

**IN THE SUPERIOR COURT OF COBB COUNTY
STATE OF GEORGIA**

PG WIRELESS, INC.,

Plaintiff,

v.

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

Defendants.

COMPLAINT

Plaintiff PG Wireless, LLC (“PG Wireless” or “Plaintiff”) brings this Complaint against Defendants T-Mobile USA, Inc. d/b/a T-Mobile (“T-Mobile”) and Sprint Solutions, Inc., n/d/b/a T-Mobile (“Sprint”) (each a “Defendant” and collectively “Defendants”), alleging the following:

INTRODUCTION

1. This action seeks redress for Defendants’ fraudulent, predatory, and anti-competitive conduct. Defendants used dishonesty and abused economic hardships they manufactured to extract revenue from their authorized dealers and line Defendants’ and their executives’ respective coffers. Defendants then forced those dealers, mostly small and medium sized businesses run by families or friends, out of the marketplace at unreasonably low values in transactions over which T-Mobile exerted improper influence – all to the detriment of consumers, the local and national economy, fair competition, and the dealers and their employees.

2. T-Mobile brazenly refused to address its wrongdoing without litigation because T-Mobile believes that it has successfully manipulated and weaponized the commercial and contractual relationship to insulate it from liability for its pattern and practice of:

- a. Lying (affirmatively and by concealment) to trick dealers into contracts with terms that T-Mobile then misconstrued and misapplied to their disadvantage;

- b. Simultaneously creating economic and time pressure that left dealers with no legitimate choice, other than insolvency, but to sign T-Mobile's documents;
- c. Cheating the dealers out of promised and anticipated store numbers, compensation, and levels of operation, and diverting dealer compensation to T-Mobile affiliates;
- d. Forcing a fire-sale to another favored T-Mobile dealer at prices that T-Mobile unlawfully acted to depress; and
- e. Attempting to evade responsibility for flagrant illegality with unlawfully induced and invalid putative releases.

3. T-Mobile shuttered more than 20 small businesses, closed well over 1,000 "doors" (as cellular stores are referred to in the industry), caused thousands of people to lose their jobs, and negatively impacted numerous consumers locally and throughout the United States. The harm was especially prevalent for lower credit and rural customers.

4. Before it encountered Defendants' predatory conduct, PG Wireless and its predecessor component businesses had been in business for approximately 24 years. PG Wireless and the entities that formed it were very successful Sprint dealers, combining to operate 27 wireless stores in Georgia and profitable business-to-business wireless sales. But T-Mobile unlawfully devastated PG Wireless's business. When the dust settled, only 14 (less than 52%) of the PG Wireless stores remained to be sold at a T-Mobile-depressed value, and T-Mobile took for itself PG Wireless's business-to-business sales.

5. PG Wireless brings this action to preserve the law and to recover for its injury.

PARTIES, VENUE, AND JURISDICTION

6. Plaintiff PG Wireless is an S-corporation organized and existing under the laws of Georgia and with one of its two main offices in Cobb County, Georgia and the other in Henry County, Georgia. PG Wireless is a business owned by three friends and Georgia residents.

7. Defendant T-Mobile is a corporation organized and existing under the laws of Delaware, headquartered in Bellevue, Washington. T-Mobile is one of the largest and most powerful companies in the world.

8. Defendant Sprint is a Missouri corporation with its principal place of business at 6200 Sprint Parkway, Overland Park, Kansas 66251. Sprint was formerly a wireless services provider until it merged into T-Mobile.

9. Over the opposition and expressed concerns of many, and based on misrepresentations to regulators and the public, T-Mobile became the emerging and surviving brand in a \$26 billion all-shares merger with Sprint that left Sprint as a T-Mobile affiliate. The merger closed on April 1, 2020, and T-Mobile discontinued the Sprint brand a few months later.

10. Venue in this Court is proper because PG Wireless suffered harm and injury caused by Defendants in this County, and this is a County in which PG Wireless resides for purposes of venue and in which Defendants have offices and transact business.

11. This Court has personal jurisdiction over Sprint and T-Mobile because of the substantial business they conducted and/or are conducting in this State.

12. This Court has subject matter jurisdiction over this matter.

FACTUAL ALLEGATIONS

A. Background.

13. Private and authorized dealers like PG Wireless commonly sell wireless products, accessories, and services. The dealers generally carry the services and products for a carrier, like Sprint or T-Mobile. Dealer stores are privately owned but operate under the provider's brand.

14. The dealers are small to medium-sized businesses like PG Wireless, often owned by friends, which help support the local economy, lease space for store locations, and provide numerous employment opportunities in the communities in which they are located – a high percentage of which are jobs for minorities and persons of color.¹

15. Dealers sell wireless plans, cell phones, and cell phone accessories (sometimes “wireless goods and services”). For each wireless plan they sell, dealers generally receive an initial commission and, thereafter, a monthly “continuing service award” (a “CSA” or “residual commission”). Dealers depend on these initial and residual commissions for their livelihood, to meet payroll, and to pay the leases for their stores. T-Mobile unlawfully and unreasonably cut commissions and residuals already earned by legacy Sprint dealers.

16. The dealers sell wireless goods and services to consumers at retail store locations leased by the dealers. The best dealers find good locations and provide great customer service to close sales to customers. Dealers undertake a significant financial commitment (and often owner personal guarantees) when they lease a store location, and good faith and fair dealing by the carriers (like T-Mobile) is a vital component of the dealers meeting their financial commitments.

¹ Contrary to its representations (and the promises it made to be permitted to merge with Sprint), T-Mobile's post-merger decimation of legacy Sprint dealers has resulted in a large loss of jobs disproportionately held by minorities and persons of color and in rural communities and in fewer options for members of all of these communities.

Despite knowledge of this fact, T-Mobile abused its position of power and failed to act in good faith.

17. Some dealers also make business-to-business sales in which they sell wireless goods and services directly to business customers. PG Wireless was particularly effective at business-to-business sales before T-Mobile robbed it of the ability to operate in that space.

B. PG Wireless Exceled as an Authorized Nextel and Later Sprint Dealer.

18. In 1996, Steve Mintz founded Nex Generation Cellular — a Georgia authorized dealer of Nextel and, later (after Nextel’s 2005 merger with Sprint), Sprint wireless products and services.

19. The next year, in 1997, friends and business partners Neil Mcleod and Jeff Clough founded Premier Wireless in Georgia, also an authorized retailer of Nextel and, later, Sprint products and services.

20. Both entities exceled as authorized retailers, and by 2015 had each grown to 12 doors. In February 2016, Nex Generation and Premier Wireless merged to create PG Wireless, in response to Sprint’s announcement that any authorized retailer with less than 15 doors would receive significantly reduced commissions beginning in 2016.

21. Sprint approved the merger and the creation of PG Wireless, which had a total of 24 doors, in February 2016.

22. Over the years, PG Wireless excelled as a wireless products and services provider expanding its retail store footprint and growing to cover business-to-business sales of wireless services across the country. For a smaller dealer, PG Wireless “punched above its weight class” because it was well managed.

23. At the time of the Sprint-T-Mobile merger, PG Wireless was party to an exclusive Authorized Representative Agreement and an Addendum thereto with Sprint (collectively, the

“ARA”). There was significant time remaining on the term of the ARA, and PG Wireless had no plans to wind down its operations or to close numerous stores, as its stores were performing well.

C. Sprint Concealed Its Plans of Merger with T-Mobile.

24. By late 2017, Sprint knew that it would soon be acquired by T-Mobile, but Sprint told PG Wireless otherwise, assuring PG Wireless (and other legacy Sprint dealers) that Sprint was, in the words of CEO Marcelo Claure, “going it alone.”

25. Sprint concealed the truth about the merger from PG Wireless (and other dealers) and repeatedly encouraged dealers to open and acquire new stores, particularly stores in close proximity to T-Mobile stores. Upon information and belief, these misrepresentations and concealments were made to protect Sprint’s position in its negotiations with T-Mobile and to increase the profits that Sprint and its executives could extract through the coming merger, by encouraging continued dealer growth in competition with T-Mobile and by convincing successful businesses like PG Wireless to remain with Sprint, notwithstanding Sprint’s knowledge of the impending merger.

26. Contrary to Sprint’s representations, on April 29, 2018, Sprint and T-Mobile announced that they had reached a definitive merger agreement, which was inconsistent with the information that Sprint has provided to its dealers, including PG Wireless.

D. Sprint and T-Mobile Merged, and T-Mobile Coerced and Fraudulently Induced PG Wireless to Enter Into New Agreements with Pressure and Misrepresentations.

27. Sprint and T-Mobile finalized their merger on April 1, 2020.

28. To obtain the necessary approvals from the Department of Justice and regulatory agencies, T-Mobile represented to the government and to the public that the merger would increase competition in wireless and broadband for consumers, deliver significant benefits to consumers nationwide, result in the opening of 600 or more new retail stores in rural areas and small towns

that would create approximately 5,000 new retail jobs, and create thousands of new U.S. jobs directly and indirectly, and that it would not produce anti-competitive behavior. According to Sprint's CEO's written Senate testimony, the deal was "a procompetitive merger that will benefit American consumers, American workers, and the American economy."

29. But as the ink was drying on the final merger approval documents, T-Mobile was already implementing an anticompetitive scheme to suppress legacy Sprint dealers, cut stores (thereby reducing jobs), and reduce compensation otherwise payable to the legacy Sprint dealers. T-Mobile specifically targeted PG Wireless as a victim of its misconduct.

30. **First**, T-Mobile unfairly, unreasonably, and inaccurately calculated PG Wireless's indebtedness and improperly sought to capitalize on the COVID-19 pandemic to disadvantage PG Wireless. Specifically:

- a. PG Wireless provided its financial information to T-Mobile, which demonstrated that PG Wireless (and its ownership) was fully solvent, well capitalized, and financially stable and that it did not have excessive debt.
- b. At the onset of the pandemic, PG Wireless had drawn down a \$1 million letter of credit as a precautionary measure, in the event additional operating funds were needed during the pandemic.
- c. PG Wireless then placed the entire \$1 million in its bank account but held it there and did not spend it.
- d. With full knowledge of these circumstances, T-Mobile claimed, based on the \$1 million draw-down, that PG Wireless had an unacceptable debt ratio, such that it was not eligible for a long term, favorable contract as a T-Mobile dealer.

- e. This was a knowingly false and fraudulent pretext for T-Mobile to force the premature exit of a strong legacy Sprint dealer. But T-Mobile concealed from PG Wireless that it would never be afforded an opportunity to succeed.

31. **Second**, T-Mobile refused to honor the remaining term of PG Wireless's ARA Agreements with Sprint and instead forced PG Wireless into a short, six-month contract with T-Mobile, which T-Mobile then abused to force PG Wireless out of business as a dealer by the end of 2020.

32. Even then, T-Mobile concealed its intentions and made misrepresentations to the contrary. On an April 28, 2020 call (the "April 28, 2020 Call") with Cody Welker, Scott Keen, and Doug Eason, all of T-Mobile and Steve Mintz, Neil Mcleod, and Kevin Topper of PG Wireless, Scott Keen stated:

[I]f you guys come in, Kevin, Neil, Steve, and you prove yourself, our intent is to grow operations and have less partners over time. And then that's really what we want to do. So I wouldn't be hung up on six months. I would be more focused on, you know, and it's great to hear the financial situation -- if that's a really good strength and a position for you guys and you're interested in growing, that's what we're interested in. If that is not something you want to do, then the six-month agreement will allow you to transition the business in a smooth and functional way that doesn't force you to fire sell, or anything like that. And just so you know, this is the conversation we've been having, like I said, for the last several years in the [T-Mobile] side of the house. And so I want you to know we're being very consistent. Our scorecard is consistent so there is no favoritism between any of the operators. It's just a matter of we don't have the infrastructure or the ability to sustain subscale operations.

That was all false—the six months was a death sentence for PG Wireless. PG Wireless would have no opportunity to grow, the six-month contract would be used to create a forced fire-sale, and there was favoritism for legacy T-Mobile dealers, particularly large ones.

33. **Third**, T-Mobile misled PG Wireless and stated to it, on numerous occasions both before and after PG Wireless signed T-Mobile's Agreements, that T-Mobile would discuss with PG Wireless the continuation of its business-to-business sales, but T-Mobile never intended to have meaningful discussions or allow continued business-to-business sales by PG Wireless, as evidenced by T-Mobile's conduct after PG Wireless signed T-Mobile's Agreements.

34. On the April 28, 2020 Call, Cody Welker stated:

So [business-to- business] program, once we get the [T-Mobile Retailer Services Agreement or "RSA"] contract, the . . . the business team is waiting for us to look at dealers that are successfully onboard with the [RSA] program. And then they're going to start having conversations with us and with the current [business-to-business] dealers to say, "Hey, here's kind of how it's going to work." So they're yielding to us right now, just because T-Mobile's processes in place of they have to become a business. To sell things on the business side, you have to have the [RSA] piece if you're doing both. So [RSA] contract first, then APR contract or work through details of that.

In other words, if PG Wireless signed onto the Retail Services Agreement, it could begin making business-to-business sales with T-Mobile in the near future. Indeed, Mr. Welker continued that "The [RSAs] are due back on the 8th of May, and as we kind of reconcile those RSAs, I think we're a couple weeks away, not months"

35. But T-Mobile's representations simply were not true. Instead, T-Mobile:

- a. failed to provide a new agreement for business-to-business sales by PG Wireless or to meaningfully discuss the same;
- b. refused to allow PG Wireless to make business sales of T-Mobile goods and services;

- c. prohibited PG Wireless from selling any new services to its existing Sprint customers and limited PG Wireless's activities to add-ons for existing Sprint customers;;
- d. failed to provide PG Wireless with information so that PG Wireless could provide good service to its clients about the merger and when their wireless services might be migrated to T-Mobile;
- e. continually demanded information from PG Wireless about its customers, which T-Mobile then wrongfully used to misappropriate those customers;
- f. repeatedly misled PG Wireless by indicating that a T-Mobile business-to-business sales agreement was in process when it was not; and
- g. then terminated PG Wireless's business-to-business sales agreement with Sprint after four months of telling PG Wireless that a T-Mobile agreement was in the works while simultaneously concealing T-Mobile's intent at all times to terminate PG Wireless's ability to sell Sprint business services.

36. **Fourth**, T-Mobile and Sprint made material misrepresentations and omissions of fact that induced PG Wireless (and other legacy Sprint dealers) to sign contracts with T-Mobile.

Those included:

- a. Misrepresenting, through Scott Keen, Cody Welker, and others prior to presenting an RSA Agreement to PG Wireless, that T-Mobile intended only an initial round of store cuts of approximately 10% to 15 % of each dealers' stores, misrepresenting that such closures would be "less than you're thinking," and concealing that, in the case of PG Wireless, T-Mobile planned to close more than 40% of its stores'

- b. Misrepresenting by inflating the number of PG Wireless stores that would be eligible for compensation in the form of profitable rural “SPIFFS” and concealing that T-Mobile planned to change its methodology to eliminate a significant number of stores from this compensation;
- c. Misrepresenting that T-Mobile “would discuss” the continuation of PG Wireless’s business-to-business sales, when in fact T-Mobile planned to force PG Wireless to provide T-Mobile with information and then take its customers;
- d. Concealing that T-Mobile would, following the signing of agreements with T-Mobile, intentionally use fraudulently manufactured risk rankings to further devalue PG Wireless’s business after PG Wireless signed an RSA;
- e. Concealing that PG Wireless would never be allowed to succeed as a T-Mobile dealer and that T-Mobile planned to force PG Wireless out as a dealer, and making misrepresentations to the contrary; and
- f. Concealing that T-Mobile planned to otherwise wrongfully interfere with and depress the value at which PG Wireless could sell its remaining business upon exiting.

37. **Fifth**, T-Mobile imposed and threatened massive store cuts, which far exceeded the cuts it had represented would occur. During the April 28, 2020 Call, T-Mobile presented its post-merger dealer strategy as it pertained to PG Wireless.

- a. In the presentation, T-Mobile announced the closure of 7 of PG Wireless’s 24 stores (30%), then later announced the closure of 3 more stores (for a total of 42%), despite previously representing to PG Wireless that closures would remain in the 10-15% range for PG Wireless.

- b. T-Mobile also falsely represented that the store closures were based on extreme proximity to other T-Mobile stores and that T-Mobile was instituting a similar number of closures for legacy Sprint and T-Mobile dealers alike.²
- c. T-Mobile misrepresented that PG Wireless would have an opportunity to seek a longer term contract and to grow if T-Mobile was incorrect (which it indeed was) about PG Wireless's debt ratio and if PG Wireless performed well.
- d. Though T-Mobile concealed the facts until it was too late for smaller dealers to exit on favorable terms, dealers the size of PG Wireless had no legitimate chance of succeeding with T-Mobile. T-Mobile always intended to put them out of business and repeatedly fed lies to dealers like PG Wireless to conceal that intent.

38. **Sixth**, T-Mobile imposed crippling cuts of earned residual commissions as conditions of doing business with T-Mobile. For the putative privilege of being a T-Mobile-branded dealer and selling T-Mobile services (even for a very short time), T-Mobile also charged PG Wireless massive front-end fees in the form of withholding residual commissions that PG Wireless was already entitled to receive from Sprint. Specifically, T-Mobile refused to pay and

² In the April 28, 2020 Call, Mr. Welker stated:

I wanted to point out that a similar number of closures for Legacy Sprint dealers and [T-Mobile] dealers, so a similar number of closures on both sides. And then we're also closing some company-owned doors on the Sprint side and some company-owned doors on the Legacy T-Mobile side. So again, closing doors everywhere, but I think it's important to note that, from a dealer's standpoint, we're closing a very similar number of doors on the [T-Mobile] side as we are on the Legacy Sprint side. As we get into closures and improved store traffic and again part of that optimization plan, the plan is to – as we build this out – is to get an increase in traffic[.]

This was false. Legacy Sprint doors were much more likely to be closed.

wrongfully withheld PG Wireless's rightfully-earned CSAs for the stores it required PG Wireless to close and substantially reduced the total payments for PG Wireless's remaining CSAs.

39. **Seventh**, T-Mobile locked PG Wireless and other dealers into their current positions, which prevented them from having viable options following the merger.

- a. On April 10, 2020, T-Mobile and Sprint placed a moratorium on any requests by dealers to sell stores after commercial launch of T-Mobile (expected mid to late summer 2020). T-Mobile and Sprint constantly extended the moratorium, which lasted until November 17, 2020.
- b. Despite the moratorium, upon information and belief, T-Mobile approved and allowed two T-Mobile favored dealers to each complete an acquisition.
- c. PG Wireless, however, had no choice but to watch T-Mobile dismantle its previously flourishing business during the moratorium.
- d. The closures, and the threats of high-risk future closures, combined with T-Mobile's other suppression activities, diminished the value of PG Wireless and, in conjunction with the unreasonable short contract term, forced PG Wireless to sell its business to another dealer at an unreasonably depressed value.

40. **Eighth**, T-Mobile bullied PG Wireless into signing one-sided and disadvantageous contracts, using wrongful coercion and economic duress that T-Mobile used illegal means to manufacture and then leverage to leave PG Wireless with no viable economic choice but to sign.

- a. On May 5, 2020, T-Mobile sent PG Wireless documentation requiring PG Wireless to wind down its existing agreements with Sprint (*i.e.*, the "Wind Down Addendum"), enter into a new Retailer Services Agreement with T-Mobile (the "T-Mobile RSA Agreement"), and submit individual guarantees

- for PG Wireless' principals (collectively, the T-Mobile "Agreement Package").
- b. The Agreement Package consisted of lengthy, legally dense adhesion contracts, and despite the burdensome nature of the documents, T-Mobile required their rushed execution within a mere three days after receipt, less time than PG Wireless needed to consult with counsel.
 - c. T-Mobile was well aware of the economic reality, namely, that like any other dealer, PG Wireless had monthly lease, payroll, debt-service and other commitments that it could not meet unless it had an active carrier contract.
 - d. Notably, T-Mobile had falsely represented that it had no obligation, and would refuse, to honor the Sprint contracts T-Mobile had acquired and would not allow PG Wireless to sell any T-Mobile goods or services unless it signed the Agreement Package.
 - e. T-Mobile took the opposite position regarding PG Wireless's burdens under the Sprint contracts, including the non-compete, by forcing PG Wireless to honor those responsibilities. Because of T-Mobile, PG Wireless shouldered all of its burdens but benefitted from none of its rights under the Sprint Contracts. PG Wireless could lose, but it could not win, and it could avoid ruin only by doing as T-Mobile demanded.
 - f. Callous to the difficulty it had imposed, and unwilling to negotiate, T-Mobile then rushed the signing of the T-Mobile Agreement Package. T-Mobile pressured PG Wireless to sign these documents quickly (again, within 72 hours of first receiving them) and repeatedly emphasized that terms were non-negotiable and that to be a T-Mobile authorized dealer, PG Wireless must sign

these agreements.³

- g. T-Mobile also stated that if PG Wireless did not execute the Agreement Package within the arbitrary, rushed deadline, T-Mobile would withhold remodeling funds when T-Mobile required all legacy Sprint dealers to “refresh” (*i.e.*, remodel) their stores under the new T-Mobile brand.
- h. The Agreement Package also contained putative releases, through which T-Mobile sought a get-out-of-jail-free card for the lies, fraud, coercion, and unfairness that it had perpetrated to that point.
- i. T-Mobile had a policy of refusing to entertain redlines or exceptions to its documents, which were non-negotiable.
- j. PG Wireless could not close the business without becoming insolvent and remaining liable for lease payments and other recurring expenses, not to mention obligations to Sprint (*e.g.*, non-competition clauses and 180-day chargebacks for customer deactivations). Nor could PG Wireless immediately sell the business because of T-Mobile’s moratorium.

41. **Ninth**, T-Mobile tipped the scales in its favor to create further economic pressure on PG Wireless and other dealers. Specifically:

- a. T-Mobile’s refusal to allow continued operation under the Sprint contracts deprived PG Wireless of the ability to meet significant monthly expenses for

³ PG Wireless had no legitimate option of suing T-Mobile to avoid signing these Agreements because, if it did not sign them, PG Wireless would lack the cash flow from selling wireless services and products that it would have needed to fund litigation against T-Mobile and Sprint, which were, conversely, well capitalized to resist a challenge (and draw it out and punish PG Wireless). Indeed, T-Mobile has an unlawful pattern and practice of retaliating against dealers that stand up to it.

lease payments, employee payroll and benefits, payroll taxes, utilities, inventory carrying costs, operating expenses, and debt service in the absence of its ability to sell T-Mobile services, some of which had guaranties from PG Wireless's principals.

- b. T-Mobile moved PG Wireless immediately to a consignment model for sales of phones and accessories, whereas, with Sprint, PG Wireless had been able to make direct sales of phones and accessories.
- c. With respect to phones and accessories obtained by PG Wireless before the T-Mobile conversion, T-Mobile refused to allow PG Wireless to sell – to T-Mobile customers or generally – the phones and accessories it acquired before the T-Mobile conversion, thus leaving PG Wireless with hundreds of thousands of dollars in effectively worthless inventory.
- d. T-Mobile's Agreements permitted T-Mobile to divert PG Wireless's commissions to pay former-Sprint and then-current-T-Mobile affiliate, Brightstar, for accessories PG Wireless had bought from Brightstar when it was a Sprint-preferred phone and accessories dealer. T-Mobile also required, as a condition of contracting with PG Wireless, that PG Wireless pay any amounts due to Brightstar for accessory sales when PG Wireless was a Sprint dealer.

42. Under such combined financial distress, which T-Mobile used wrongful means to manufacture, PG Wireless had no alternative to signing the Agreement Package, other than going bankrupt and losing a business that represented the combination of small businesses which had existed and flourished for 24 years.

43. From the outset, T-Mobile knew – but fraudulently concealed from PG Wireless – that only T-Mobile-favored dealers would be allowed to succeed. As PG Wireless was not a T-Mobile-favored dealer, PG Wireless experienced a mandated exit strategy, and T-Mobile intentionally planned and structured the Wind Down Addendum⁴ and other pre- and post-merger activities to cause PG Wireless and other similar dealers to fail.

44. PG Wireless signed the Agreement Package on May 8, 2020, under the economic duress and coercion wrongfully created by T-Mobile. The signed documents included the T-Mobile RSA Agreement, the Wind Down Addendum, and the personal guarantees of PG Wireless’s principals (as signed, the “T-Mobile Agreements”).

E. T-Mobile’s Agreements Were Unduly Oppressive, Particularly Given T-Mobile’s Unreasonable Interpretations To Create Truly Oppressive Terms.

45. The T-Mobile Agreements provide for a six month term. Though it was treated badly at the outset of the relationship, PG Wireless had no alternative but to attempt to establish a positive and successful relationship with T-Mobile. However, PG Wireless’s problems intensified once T-Mobile began leveraging the terms of the fraudulently-obtained Agreements.

46. The (concealed) reality was that T-Mobile needed six months to dismantle PG Wireless and wanted the T-Mobile Agreements in place so that it could subject PG Wireless to T-Mobile’s terms, which were far less favorable than Sprint’s, and obtain obligations (non-competes

⁴ The Wind Down Addendum was ridiculously one-sided. It provided limited “door closing benefits” (the door closing benefits were far less than provided for under the T-Mobile Retailer Services Agreements for legacy T-Mobile dealers and much less than the lease obligations PG Wireless had for these closed stores plus the costs to close them). It allowed T-Mobile to impose chargebacks for customer deactivations at these doors for 180 days after the required closure date and disproportionately took away benefits for those stores that PG Wireless had always enjoyed under the Sprint Agreements, such as residual commissions after the stores closed.

and guarantees) designed to reduce the likelihood that PG Wireless could later compete with T-Mobile.

47. The T-Mobile Agreements provide that a party can close a PG Wireless store for any reason or no reason with at least 120-days' written notice. They go on, however, to limit PG Wireless's ability to invoke that right to only situations in which T-Mobile approves the closure. The plain language, purpose, and intent of the provision were to allow for one-off closings of stores that were not performing well or were inconvenient to operate.

48. However, T-Mobile adopted an untenable and unethical interpretation of the provision — namely, that T-Mobile could make additional rounds of closures under the provision for T-Mobile's benefit. No rational or fair person could interpret the Agreements this way, as evidenced by the use of a Wind Down Addendum.

49. T-Mobile controlled growth because it gave itself discretion to approve or reject new store locations and the renewal of any existing store locations. This provision tied PG Wireless's growth to T-Mobile's good faith, which, it turned out, would be non-existent.

50. The T-Mobile Agreements also contain a broad covenant not to compete, which applies during the term of the Agreements and for one year afterwards and prohibits not only PG Wireless, but also its principals and owners, and any successor entity, from competing with T-Mobile or its dealers in virtually any capacity. Stated differently, T-Mobile closed all of the exit doors for any dealers who did not want to endure its ruinous activity. It impeded the free alienation of businesses and stifled legitimate competition in the marketplace.

51. The T-Mobile Agreements also greatly reduced PG Wireless's compensation, depriving it of, among other things, the CSAs PG Wireless had earned and creating a less profitable platform than the Sprint agreements it had supplanted.

52. The T-Mobile Agreements (and the Wind Down Addendum) also purported to include releases. However, as indicated above, those releases are invalid because they were the product of fraud, coercion, and overriding economic duress wrongfully created by T-Mobile.

F. T-Mobile Engaged in a Pattern and Practice of Anti-Competitive Behavior and Suppression Efforts to Destroy PG Wireless and Forecasted Additional Closures Despite Representations to the Contrary.

53. Shortly after the Sprint-T-Mobile merger, T-Mobile began engaging in a litany of anti-competitive, unfair and deceptive behaviors aimed at driving PG Wireless and other legacy Sprint retailers out of the marketplace.

54. T-Mobile unlawfully weaponized its commercial relationship with PG Wireless and used the T-Mobile Agreements' terms to unfairly disadvantage PG Wireless when it, without limitation:

- a. Required PG Wireless to sign the Sprint Wind Down Addendum concurrently with the T-Mobile RSA Agreement;
- b. Closed 10 of PG Wireless's 24 stores (nearly 42%) despite representing to PG Wireless that its closures would remain in the 10-15% range and committing that there would be a similar number of closures for legacy Sprint and T-Mobile dealers;
- c. Rated PG Wireless's stores as being at risk of closures and lease non-renewals at unfair and unanticipated (by PG Wireless) percentages that effectively drove down the value of PG Wireless (when, upon information and belief, T-Mobile later made adjustments after PG Wireless sold the business for the benefit of the Buyer of PG Wireless's business, as defined herein);

- d. Wrongfully forecasted the non-renewal of PG Wireless's most profitable doors to manipulate and suppress the amount the asset purchase agreement Buyer was willing to pay;
- e. Kept PG Wireless's earned CSAs or residuals for closed stores;
- f. Reduced PG Wireless's and other legacy Sprint dealers' earned CSAs or residuals and provided more time for CSAs to be reduced on the backend with customer deactivations;
- g. Continued to chargeback for customer deactivations for 180 days for the 10 stores T-Mobile closed while simultaneously confiscating all earned CSAs or residuals payable to PG Wireless for these same stores;
- h. Held all store lease renewal decisions until November 17, 2020, causing PG Wireless to incur holdover rent penalties (T-Mobile refused to assist with the holdover rent increases), lease defaults, and missed lease renewal notice deadlines which had fixed renewal pricing;
- i. Provided deficient or no signage for the stores after the merger, initially providing only a banner which was far less effective than real signage at encouraging customer traffic;
- j. Took control of internet marketing for PG Wireless, but then impaired PG Wireless's search engine optimization at the outset such that customer internet searches for T-Mobile produced hits for legacy T-Mobile stores, but not PG Wireless, and only persons looking for Sprint (which had been merged out of existence) were directed to PG Wireless;

- k. Refused to provide real-time or timely sales reporting, one of the single most important sales drivers in the retail mobile services and accessories business, which impaired PG Wireless's ability to gauge its financial and operational success and its ability to prevent returns that undermined sales efforts;
- l. Actively poached PG Wireless employees to work at T-Mobile corporate stores;
- m. Prevented PG Wireless from either (1) upgrading its own customers to new services or products, or (2) adding new lines for its own customers as T-Mobile's established credit class and standards for these customers required the customers to make higher down payments;
- n. Forced PG Wireless and other legacy Sprint dealers into an accessory consignment model, confiscating the majority of profit associated with accessory sales resulting in a devastating reduction to gross profit, EBITDA, and business valuation;
- o. Dramatically undersupplied PG Wireless with device inventory causing high volume stores to be without customer-desired and promotional devices to sell;
- p. Acted inconsistently with T-Mobile's prior (fraudulent) representations about the number of PG Wireless rural stores that would be eligible for a per-store monthly SPIFF commission by providing "updated" store designations only after the T-Mobile Agreements were signed;
- q. Upon information and belief, shared dealer sales data of purchase prices and purchase prices per door with select dealers and manipulated the free market through unreasonably withholding sales consent, thereby (i) dramatically reducing the prices that PG Wireless could receive for selling its remaining

locations to other dealers when T-Mobile's misconduct was driving PG Wireless out of the marketplace, (ii) reducing the number of viable, successful dealers who could purchase PG Wireless's assets, and (iii) encouraging T-Mobile-preferred dealers to offer artificially low offers to buy PG Wireless and other dealers;

- r. Upon information and belief, colluded to limit the number of dealers to whom PG Wireless could sell its business and to effectively cap the available prices;
- s. Engaged in other improper actions and inactions that demoralized PG Wireless's ownership, management, and staff; and
- t. Otherwise engaged in oppressive, fraudulent, and unconscionable conduct.

55. And after the damage was done, T-Mobile accidentally acknowledged the truth. Prior to PG Wireless signing the T-Mobile Agreements, T-Mobile and Sprint stated that a dealer's performance would be "the number 1 factor" for T-Mobile's future plans. But with its unreasonable and one-sided Agreement in place, T-Mobile representative Doug Chartier admitted the truth during a post-merger call, stating: "T-Mobile only acquired Sprint for its network assets, not real estate or dealer distribution." This was a new, completely different, and contradictory message than any that T-Mobile or Sprint had previously communicated.

G. T-Mobile's Unlawful Conduct Pressured PG Wireless to Exit a Business in Which It (and its Predecessors) Had Flourished For Nearly 24 Years.

56. Before they were forced to do business with T-Mobile, PG Wireless's principals intended to either maintain PG Wireless as a closely-held business or to grow the business and sell it at a significant profit. T-Mobile ruined either path for PG Wireless's future.

57. Indeed, although it was treated badly at the outset, PG Wireless believed that, because of its effective management, it would have significant opportunities to grow and flourish

if T-Mobile treated it fairly during their relationship. T-Mobile falsely represented that there would be such opportunities, including in the April 28, 2020 Call.

58. Once it became clear that T-Mobile's actions would make it difficult and virtually impossible for PG Wireless to survive, let alone succeed or grow, PG Wireless had little choice but to exit the marketplace and sell its remaining business.

59. Even at this stage, T-Mobile tied PG Wireless's hands: PG Wireless could only sell to T-Mobile-approved buyers at a fire sale.

60. On May 21, 2020, PG Wireless and a T-Mobile-approved buyer (the "Buyer") agreed to the terms of an Asset Purchase Agreement ("APA"). The sale price reflected the massive damage T-Mobile had done to PG Wireless's business.

61. On May 28, 2020, T-Mobile placed a hold on all dealer lease renewals creating intentional uncertainty with the length of future lease renewals. The contractual basis for T-Mobile doing so is unapparent.

62. On July 3, 2020, PG Wireless sent T-Mobile requests to approve the APA sale. On August 21, 2020 and October 20, 2020, Steve Mintz of PG Wireless inquired of Michael Sentowski at T-Mobile about approval of the transaction, and Mr. Sentowski indicated he would look into the matter and respond (but never mentioned any conditions of approval). T-Mobile failed to take any action on this request until late November 2020, when it approved the APA transaction verbally and in an email.

63. T-Mobile decided to take one last shot at PG Wireless: in December 2020 — and despite already approving the APA transaction — T-Mobile provided PG Wireless an Assignment and Assumption Agreement which contained a putative general release of claims which T-Mobile demanded PG Wireless sign or else T-Mobile would not allow the APA transaction to close. This

release had not been discussed previously and no new consideration was offered for it. Further, it was not a valid condition of conveyance or a reasonable basis for withholding consent as the T-Mobile Agreements required.

64. Indeed, T-Mobile intentionally waited to spring the release on PG Wireless until just prior to the scheduled closing of the APA sale, knowing that PG Wireless could not afford to refuse to sign the release and risk losing the deal.

65. PG Wireless has since learned that T-Mobile has a pattern and practice of rolling-out putative releases that it always sends after the dealer is in no position to stop the sales transaction and after T-Mobile had already approved the sales transaction.

66. Here, among other reasons, PG Wireless had no choice because:

- a. PG Wireless only had a 6-month contract with T-Mobile;
- b. PG Wireless had already been financially devastated by T-Mobile's unlawful conduct and thus lacked funds to pursue litigation against T-Mobile;
- c. related employee terminations or transitions and lease arrangements were already underway and were past the point of unwinding;
- d. PG Wireless now faced the Buyer who had rights against PG Wireless if it halted the approved transaction, which T-Mobile knew; and
- e. PG Wireless was substantially likely to go out of business but-for the sale based on the sales process already in motion following T-Mobile's verbal and email approval.

67. For no consideration, and under business compulsion and financial duress created by T-Mobile, PG Wireless was forced to sign the Assignment and Assumption Agreement, without

which T-Mobile claimed it would not allow the APA sale to close. Thereafter, PG Wireless and the Buyer closed the APA on December 31, 2020 for the depressed value.

68. Upon information and belief, after the APA sale, T-Mobile changed the store closure list and lease renewal terms provided to PG Wireless for the sole benefit of the Buyer of PG Wireless's business after the sale price was established and sale closed.

H. Sprint, and Then T-Mobile, Maintained a Mislabeled Franchise Arrangement with PG Wireless.

69. Prior to the Sprint-T-Mobile merger, Sprint's relationship with T-Mobile was a mislabeled franchise relationship in that Sprint's agreement included a false statement that the relationship was not a franchise.

70. Post-merger, T-Mobile unlawfully terminated the franchise with Sprint.

71. T-Mobile's relationship with PG Wireless was also a mislabeled franchise relationship in that T-Mobile's Agreement included a false statement that the relationship was not a franchise.

72. Both Sprint and T-Mobile engaged in unlawful conduct directed at PG Wireless that constituted violations of applicable franchise law.

73. Both Sprint and T-Mobile granted PG Wireless and its locations the right to offer, sell, or distribute Sprint and T-Mobile wireless goods and services under a marketing plan or system prescribed in substantial part by Sprint and T-Mobile.

74. That marketing plan included, without limitation, sales of Sprint- and T-Mobile-branded goods and services through a network of independent authorized retailers, of which PG Wireless was one, established by Sprint and T-Mobile in territories established by Sprint and T-Mobile to create a distribution grid for Sprint and T-Mobile. PG Wireless and other dealers were required to invest and take on substantial risk to commit them to the retailer and distribution

programs established by Sprint and T-Mobile. Further, after the merger, T-Mobile forbade PG Wireless from making independent sales of accessories, which reduced PG Wireless's profitability by hundreds of thousands of dollars (hundreds of thousands of dollars) on a monthly basis.

75. PG Wireless's operation was substantially associated with the trademarks, service marks, trade names, advertising, or other commercial symbols designating, owned by, or licensed by Sprint, T-Mobile, and their affiliates. To a customer visiting a PG Wireless store, the store appeared to be a Sprint- or T-Mobile-owned store because of the extensive Sprint or T-Mobile signage, branded marketing materials, and their logos appearing on the employee uniforms – all of which were mandated by Sprint and T-Mobile.

76. PG Wireless was required to pay to Sprint, and then to T-Mobile, directly or indirectly, franchise fees. Those franchise fees included, without limitation:

- a. confiscated significant CSAs to which PG Wireless was rightly entitled as a condition of PG Wireless doing business as a T-Mobile retailer, including the withholding and reduction of PG Wireless's earned CSAs or residuals post-merger for the closed locations;
- b. forced PG Wireless to pay its balance with T-Mobile affiliate Brightstar as a condition of doing business with T-Mobile;
- c. confiscated door-closing benefits to which PG Wireless was entitled under the prior Sprint contracts;
- d. improper and unauthorized chargebacks against PG Wireless's commissions due from Sprint and T-Mobile;
- e. the forced-purchase of furniture, uniforms, services, software licenses, phones, and accessories from Sprint- and T-Mobile-selected vendors, which vendors,

upon information and belief, provided these goods and services to PG Wireless at a substantial mark-up that was directly passed on to Sprint or T-Mobile;

- f. the assessment of charges labeled as “penalties,” “fees,” “fines,” or reductions against commissions for items such as missed training for employees, improper training charges for employees who attended training or canceled timely, per-employee training fees for training sessions with less than a 90% completion rate, staff shortages, early device activation, or findings in audits conducted by or on behalf of Sprint or T-Mobile;
- g. the required surrender of returned phones to Sprint or T-Mobile without any return to PG Wireless for any phones Sprint or T-Mobile charged or offset PG Wireless commissions;
- h. Sprint’s and T-Mobile’s receipt of funds from vendors in return for allowing those vendors to advertise in PG Wireless stores;
- i. charges to PG Wireless for missing accessories and devices or demos, which charges, upon information and belief, are in excess of T-Mobile’s cost;
- j. markups on co-op shipping fees, uniforms, and required vendors; and
- k. other processing fees and backend charges.

77. Both Sprint and T-Mobile failed to properly register as required for franchise relationships and abused the franchise relationship with PG Wireless. Further, Defendants unlawfully terminated the Sprint franchise to PG Wireless when they created the less favorable T-Mobile franchise relationship.

I. T-Mobile is Liable for Sprint’s Unlawful Conduct.

78. T-Mobile (or a parent of T-Mobile) is the successor entity or parent of Sprint.

79. As the acquiring entity and as a co-conspirator regarding the circumstances alleged herein, T-Mobile is liable for action or inactions of Sprint occurring before or in connection with the Sprint-T-Mobile merger.

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

81. Moreover, Sprint and T-Mobile conspired together and aided and abetted one another to perpetrate the unlawful and wrongful actions and inactions alleged herein.

J. The Putative Releases Contained in the Sprint and T-Mobile Contracts are Unlawful.

82. T-Mobile forced involuntary releases in all of the Agreements and in the Assignment and Assumption Agreement (the “Assignment”) between PG Wireless, the Buyer, and T-Mobile. These releases are unlawful as a matter of law.

83. All releases lack consideration.

a. For the T-Mobile Agreements, T-Mobile compelled PG Wireless to forego its existing Sprint contractual benefits and withheld PG Wireless’s earned CSAs, but claimed it would enforce PG Wireless’s obligations under the Sprint contract.

b. For the Assignment, T-Mobile had already given verbal and written approval to sell. The subsequent, last-minute releases, which were not proper requirements, offered nothing additional for PG Wireless, the selling dealer.

84. T-Mobile acquired all releases by exerting illegal pressure on PG Wireless to execute them, making the releases unlawful.

a. For the T-Mobile Agreements, T-Mobile failed to honor its commitments under the Sprint contracts but intended to hold PG Wireless to its non-competition, chargebacks, and other obligations. PG Wireless had significant contractual obligations

for lease payments (some of which were backed by personal guarantees) and monthly expenses and contracts, such as employee wages and benefits, employee payroll taxes, utilities, operating expenses, inventory carrying costs, and debt service, and it faced a simple choice: sign T-Mobile's adhesion contracts or go bankrupt.

b. Similarly, for the Assignment, T-Mobile held out until the eleventh-hour for a sales transaction closing on December 31, 2020, which sales transaction subjected PG Wireless to liability to the Buyer if the sales transaction did not close after T-Mobile's approval was provided (which approval was earlier provided verbally and in writing). In addition, related employee terminations or transitions and lease arrangements were already underway and would need unwinding.

c. Indeed, T-Mobile's modus operandi was to (i) first verbally approve dealers' sale of assets, like it did with PG Wireless, and (ii) wait until the last minute to spring the release, at which point, as T-Mobile knew, PG Wireless would be in no position to stop the sale because it had made extensive final decisions such as employee terminations or transitions and lease arrangements, and PG Wireless faced a buyer who had rights against it if it halted the transaction.

d. Like the initial release, PG Wireless's choices regarding the Assignment were insolvency or fold to T-Mobile's unfair demands.

85. T-Mobile induced all the putative releases by fraud.

a. T-Mobile affirmatively misrepresented its intentions (and hid its true intentions) regarding store closures, lease renewals, growth, commissions, rural SPIFF payments, and support from the outset and then colluded and unreasonably engaged in anti-competitive behavior that destroyed PG Wireless's business.

b. Then, after devastating PG Wireless's business, T-Mobile continued to conceal the fraudulent nature of its conduct while demanding a release (which it misrepresented as a condition it could impose).

CHOICE OF LAW

86. T-Mobile's RSA Agreement provides for a Washington state choice of law. That Agreement should be set aside as fraudulent and otherwise unlawfully and coercively induced. PG Wireless, therefore, is not bound by the Washington choice of law provision. Because of the choice of law set out in the documents it drafted and induced, T-Mobile, however, is estopped from refusing application of Washington law where it is more favorable to PG Wireless. Without waiving its rights to contest the T-Mobile Agreements, PG Wireless brings claims under Washington law and reserves the right to argue coverage of local law.

CAUSES OF ACTION

FIRST CLAIM FOR RELIEF: FRAUD AND FRAUDULENT INDUCEMENT

87. PG Wireless re-alleges, as if fully set forth herein, the allegations set forth above.

88. T-Mobile knowingly made false representations to PG Wireless regarding the as set forth herein, including as to the number of store closures, the continuation of PG Wireless's business-to-business sales, the compensation that would be available from T-Mobile, the meaning of a six-month contract, growth opportunities, and whether PG Wireless would be forced to fire-sell its business.

89. T-Mobile further concealed its plans to impair and then terminate PG Wireless's direct business-to-business sales, to massively cut PG Wireless's number of locations, to further lower value by rating PG Wireless's stores as high risk, to cut PG Wireless's compensation, and to suppress PG Wireless's ability to succeed and foreclose its growth.

90. These representations and concealments were material and false.

91. PG Wireless entered into the T-Mobile Agreements based on T-Mobile's representations and concealments.

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

93. T-Mobile made these misrepresentations and concealments of material facts with the intent to deceive PG Wireless, and they were made as a material inducement to PG Wireless to enter into the T-Mobile Agreements.

94. PG Wireless was deceived by T-Mobile's misrepresentations and would not have entered into the T-Mobile Agreements for the agreed-to consideration but for those misrepresentations.

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

96. T-Mobile's fraudulent misrepresentations and concealments of material fact induced PG Wireless to forego the more beneficial terms of the Sprint contract and cheated PG Wireless out of compensation to which PG Wireless was entitled under the Sprint contract.

97. As a direct and proximate result of T-Mobile's fraudulent misrepresentations, PG Wireless has suffered damages in an amount to be determined at trial, but certainly in excess of \$30 million.

98. WHEREFORE, PG Wireless respectfully requests that this Court render judgment for PG Wireless and award PG Wireless damages, court costs, pre-judgment interest, and such other relief as this Court deems necessary and proper.

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

99. PG Wireless re-alleges, as if fully set forth herein, the allegations set forth above.

100. As alleged herein, T-Mobile supplied misinformation (by direct statement and by concealment that misled PG Wireless concerning the nature of the T-Mobile-PG Wireless relationship), including regarding store closures, business-to-business-sales, and compensation, which information was material, false, and misleading.

101. T-Mobile intended to supply this information to PG Wireless in order to induce PG Wireless to enter into business transactions, particularly in signing the Agreements.

102. T-Mobile was negligent in obtaining and communicating this false information.

103. PG Wireless reasonably relied on this false information in deciding whether to sign the T-Mobile Agreements.

104. T-Mobile's false information proximately caused damages to PG Wireless.

105. As a result of T-Mobile's negligent misrepresentations, PG Wireless has suffered damages in an amount to be determined at trial, but certainly in excess of \$30 million.

106. WHEREFORE, PG Wireless respectfully request that this Court render judgment for PG Wireless and award PG Wireless damages, court costs, pre-judgment interest, and such other relief as this Court deems necessary or proper.

THIRD CLAIM FOR RELIEF: DECLARATORY JUDGMENT

107. PG Wireless re-alleges, as if fully set forth herein, the allegations set forth above.

108. There is an actual and justiciable controversy among the parties regarding the matters set forth in this lawsuit.

109. The law, justice, and equity require a determination and declaration that, as a result of Sprint's and T-Mobile's fraudulent inducement of the T-Mobile Agreements, they are invalid, void, and of no effect, and PG Wireless remains in contract with Sprint and is entitled to the rights, privileges, and payments, and is limited to the obligations set out in the ARA Agreement and the business-to-business sales agreement between Sprint and PG Wireless.

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

111. The law, justice, and equity require a determination and declaration that, as a result of Sprint's and T-Mobile's fraudulent inducement of the T-Mobile Agreements, the putative releases contained in the T-Mobile Agreements and Assignment are void and without effect. These putative releases were a product of economic duress and/or business compulsion, lack consideration, and T-Mobile obtained them fraudulently.

112. The law, justice, and equity require a determination and declaration that the relationships between Sprint and T-Mobile and PG Wireless were franchise relationships, such that PG Wireless is entitled to the benefits of a franchisee under applicable law.

113. All parties who have an interest in the matter are before the Court and the declaration is not sought purely for legal advice or curiosity.

114. WHEREFORE, PG Wireless respectfully requests that this Court issue a judgment declaring that:

- a. The T-Mobile Agreements are invalid, void, and of no effect, and that PG Wireless remains in contract with Sprint and is entitled to the rights, privileges, and payments and is limited to the obligations set out in the agreements between Sprint and PG Wireless; and
- b. The putative releases contained in the T-Mobile Agreements and the Assignment are void and without effect; and

- c. The relationships between Sprint and T-Mobile and PG Wireless were franchise relationships, such that PG Wireless is entitled to the benefits of a franchisee under applicable law; and
- d. Such other declarations as the Court deems just and proper.

FOURTH CLAIM FOR RELIEF: BREACH OF SPRINT CONTRACT (AUTHORIZED REPRESENTATIVE AGREEMENT)

115. PG Wireless re-alleges, as if fully set forth herein, the allegations set forth above.

116. If the Court determines that the Sprint ARA Agreement and the Sprint business-to-business sales agreement remain in place, T-Mobile's and Sprint's conduct as alleged herein breached those agreements.

117. Defendants' conduct actually and proximately caused damages to PG Wireless.

118. PG Wireless has suffered damages in an amount to be determined at trial, but certainly in excess of \$30 million.

119. WHEREFORE, PG Wireless requests the Court enter judgment in its favor and against Defendants, award PG Wireless damages, prejudgment interest, and its attorneys' fees and costs of suit, and grant such other relief as the Court may deem just and proper.

FIFTH CLAIM FOR RELIEF: BREACH OF THE T-MOBILE AGREEMENTS

120. PG Wireless re-alleges, as if fully set forth herein, the allegations set forth above.

121. If the Court determines that the T-Mobile Agreements are valid, T-Mobile's and Sprint's conduct as alleged herein breached that contract.

122. T-Mobile's conduct is the actual and proximate cause of damages to PG Wireless.

123. PG Wireless has suffered damages in an amount to be determined at trial, but certainly in excess of \$30 million.

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

124. PG Wireless re-alleges, as if fully set forth herein, the allegations set forth above.

125. To the extent the T-Mobile Agreements are deemed to be valid contracts that T-Mobile did not fraudulently induce, then T-Mobile is obligated by contract and common law to act in good faith and refrain from depriving PG Wireless of benefit of those agreements.

126. T-Mobile breached the T-Mobile Agreements as previously set forth herein and the implied covenant of good faith and fair dealing and injured PG Wireless's right to receive the benefits of the T-Mobile Agreements by engaging in the conduct described herein, including, without limitation:

- a. Wrongfully using the T-Mobile Agreements as a basis to interfere with PG Wireless's business-to-business sales;
- b. Otherwise suppressing PG Wireless's ability to succeed as described;
- c. Improperly labeling PG Wireless's stores as at-risk, thereby interfering with the ability to sell those stores; and
- d. Imposing unreasonable conditions, including a release, on PG Wireless's sale of its business contrary to the assignment provisions of the T-Mobile Agreements.

127. T-Mobile's actions are contrary to PG Wireless's reasonable and justified expectations under the T-Mobile Agreements.

128. T-Mobile's misconduct frustrated the essential purpose of the Agreements and PG Wireless is unable to obtain its full and expected benefits of the Agreements, including without limitation, operating as a dealer of T-Mobile goods and services and selling its stores without unreasonable interference.

129. T-Mobile engaged in anti-competitive, unfair, and deceptive trade practices to guarantee that PG Wireless's business did not succeed or grow.

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

131. T-Mobile's misconduct cause PG Wireless to suffer damages in an amount to be determined at trial, but certainly in excess of \$30 million.

132. WHEREFORE, PG Wireless requests the Court enter judgment in its favor and against Defendants; award PG Wireless damages, prejudgment interest, and its attorneys' fees and costs of suit; and grant such other relief as the Court may deem just and proper.

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

133. PG Wireless re-alleges, as if fully set forth herein, the allegations set forth above.

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

- a. Making false representations to induce PG Wireless to sign the T-Mobile Agreements and coercing PG Wireless to do so or else forego the ability to sell any goods or services;
- b. Engaging in anti-competitive conduct to disadvantage and drive out PG Wireless (and other legacy Sprint dealers) while not subjecting other dealers to such conduct;
- c. Weaponizing the commercial relationship and using contractual terms to state misrepresentations and to reading and applying terms to improperly operate in

an unfair fashion and contrary to the language and spirit of the contracts, read completely in context, to cheat PG Wireless, suppress it, and effectively drive it out of business; and

- d. Representing in the T-Mobile Agreements that no franchise relationship would be created but in fact, creating such a franchise relationship with PG Wireless, and abusing PG Wireless as a franchisee.

135. T-Mobile's unfair and deceptive trade practices affect trade and/or commerce given that it is engaged in the sale of assets, services, and commerce that directly affect consumers.

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

- a. committed its anti-competitive acts in the course of its business;
- b. engaged in a pattern or generalized course of conduct which involved the intentional devastation of dealers like PG Wireless and of committing the wrongful actions and inactions addressed in this Complaint, which injured wireless dealers, employees, and customers;
- c. has shuttered many successful businesses out of the marketplace;
- d. failed to honor the letter and spirit of the representations that it made to government authorities to obtain approval of its merger;
- e. is likely to continue its unlawful conduct; and
- f. has negatively impacted a large number of consumers.

137. T-Mobile's unfair and deceptive conduct is the actual and proximate cause of injury to PG Wireless and has caused damages to PG Wireless in an amount to be determined at trial, but certainly in excess of \$30 million.

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

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

139. PG Wireless re-alleges, as if fully set forth herein, the allegations set forth above.

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

141. Likewise, T-Mobile is a franchisor and T-Mobile unlawfully sold an unregistered franchise in the State of Washington in contravention of RCW 19.100. Upon information and belief, T-Mobile has failed to file a Notice of Claim for Exemption under WAC 460-80-100 and, in any event, is thus not exempt from registration requirements.

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

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

- a. T-Mobile granted PG Wireless a putative business opportunity to offer, sell, and distribute goods and services under pre-designed marketing plans;
- b. the business opportunity was substantially associated with a trademark, trade name, and other commercial symbols owned by T-Mobile; and
- c. T-Mobile collected disguised franchise fees from PG Wireless.

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

- a. Failing to deal with PG Wireless in good faith;
- b. Requiring PG Wireless to purchase goods or services from T-Mobile or from an approved source of supply in the absence of any lawful, justified purpose;
- c. Unreasonably and arbitrarily discriminating between legacy T-Mobile dealers and legacy Sprint dealers, including as PG Wireless, in business dealings;
- d. Requiring PG Wireless to assent to a release or waiver which supposedly would relieve T-Mobile from liability imposed by RCW 19.100.180;
- e. Unreasonably and unnecessarily imposing on PG Wireless standards of conduct such as forcing PG Wireless to purchase security equipment that complied with T-Mobile's specifications, mandating that new hires be approved by T-Mobile, and mandating a minimum number of people on sales floors at all times;
- f. Refusing to renew the franchise without fairly compensating PG Wireless for the fair market value and good will;
- g. Threatening to and actually terminating PG Wireless's stores before the expiration of the franchise without good cause; and
- h. Acting inconsistently with representations made to federal and state authorities concerning commitments about store closures and maintaining employment.

145. PG Wireless has suffered damages by reason of T-Mobile's violation of RCW 19.100 and is entitled to an award of damages, including statutory treble damages as provided by RCW 19.100.190(3), in an amount to be determined at trial, but certainly in excess of \$30 million.

NINTH CLAIM FOR RELIEF: UNJUST ENRICHMENT, QUANTUM MERUIT, OR DISGORGEMENT

146. PG Wireless re-alleges, as if fully set forth herein, the allegations set forth above.

147. To the extent a contractual relationship is found to no longer exist between Defendants and PG Wireless (because the Sprint contract has expired and the T-Mobile Agreements are invalid), the Court should compensate PG Wireless for its services, and the loss of its stores under the theories of unjust enrichment, quantum meruit, and disgorgement.

148. Defendants received a benefit from the operation of stores and sales of Defendants' goods and services and in forcing PG Wireless to close its stores.

149. These benefits were conferred at PG Wireless's expense.

150. Under the circumstances, it would be unjust for Defendants to retain the benefit without fairly compensating PG Wireless.

151. Further, T-Mobile should have to disgorge benefits flowing from its fraud.

152. PG Wireless is entitled to compensation or disgorgement in an amount to be determined at trial, but certainly in excess of \$30 million.

153. WHEREFORE, PG Wireless requests the Court enter judgment in its favor and against Defendants, award PG Wireless damages and prejudgment interest, and grant such other relief as the Court may deem just and proper.

GENERAL PRAYER FOR RELIEF AND REQUEST FOR JURY TRIAL

Accordingly, PG Wireless respectfully requests that the Court grant it the following relief:

A. Award judgment in favor of PG Wireless and against Defendants on each of PG Wireless's causes of action;

B. Award PG Wireless actual damages, which exceed \$30 million, plus statutory treble damages, any other damages allowed by law, and prejudgment interest, attorneys' fees, and costs as allowed by law;

C. Afford PG Wireless a trial by jury; and

D. Grant PG Wireless such other and further relief as is just and proper.

Respectfully submitted, this 29th day of December, 2021.

KILPATRICK TOWNSEND &
STOCKTON LLP
1100 Peachtree Street, NE, Suite 2800
Atlanta, Georgia 30309
Telephone (404) 685-6752
Facsimile (404) 541-4749
mbreslin@kilpatricktownsend.com
sbedard@kilpatricktownsend.com

/s/ Michael J. Breslin

Michael J. Breslin
Georgia Bar No. 142551
Stephanie N. Bedard
Georgia Bar No. 825614

Counsel for Plaintiff PG Wireless, Inc.