

Statement of Edward Garcia

Comm One Systex of Ohio and Comm One Wireless of Chicago (collectively, "Comm One") were both Cingular Wireless ("Cingular") dealers. During the time that Comm One acted as dealer for Cingular, Comm One alleges that Cingular engaged in a series of unconscionable activities that resulted in driving Comm One out of business. These activities are summarized below.

Cingular repeatedly breached its dealer agreements with Comm One by wrongfully refusing to pay commissions, residuals and co-op when due, depriving Comm One of much-needed cash flow. Further, Cingular breached the agreements by failing to supply store signage in a timely manner.

Cingular wrongfully encroached into Comm One's territories. Unauthorized agents were permitted by Cingular to open and operate stores within one-half mile or less from Comm One locations. Further, Cingular directed Comm One to open stores in certain locations and allowed Comm One to operate the store, testing the strength of the market. Once market viability was established, Cingular would then open company stores within three tenths of a mile of the Comm One stores, thereby substantially diluting the volume of business received by the Comm One stores.

Even though Comm One Systex of Ohio and Comm One Wireless of Chicago are separate legal entities, Cingular wrongfully applied equipment credits due to the Chicago entity to the Ohio entity. Further, because Comm One Systex of Ohio was in arrears with Cingular, Cingular forced Comm One Wireless of Chicago to be on COD terms with Cingular, severely and negatively impacting its cash flow and ability to grow. Cingular forced Comm One to enter into exclusive equipment purchase agreements, constituting an illegal tying arrangement. In addition, Cingular provided its own customers with service and equipment discounts with providing such discounts to Comm One, thereby substantially decreasing the ability of Comm One to attract new customers.

Cingular began and expanded its cellular telephone subscriber base in the areas in which Comm One operated by using the resources of independently owned sales locations, including Comm One, and engaged in a pattern of racketeering activity to control and eventually force Comm One, out of business, thereby converting to Cingular the value created by these independent owners. Comm One alleges a pattern of racketeering that includes fraudulent representations concerning service and equipment pricing, fraud in the delivery of payments, and threats of the imposition of draconian contract terms.

Cingular terminated Comm One without cause. As a result of Cingular's misconduct, Comm One is contemplating a lawsuit against Cingular. If the FCC approves the merger between AT&T and Cingular, Comm One will face an even bigger opponent in the lawsuit.