

FCC MAIL SECTION

DEC 15 1 25 PM '94 Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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FCC 94M-640

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

MEMORANDUM OPINION AND ORDER

Issued: December 8, 1994 ; Released: December 12, 1994

1. AT&T Corp. seeks a ruling on a "Motion for Summary Decision." They filed their Motion on November 22, 1994, and want the Trial Judge to enter a Summary Decision deciding the case in their favor.

2. Complainant Elehue K. Freemon¹ filed a "Complaints Opposition and Counter Motion to AT&T's Corp. Summary Decision Dated November 22, 1994." He filed his pleading on December 7, 1994. However, Freemon's pleading is not a bona fide counter motion. Rather it is an opposition to AT&T's motion along with an improper and inappropriate request to ". . .grant the acceptance in to record all exhibits under the Rules mentioned within this pleading."

3. The Common Carrier Bureau filed "Comments in Response to AT&T's Motion for Summary Decision" on December 6, 1994, along with a "Brief" in support of those comments.

4. AT&T replied to Freemon's so-called "Counter Motion" on December 7, 1994. The Common Carrier Bureau did not respond to Elehue Freemon's "Counter Motion."

Rulings
AT&T's Motion

5. AT&T's motion will be denied. The Common Carrier Bureau continues to assert that a genuine issue of material fact remains. See FCC 94-192, released August 12, 1994. The Trial Judge sincerely believes we should bring this judicial charade to an abrupt halt. But he will honor the Bureau's assertion.²

6. Even assuming that no genuine issue of fact exists, this is the type of case where parties could disagree on the inferences that can be drawn from the facts, whether disputed or not. In addition the disputed issues could involve the evaluation of conceded facts in terms of legal or policy

¹ Complainant Lucille K. Freemon hasn't joined in Elehue Freemon's opposition. Moreover, the record shows that Lucille Freemon has never intended to bring an action against defendant AT&T. Rather, her son, Elehue Freemon, has been using her as a front for his litigation. He has forged his mother's signature on at least one occasion, and he has submitted a false affidavit ostensibly on her behalf.

² There's a vast difference between "an issue of fact" and "a genuine issue of material fact." Based on this record, Elehue Freemon's version of the May 30, 1988 events can be given no credence or credit whatsoever. This complainant is beyond trust.

consequences. So the very complex nature of the proceeding warrants denial of the AT&T motion. See In the Matter of Summary Decision Procedures, 34 FCC 2d 485 at para.6.

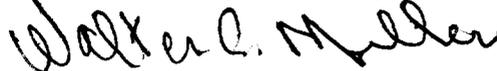
Elehue Freemon's Counter Motion.

7. Freemon's captioned "Counter Motion" will be dismissed. It is not a viable counter motion at all. Rather it's a backhanded attempt to reintroduce into evidence, evidentiary materials that have already been rejected.

So the "Motion for Summary Decision" that AT&T Corp. filed on November 22, 1994, IS DENIED; and

The "Complaints Opposition and Counter Motion to AT&T's Corp. Summary Decision dated November 22, 1994," that Elehue Freemon filed on December 6, 1994, IS DISMISSED.

FEDERAL COMMUNICATIONS COMMISSION



Walter C. Miller
Administrative Law Judge