

FCC MAIL SECTION

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

SEP 29 2 52 PM '94

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FCC 94M-550

In the Matter of)	CC Docket No. 94-89
)	
Elehue Kawika Freeman and)	
Lucille K. Freemon,)	
Complainants,)	
)	
v.)	
)	
American Telephone and Telegraph Company)	File No., E-90-393
Defendant)	

MEMORANDUM OPINION AND ORDER

Issued: September 27, 1994 Released: September 28, 1994

1. AT&T Corp. seeks a ruling on "Defendant's Motion To Dismiss Or, In The Alternative, To Compel Discovery." They filed their motion on September 26, 1994, and seek alternative relief. First they ask that both the Freemons' complaints be dismissed for failing to provide the discovery called for in AT&T's September 9, 1994 requests for production of documents.

2. Alternatively, AT&T asks that the Complainants be required to produce the requested documents, and that all other discovery be stayed pending their compliance with the Trial Judge's order compelling discovery.

3. Because of time constraints, the Trial Judge is issuing an Order pursuant to 47 C.F.R. 1.298. ¹

Ruling

4. Defendant AT&T's motion will be granted in part and denied in part. Even though Defendant has made a fairly persuasive case for dismissing the Freemons' complaints, the Trial Judge will not do so at this juncture.

5. From the outset, both the Trial Judge and Common Carrier Bureau Counsel have urged the Freemons to hire a trial attorney instead of representing themselves pro se. ² They did not do so. As a result, even hiring a trial attorney now, would probably be too late. No self-respecting attorney could clean up the procedural mess the Freemons have made.

6. Nevertheless, the Trial Judge will give these pro se complainants one last clear chance to avoid dismissal of their complaints. ³

7. But the motion-to-compel portion of AT&T's pleading will be granted. They've shown good cause for requesting the documents they seek. And the requested documents are reasonably calculated to lead to the adduction of admissible evidence.

¹ AT&T is presently scheduled to depose complainant Lucille K. Freemon in Long Beach, California on October 4, 1994, and Elehue K. Freemon on October 5, 1994. The documents AT&T seeks will permit them to fully depose the Freemons.

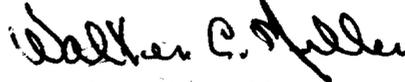
² The Freemons have even botched up their pro se representation. See AT&T's Motion to Strike Power of Attorney filed October 4, 1994.

³ The Trial Judge is well aware that processing these complaints has been a substantial waste of the Commission's resources and the taxpayer's money.

SO "Defendant's Motion To Dismiss Or, In The Alternative To Compel Discovery" filed on September 26, 1994, IS GRANTED to the extent indicated in paragraph 7 above; and

Both Lucille K. Freemon and Elehue K. Freemon WILL MAKE all the requested documents available for inspection and copying at the Office of Lillick and Charles, One World Trade Center, Long Beach, California 90831-0950, on or before September 30, 1994.⁴

FEDERAL COMMUNICATIONS COMMISSION



Walter C. Miller
Administrative Law Judge

⁴ This should give AT&T Counsel sufficient time to inspect and copy the documents before the October 4-5 depositions.