and
- 24 d. Representing in the Agreements that no franchise relationship would be created
25 but in fact, creating such a franchise relationship with Brightstar Wireless, thereby
26 manipulating the contractual relationship and abusing Brightstar Wireless as a
27 franchisee.

28 255. T-Mobile intended that Brightstar Wireless rely on its false and misleading
representations.

1 256. T-Mobile engaged in the deceptive acts in the course of trade or commerce.

2 257. T-Mobile's deceptive acts and practices affect the market generally and implicate
3 consumer protection concerns, as illustrated by the following conduct:

- 4 a. T-Mobile's actions were part of a pattern or generalized course of conduct which
5 involved the intentional devastation of dealers like Brightstar Wireless;
- 6 b. T-Mobile's conduct is not isolated – it has engaged in a pattern and practice of
7 committing the wrongful actions and inactions addressed in this Complaint – and
8 is harmful to wireless dealers, employees, and customers;
- 9 c. T-Mobile has driven several viable and successful businesses out of the
10 marketplace;
- 11 d. T-Mobile has not complied with the letter and spirit of the representations that it
12 made to state and federal authorities to obtain approval of the Sprint-T-Mobile
13 merger;
- 14 e. Given T-Mobile's pattern, there exists an ongoing potential for T-Mobile to
15 continue its unlawful conduct; and
- 16 f. T-Mobile's actions have affected and continue to affect a large number of
17 consumers.

18 258. T-Mobile's conduct, as alleged above impacted Brightstar Wireless business,
19 operations, locations, employees, and consumers in Illinois, and are subject to Illinois's
20 Consumer Fraud and Deceptive Business Practices Act.

21 259. T-Mobile's deceptive acts are the actual and proximate causes of injury to
22 Brightstar Wireless in Illinois and have caused damage to Brightstar Wireless in an amount to be
23 determined at trial.

24 **TWELFTH CLAIM FOR RELIEF: UNJUST ENRICHMENT, QUANTUM MERUIT,
25 OR DISGORGEMENT**

26 260. Brightstar Wireless realleges, as if fully set forth herein, each and every allegation
27 contained in the preceding paragraphs.

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