

**COURT OF COMMON PLEAS OF MONROE COUNTY
FORTY-THIRD JUDICIAL DISTRICT
COMMONWEALTH OF PENNSYLVANIA**

Optatus and Florence Chailla,

Plaintiffs,

vs.

**Motion for Entry of
Default Judgment**

Case No. 3504-2020

Verizon of Pennsylvania, LLC

Defendants.

**MOTION FOR ENTRY OF DEFAULT JUDGET AND
SUPPORTING AFFIDAVIT**

Plaintiffs, Florence R. Parker Chailla and Optatus N. Chailla requests the Clerk for an Entry of Default Judgment consistent with the Rule 55(b)(1) and relevant state rules of Civil Procedure, against the defendant, *Verizon of Pennsylvania, LLC* in the above entitled action for its failure to answer or otherwise defend or plead as set forth in the Affidavit attached hereto.

Dated: November 2, 2020

Respectfully submitted,

Dr. Optatus Chailla

*Dr. Optatus Chailla
25 Garden Street
P.O. Box 1111
Stroudsburg, PA 18360
570 424-5386*

Florence R. Parker Chailla, J.D.

*Florence R. Parker Chailla, J.D.
25 Garden Street
P.O. Box 1111
Stroudsburg, PA 18360
570 534-7082*

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Optatus and Florence Chailla,

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AFFIDAVIT

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Verizon of Pennsylvania, LLC

Defendants.

**DEFAULT JUDGMENT
SUPPORTING AFFIDAVIT**

We Florence R. Parker Chailla and Optatus N. Chailla are the Plaintiffs in this matter. We are of full age and do hereby affirm that the foregoing statements made herein are true to the best of our knowledge and belief. We are aware that if any of the foregoing statements made herein willfully false, we may be subject to punishment.

CASE HISTORY

1. We are the Plaintiffs of record in this Court, the Commonwealth Court of Pennsylvania, the Pennsylvania Public Utilities Commission and its Board. We have personal knowledge of the facts set forth in this Affidavit.

2. A copy of the PAPUC Order, the Original and Amended Complaints and Affidavits are attached. Additionally attached is the August 2020, Order of this Court directing that Defendant be served by the Monroe County Sheriff's Department and the 10-day Notice and its service. Exhibits A - PAPUC Order, Exhibit B - Original and Amended Complaints and Affidavits - Exhibit C August 2020 Court Order, Exhibit D - Monroe County Sheriff's Return of Service; Exhibit E - 10-day Notice of Default and Exhibit F - Service of the 10-days Notice upon defendant's Counsel.

3. Defendants were served by the Monroe County Sheriff's Department on September 21, 2020, Return of Service - See Exhibit D.

4. Defendants did not answer or defend between October 23, 2020. See Exhibit E. On October 23, 2020, a Ten day Notice was sent to Defendant's legal representative. October 23, 2020, requires an answer on Monday, November 2, 2020.

5. Today, November 2, 2020, the date of this filing and no answer was received from defendant or its named legal representative who was served with the Original and Amended Complaints and Affidavits on September 21, 2020, by the Monroe County Sheriff's Department and it was served with the 10-day Notice on October 23, 2020. See Exhibit E 10-day Notice, Certified Mail receipt and Track and confirm from USPS

6. Plaintiff's deposited \$150.00 with the Monroe County Sheriff's Department. It refunded \$101.90; therefore it expended \$48.10 to effect service of process upon defendants.

7. We are entitled to a Default Judgement for Defendant's failure to answer or otherwise to defend.

8. The Complaint or sum certain, or a sum that can be made certain by computation, thus, judgment should be entered without necessity of further hearing. The calculated Sum Certain is below. Sums not certain are requested be calculated by this Court, i.e., Intentional Infliction of Emotional Distress, Loss of Consortium and Punitive Damages.

PA-Public Utilities Commission Order

9. Reliance upon the conclusive findings of fact by the Board of the Pennsylvania Public Utilities Commission's Order of March 31, 2020, it opined that plaintiffs were denied telephone service for a total of 57-days." that rise to the level of inadequate and unreasonable service in violation of Section 1501 of the Code , 66 Pa. C.S. § 1501."

10. The Board with regard to xDSL opined, "Based on the testimony offered by the Complainant and Verizon PA, the record evidence demonstrates that the xDSL service was not adequately and reliably available for a time period of at least thirty-two (32) days after the service was installed."

11. Between the telephone and xDSL services from Verizon of Pennsylvania, LLC we were without service that violated the Section 1501 of the Code, 66 Pa.C.S. § 1501 and Broadband service rights within 10-days of order. Instead a total of 89 days resulted in no telephone and xDSL services in violation of the referenced laws.

PAPUC referenced the total inconvenience time as three to four months, hinting at not just 89-days as a basis for damages caused by Verizon's cavalier behavior.

a. Verizon engaged in multiple acts of fraud and deception between March 2019 through today. Common law generally identifies nine elements needed to establish fraud:

(1) a representation of fact;

Verizon at the time of order February 22, 2019, xDSL was ordered it stated it would deliver that service. We asked Verizon if the existing telephone service would be able to used to also receive xDSL service. Verizon's sales personnel stated that to obtain xDSL that *Freedom Essentials* level and quality of service was required for xDSL to operate. Verizon acted upon its statement and billed for Freedom Essentials beginning with the March 2019.

(2) its falsity;

PAPUC identified 89 different instances of fraud involving both the telephone and xDSL services Verizon was to provide upon 10-days of ordering. For the same 89 days for *three to four months long* period as identified by The Board, we were without adequate, reliable and functioning service.

Verizon knew or should have known that Freedom Essentials level and quality of service was ***not required*** to install or operate xDSL because it did not change our initial telephone service. Our initial service was restricted to our local calling ares of 570.

Whereas Freedom Essentials level and quality of service included national and international calling to Canada as part of that phone calling plan.

(3) its materiality;

March 2019 through today, Verizon bills us for *Freedom Essentials* telephone calling service when there is no ability to call to area codes that are nationally located in 610 - Wayne, PA, 347 - New York or Canada. Freedom Essentials calling plan monthly costs \$55.00; the restrict calling plan costs \$27.00 monthly. Through the material deception and falsity, Verizon charged doubled for the cost of telephone service when that Freedom Essentials calling plan when it was never delivered or installed as a telephone plan in our landline telephone service, however, we have only restricted telephone service to area code 570 then and today.

(4) the representor's knowledge of its falsity or ignorance of its truth;

Verizon during 2016 disclosed the plan coverage area of the restricted calling areas. Exhibit F. August 2020, when it was discovered Freedom Essential level and quality of calling area was not installed for our landline telephone, I contacted by email to obtain their reply. As of this motion for entry of default judgment, Verizon has not responded to the August 2020 email. Exhibit J

It is inferred that Verizon was at all times knew it falsely charged us for Freedom Essentials. It knew it was not installed beginning March 2019. Throughout the March 2019 till today, Freedom Essentials has not been installed or accessible by our landline telephone to reach beyond the restricted calling area and we were ignorant of the falsity.

More, Verizon knew or should have known that there was an inquiry made; still today it has not answered, corrected or otherwise revised the billing downward to reflect the restricted telephone calling plan that is available in our home.

(5) the representer's intent that it should be acted upon by the person in the manner reasonably contemplated;

Verizon billed us with the intent that we will pay as billed for services they are aware we do not receive. The bill is twice that of the restricted calling plan that is available opposed to the claim that they have installed Freedom Essentials which they have not.

(6) the injured party's ignorance of its falsity;

Ignorance implies a state of not knowing something necessary to either make a decision or correction. There are two issues to flush out (1) was the statement of Verizon to demand Freedom Essentials to use xDSL and (2) whether the restricted calling feature could be used to accommodate xDSL. We were ignorant of the fact that Freedom Essentials was not installed. Our concerns were not confirmed until August 2020 when attempts to make calls outside of the restricted calling plan could not be made from the landline telephone. We tried to call to Wayne, PA, New York and Canada. None of the calls were successful, there was no ring, no answer and a beeping sound. We also now know that while we were billed for Freedom Essentials it was not installed beginning March 2019, as Verizon stated it would. It charged for such services.

Notes: Arrows *Freedom Essentials* Charged from 10/4 -11/3 and *TechSure Plus* from 9/19- 10/18
In an October 3, 2020, bill statement.

We to the best of our knowledge and belief, we never got that service.

The falsity lies in what Verizon knows or knew vs. what we did not know but ultimately discovered as false.

(7) the injured party's reliance on its truth;

Without technical ability to identify the level and types of services installed, the only way was to test. The tests occurred August 2020 with the intent to contact family and friends using the landline telephone rather than cell phones. Then we realized that we relied upon the statements made by Verizon's personnel. They caused our injury for the amount of the billed charges, the breach of contract; tortuous actions of loss of consortium, Intentional Infliction of Emotional Distress, violations of fraud and deception under the UTPCPA provisions as well as its Catchall part for the injuries causes and it - Verizon continues to cause. The total Verizon bill as of today is over \$1,937.75 as of October 3, 2020, failure to pay that may result in derogatory entries onto our national credit reports by Verizon for non-payment; however, not only is the bill incorrect, it is fraudulent and deceptive because the billed services are not provided - no Freedom Essentials was installed; TechSure Plus does not work as advertised, described or testified to by Mr. Randy Tibbs, Jr to the PAPUC. The October 3, 2020, bill is as shown below:



OPTATUS CHAILLA
 Primary Phone: 570-424-5388
 Account Number: 250-088-087-0001-35
 Bill Date: **October 3, 2020**

Ways to
 - Via the My Fi
 - Online at veriz
 - In person. See

Details of Payments

Payments		Payment activity:
Previous Balance	1,848.03	
No Payment Received	.00	
Past Due Pay Immediately	\$1,848.03	

Details of Charges

Internet & Phone Bundle		Your monthly price
Your bundle includes High Speed Internet 2 Yr Pricing and Verizon Freedom Essentials		
Bundle Price	\$54.99	10/4 11/3
Services & Equipment		Equipment and ac personalize your 1
Services		
TechSure Plus	15.00	9/19 - 10/18
Taxes, Governmental Fees & Surcharges		Includes both Ver governmental tax visit verizon.com/v
Federal Excise Tax		
Federal Excise Tax	.28	
PA State and Local Sales Tax		
PA State and Local Sales Tax	3.04	
Telecommunications Relay Service		
Telecommunications Relay Service	.08	
E911		
E911	1.65	
Verizon Surcharges & Fees		
PA Gross Receipts Tax Surcharge		
PA Gross Receipts Tax Surcharge	2.34	
Federal Universal Service Fee		
Federal Universal Service Fee	4.21	
Federal Subscriber Line and Access Recovery Charge		
Federal Subscriber Line and Access Recovery Charge	8.16	
VLD Carrier Cost Recovery Charge		
VLD Carrier Cost Recovery Charge	1.25	
VLD Long Distance Administrative Charge		
VLD Long Distance Administrative Charge	.74	
Subtotal	\$21.73	
Charges	\$91.72	
Total Due	\$1,939.75	

(8) the injured party's right to rely thereon;

Verizon offers technical services. Pennsylvania has recognized that Broadband service is a constitutional right, not a privilege subject to be granted at the whims of the provider. That service was not provided for 89-days or three to four months as the PA PUC opined in its March 31, 2020, Order and

(9) the injured party's consequent and proximate injury.

Verizon was the actual cause of the injury by its own conduct. In effect Verizon carried out a cascading domino effect that it started with fraudulent billing; charges for services it did not provide, has never provided and continues from March 2019 till today, to cause a bill to reach over \$1,900.00 during the course of the period it knew or should have known that both telephone and xDSL services was inoperable, problematic and fueled by its own unresponsive repair corrections and defective equipment it installed outside of our home to deliver services into the home. The fact that Verizon's Technical Manager testified that if their equipment became wet it would malfunction; yet it continued to unscrupulously charge for services not provided or remained inoperable for three to four months. He admitted that it was the duty of Verizon to make sure its equipment did not get wet, yet it did. Not only did it get wet but it may as well have remained in an inoperable state for three to four months of no or inadequate, degraded inoperable service when access was necessary for our legal and research related work.

But for the repeated long term deception, fraud and confusion caused by it's Personnel in its Sales, Technical and Executive Services, any reasonably prudent person would foresee that the injuries to us would have occurred which are proximately related to the injury Verizon has caused over the past 19-month long period. See, e.g., *Strategic Diversity, Inc. v. Alchemix Corp.*, 666 F.3d 1197, 1210 n.3, 2012 U.S. App. LEXIS 1175, at *25 n.3 (9th Cir. 2012) (quoting *Staheli v. Kauffman*, 122 Ariz. 380, 383, 595

Exhibit 3 TABLE A Summary of Crammed Fraud & Misrepresented bills of 2019 from Exh. 5			
No.	EXHIBIT NO	CHARGE(S)	NOT AUTHORIZED- OR NO SERVICE PROVIDED BY VERIZON PA, LLC
1	Exh. 5, pg 36	\$69.99	Landline has not worked; DSL degraded see recent PAPUC 4/17/2019 filings it began working 4/22/19.
2	Exh. 5, pg 36	\$193.99	One-time agreed charge was \$99.00 for Router as agreed; the other \$94.99 is unexplained and not agreed to, authorized or approved.
3	Exh. 5, pg 36	\$18.82	Requested Change in Service for what?
4	Exh. 5, pg 36	\$31.85	Fees & Other Charges, for what?
5	Exh. 5, pg. 37	\$29.99	Verizon Freedom Essentials was not Ordered - DSL was Ordered; no discussion was had regarding Freedom Essentials.
6	Exh. 5, pg. 37	\$60.00	Jack Work-Phone TechSure Insurance purchased from Verizon stated, " Inside Wire Maintenance - Covers wires and jacks in your home used to deliver Verizon services (Exclusions Apply) See Exh. 7, pg. 48 below.
7	Exh. 5, pg 37	\$99.00	Since we could not install the wire and jack, a technician was needed, it is inferred that TechSure Insurance covered the wire and jack installation too.
8	Exh. 5, pg. 37	\$29.99	No activation fee was discussed at the time of Ordering DSL.
9	Exh. 5, pg. 37	\$2.75	Cancelled Flat Rate Unlimited Service removed 2/20; discussion included installation of DSL using Flat Rate Unlimited Service; not changing it. We were told it could be installed using Flat Rate Service. Further DSL was not installed until February 22, 2019.
10	Exh. 5, pg. 37	\$13.33	High Speed Internet 2 yr pricing added 2/18-3/3; DSL was not installed until 2/22/2019 and did not function with acceptable access until 4/22/2019.
11	Exh. 5, pg. 37	\$12.00	Verizon Freedom Essentials was not Ordered. It should not have been installed on 2/20.
12	Exh. 5 pg 39	\$25.00	High Speed Internet 2 yr pricing did not work 4/4
13	Exh. 5 pg 39	\$1.65 or a total of \$4.51	911/E911 Surcharge - User Fee charged to landline when no calls could be made from that phone. Call prompted Stroud Regional police Officer Eilenberger to visit our home on Sunday, March 10, 2019.
14	Exh. 5 pg 39	\$14.06	Verizon Surcharges & Fees

P.2d 172, 175 (1979)); *Rice v. McAlister*, 268 Ore. 125, 128, 519 P.2d 1263, 1265

(1975); *Heitman v. Brown Grp., Inc.*, 638 S.W.2d 316, 319, 1982 Mo. App. LEXIS 3159, at *4 (Mo. Ct. App. 1982); *Prince v. Bear River Mut. Ins. Co.*, 2002 UT 68, ¶ 41, 56 P.3d 524, 536-37 (Utah 2002).

UTCPA Laws, Civil Penalties and Sum Certain

12. In pertinent part, Plaintiffs' allege that Verizon violated the UTPCPL statute with regard to the following provisions of that law:

'(4) Unfair methods of competition and unfair or deceptive acts or practices mean any one or more of the following:

- (ii) Causing likelihood of confusion or of misunderstanding as to the source, sponsorship, approval or certification of goods or services;
 - (iii) Causing likelihood of confusion or of misunderstanding as to affiliation, connection or association with, or certification by, another;
 - (iv) Using deceptive representations or designations of geographic origin in connection with goods or services;
 - (v) Representing that goods or services have sponsorship, approval, characteristics, ingredients, uses, benefits or quantities that they do not have or that a person has a sponsorship, approval, status, affiliation, or connection that he does not have;
 - (ix) Advertising goods or services with intent not to sell them as advertised;
 - (x) Advertising goods or services with intent not to supply reasonably expectable public demand, unless the advertisement discloses a limitation of quantity;
 - (xi) Making false or misleading statements of fact concerning the reasons for, existence of, or amounts of price reductions;
 - (xiv) Failing to comply with the terms of any written guarantee or warranty given to the buyer at, prior to or after a contract for the purchase of goods or services is made;
- 2
- (xv) Knowingly misrepresenting that services, replacements or repairs are needed if they are not needed;

(xvi) Making repairs, improvements or replacements on tangible, real or personal property, of a nature or quality inferior to or below the standard of that agreed to in writing; Pennsylvania Unfair Trade Consumer Protection Act - 73 P.S. § 201-1 - 201-9.2 201-8(b) Civil penalties provides: Where the victim of the willful use of a method, act or practice declared unlawful by section 3 [§201-3] of this act is sixty years of age or older, the civil penalty shall not exceed three thousand dollars (\$3,000) per violation, which penalty shall be in addition to other relief which may be granted under 2 [§201-2] and 4.1[§20.4.1] of this act.

13. Unlawful acts or practices Verizon PAUTPA “(ix) advertised goods or services with intent not to sell them as advertised.”

a. Between March 2019 till today, Verizon of Pennsylvania, LLC has advertised and billed the landline phone and xDSL under its Freedom Essentials plan. Bills monthly are approximately \$55.00.

b. Between March 2019 till today Plaintiffs have been billed for 31 months for Freedom Essentials phone plan services.

c. During 2015 through 2016, Plaintiffs used a restricted calling plan. That plan restricted calls from the landline to the local 570 area. Upon Ordering xDSL service February 22, 2019, Plaintiffs were told that xDSL could not work as intended on a restricted calling local area plan then installed.

d. Attempts to make a phone call to a New Jersey 201 area code number early August 2020, it was discovered that the telephone landline service was still restricted.

e. Attempted to confirm whether Freedom Essentials or the restricted local plan was still installed contrary to the statements of Verizon sales personnel on

February 22, 2019, Verizon was sent an email to respond. **Exhibit - G**

f. Verizon as of this Motion for Entry of Default has not responded to the email inquiring about whether Freedom Essentials has been installed.

g. Testing the calling range of the landline phone August 2020, two calls were attempted.

i. The first to the 610 Wayne, PA area and

ii The second to 347 New York area code

h. Neither the 610 nor the 347 calls could be made. The correct numbers were dialed, the landline phone could not make a connection and did not ring to connect to those area codes.

i. Freedom Essentials calling plan, however, allows for national and international calls to Canada.

j. Affidavits of the attempts to reach the dialed 610 and 347 area codes from two individual are attached, see **Exhibits - H Pamela Wyckoff made a telephone call from the landline 570 424-5386 to the 610 area to Wayne, Pennsylvania and Exhibit I - Jeanne Windbush was called at her home having 570 and from 570 424-5386 to her 347 New York, NY area.**

k. Verizon has firstly:

i. Misled us to believe that the level and type of telephone service required *Freedom Essentials* to operate xDSL services; obviously that was not true since our xDSL service is operating on local restricted service and has since it was installed March 2019 till today.

ii Verizon has for the preceding 19 months charged and billed for Freedom Essential telephone calling plan service without providing that service level and quality or ability to make long distance calls and international calls to Canada.

14. Sum Certain for the 89 days of telephone and xDSL outages conclusively identified as Verizon's violations found by PAPUC totals \$267,000.00 (\$3,000 x 89).

15. Sum Certain for the 19 months of charges and bills for Freedom Essentials telephone service at \$55/month totals \$1,045.00 for fees unlawfully charged. Sum Certain for the false or fraudulent billing and charged for Freedom Essentials calling plan by Verizon's victimization of two seniors totals \$57,000.00 (\$3,000 x 19) for a total of \$58,045.00.

16. During the PAPUC matter 14-bills were challenged. An explanation for the bills was requested, but Verizon did not explain the reason or justification for the bills as requested. See PAPUC Order, pages

i. 14 unexplained bills shown below on Exhibit 2 Table A is a Summary of Crammed Fraudulent and Misrepresented bills for 2019 as shown below:

ii 14 x billed amount \$603 charges that remain unexplained.

iii Civil penalties for victimized persons 60 or older subtotals \$42,000.00 (14 x \$3,000) plus the unexplained charges totals \$42,603.00.

TECHSURE PLUS INSURANCE

17. Prior to purchasing and installation of xDSL service, Plaintiffs sought to avoid inside wiring services and fees since they had existing service beginning during 2015. Verizon's TechSure Plus insurance was purchased February 22, 2019, for installation of xDSL service March 10, 2019 with the intention of avoiding inside wiring fees. The monthly fee for TechSure Plus was \$15.00 monthly beginning March 2019. Since March 2019 till today, the total TechSure Plus amounts to 19 months x \$15.00 or \$285.00. With the civil penalty of 19 x \$3,000 - \$57,000.00 for a total of \$57,285.00.

The advertisement for the TechSure Plus Insurance coverage according to Verizon's official website stated that:

“More and more, your life is dependent on technology. From online transactions and voice-activated assistants to smart-home products and security monitoring, technology has made everyday living more convenient—but also riskier. With so many connected devices, a simple malfunction or hack could lead to more serious problems.

With Fios, you can get outstanding protection. We've partnered with some of the top names in the industry—LifeLock, McAfee and others—to bring you products and services you can trust to help monitor, protect and support your devices and your family.”



Peace of mind with Verizon TechSure

Secure your online world with TechSure—offering 24/7 technical support, identity, device and privacy protection.

	TechSure \$10/mo	TechSure Plus \$15/mo	TechSure Plus Annual \$150/yr Online only. Save \$30.	TechSure Premium \$30/mo
Premium Technical Support 24/7 support for your connected home.	✓	✓	✓	✓
LifeLock™ Select Identity theft protection and monitoring†		✓	✓	✓
McAfee Security & Safe Family Multi-Device security, parental controls and more.		✓	✓	✓
Inside Wire Maintenance Covers wires and jacks in your home used to deliver Verizon services (exclusions apply).		✓	✓	✓
Whole Home Device Protection Device protection for your connected home devices (mobile phones excluded)††				✓
LastPass Families Simple and safe way to digitally save your passwords.				✓
		Order		

i. It is alleged that Verizon violated **UTPCPL**

“(v) Representing that goods or services have sponsorship, approval, characteristics, ingredients, uses, benefits or quantities that they do not have or that a person has a sponsorship, approval, status, affiliation, or connection that he does not have.”

Plaintiffs’ were led to believe that *LifeLock™ Select Identity theft protection* and monitoring† and *McAfee Security & Safe Family Multi-Device security, parental controls* and more - were provided with Techsure Plus; however, Plaintiffs’ have not seen, used or had access to these additional sponsored features of the Techsure Plus insurance; yet, they are charged for all features advertised monthly.

ii. The violations of the Consumer Protection law occurred on:

- (ii) Causing likelihood of confusion or of misunderstanding as to the source, sponsorship, approval or certification of goods or services;

Techsure Insurance advertisement stated it covered “*inside wiring.*” The ad made no distinction between ‘existing’ vs ‘new wiring’ however, Randy Tibbs. Jr of Verizon made a distinction of existing vs. new wiring. The confusion was caused by his changed certification of the service offered after the fact contrary to the ad.

TECHSURE PLUS INSURANCE VS. RANDY TIBBS, JR. APPLICATION	
TechSure Plus Insurance coverage per its website	Randy Tibbs, Jr. application – Exh. 2 below
Inside Wire Maintenance Covers wires and jacks in your home used to deliver Verizon Services (Exclusions apply). Exhibit 8, page 46 Motion and below: TechSure Plus \$15/mo	The Tech-Sure protection plan you signed up for includes the inside wire maintenance plan. The inside wire maintenance plan covers existing inside wiring and jacks. The initial cost of the installation of new inside wiring and/or jacks would not be covered by the plan

See Complainant's Motion for Reconsideration of Interim Order from Charles E. Rainer, Jr. - Chief Administrative Law Judge; Based on New Evidence, page 2

- (iii) Causing likelihood of confusion or of misunderstanding as to affiliation, connection or association with, or certification by, another;

With the likelihood of misunderstanding present among Verizon Sales personnel, Plaintiffs compared to the representations of Mr. Tibbs, Jr., the association with the service was made confusing caused by the different points of view of Verizon personnel, i.e., Sales vs. Tibb's Jr. However, the Sales and ad agreed; Tibb's Jr. was the outlier that differed with the ad's intended coverage for '*inside wiring*.'

- (iv) Using deceptive representations or designations of geographic origin in connection with goods or services;

As between Verizon Sales and Mr. Tibbs, Jr., as an organization deceptive representations were made about its Techsure Insurance service to Plaintiffs' who reasonably relied upon the description of the intended service from the telecommunication company who sold the service to the public.

BILLING CREDIT ORDERED BY PAPUC

18. Verizon was ordered by PA PUC Board to issue a bill credit for the three to four months of service outage. April 14, 2020, Verizon issued a bill credit for \$115.93; however the average monthly bill was between.

INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS

19. “Under Pennsylvania law, the statute of limitations for both intentional infliction of emotional distress is two years from the date of accrual.” *Vaughan v. Pathmark Stores, Inc.*, Civ. A. No. 99-0018, 1999 WL 299576, at *3 (E.D. Pa. May 10, 1999); see also 42 Pa. Cons. Stat. § 5524(2). Although the Pennsylvania Supreme Court has not expressly adopted the tort of intentional infliction of emotional distress, it has acknowledged that § 46 of the Restatement (Second) of Torts sets forth minimum elements required to satisfy the cause of action.¹ Under § 46, elements of this Tort are:

- a. “[o]ne who by extreme and outrageous conduct
- b. who intentionally or recklessly causes severe emotional distress
- c. to another is subject to liability for such emotional distress, and
- d. if bodily harm to the other results from it,
- e. for such bodily harm.”²

20. Pennsylvania courts have been “chary to declare conduct ‘outrageous’ so as to permit recovery....”³ At one time, Pennsylvania recognized a common-law cause of action for alienation of the affections of a husband or wife, see *Keath v. Shiffer*, 37 Pa.Super. 573 (1908).

¹ *Hoy v. Angelone*, 720 A.2d 745, 753-54 & n.10 (Pa. 1998)

² Restatement (Second) of Torts § 46(1)

³ *Cox v. Keystone Carbon Co.*, 861 F.2d 390, 395 (3d Cir. 1988); see also *Hoy*, 720 A.2d at 753.

21. The conduct ““must be so outrageous in character, and so extreme in degree, as to go beyond all possible bounds of decency, and to be regarded as atrocious, and utterly intolerable in a civilized society.””⁴

22. It is for the court to determine in the first instance whether the conduct is extreme or outrageous, such that recovery may be permitted.⁵

23. In general, a statute of limitations begins to run when the plaintiff “is aware, or reasonably should be aware, of facts indicating that she has been injured through the fault of another.” *Baird v. Am. Med. Optics*, 713 A.2d 1019, 1026 (N.J. 1998); see also *Pocono Int’l Raceway, Inc. v. Pocono Produce, Inc.*, 468 A.2d 468, 471 (Pa. 1983) (explaining that “the statute of limitations begins to run as soon as the right to institute and maintain a suit arises” because “a party asserting a cause of action is under a duty to use all reasonable diligence to be properly informed of the facts and circumstances upon which a potential right of recovery is based”).

24. To state a claim for intentional infliction of emotional distress under either Pennsylvania or New Jersey law, a plaintiff must allege conduct that is “so outrageous in character, and so extreme in degree, as to go beyond all possible bounds of decency, and to be regarded as atrocious, and utterly intolerable in a

⁴ *Hoy*, 720 A.2d at 754 (quoting *Buczek v. First Nat’l Bank of Mifflintown*, 531 A.2d 1122, 1125 (Pa. Super. Ct. 1987))

⁵ *Small v. Juniata College*, 682 A.2d 350, 355 (Pa. Super. Ct. 1996)

civilized society.” Hoy v. Angelone, 720 A.2d 745, 754 (Pa. 1998) (quotations omitted); Restatement (Second) of Torts § 46.

a. February 15, 2019, Plaintiffs’ purchased DSL service from Verizon Pennsylvania, LLC. February 22, 2019, Verizon’s technician - Gregg - arrived to install a second Jack. Prior to the DSL, Plaintiffs’ received telephone service from Verizon since 2014.

b. February 22, 2019 through March 10, 2019, the xDSL sometimes worked intermittently.

c. Over that same period, xDSL did not working more than half that time. March 10, 2019, Stroud Police visited Plaintiffs’ home. It stated a dropped 911 call was made from their address and phone number. I - Mrs. Florence Chaila and the police officer picked up the landline telephone. I heard a scratchy static noises as did and was confirmed by the police officer as we both listened to the phone’s noise. We informed the police officer we did not make any calls from the house phone serviced by Verizon Pennsylvania, LLC on that date.

d. We learned that the phone did not ring when called by using a cell phone. Further, we also learned that calls could not be made from the house phone as tested while the officer was in our home. March 11, 2019, I called Verizon to report the problem to Verizon. The Verizon personnel stated the repair would be deemed ‘critical’ and would receive fast attention.

e. With pending legal court replies due, I, Florence Chailla experienced anxiety, anger and irritability over the inability to obtain continuous access to the xDSL for purposes of conducting needed legal research, writing and filing electronically pleadings required to manage claims..

f. The inadequate, defective and unreliable xDSL and telephone service began to be totally inoperable for the purposes intended - communication, access to the Internet. The frequency of inoperability was continuous from March 11, 2019. Calls made to Verizon were treated as unimportant. Its response to the dropped-911 call irritated and annoyed us by the police presence, the lack of responsiveness to inoperable claims all resulted into a formal complaint to the Pennsylvania Public Utilities Commission on March 15, 2019.

g. The problems began late February, and in earnest between March 11 and continued through June 4, 2019.

25. February 22, 2019, thru June 4, 2019, we sought and agreed to pay for telephone and xDSL Broadband service from Verizon Pennsylvania, LLC.

26. For three to four months, its telephone and xDSL Broadband service was at 'the level of inadequate, defective and unreasonable service in violation of Section 1501 of the Code , 66 Pa. C.S. §1501 - as found by the PAPUC Board.

27. During this same period, I Florence Chailla, JD; was managing several docketed civil disputes filed in the (1) Middle District Court of Pennsylvania, (2) Second, (3) Third Circuits and (4) the U. S. Supreme Court of the United States.

*See PUC Interim Order Exhibits 1 th PARu 6.2, review **Exhibit 2** - Interference with District Court Docket access to Docket No 3-18-cv-01564 and Efforts to earn a livelihood by working online. The inoperable, defective Verizon Pennsylvania, LLC's xDSL made keeping up with deadlines intolerable. I - Florence Chailla - spent more energy and more effort to the point I became fatigued due to the long hours that became longer and longer to complete legal work caused by its xDSL inoperable condition.*

28. Deadlines for a motion, reply or answer differed by the various courts.

29. I, Florence Chailla received some court docket information electronically.

30. I also answered, replied or otherwise motioned the same courts electronically. When the xDSL was inoperable I had to USP mail to send documents.

31. To prepare meaningful answers, I had to conduct legal research into case history, precedents and the law or those overruled to include in pleadings filed.

a. Efforts to maintain alert to concentrate and remember making decisions on which pleadings were due to which court(s) made dealing with inoperable Verizon Pennsylvania LLC xDSL outrages over the extensive period of three to four months, it was unanticipated of a firm such as Verizon; that was especially so when PA citizen legal rights to Broadband service was due in 10-days of order. Working without full access; waiting for degraded service to become operable only to degrade again for hours and days was outrageous.

b. Verizon knew if its equipment got wet it would become defective. It acted with a callous desire or substantial certainty that it would not be able to provide xDSL services or the TechSure Plus 24/7 technical support as purchased since its equipment was defective; especially when it got wet at it admitted Tr PAPUC. Exhibit A, pages 17 - 18, Tr 60 and 61.

c. It also knew its services had operated in an inadequate, to non-existent manner that violated Pennsylvania Broadband rules from March to June 2019, via complaints we made, papers filed and arguments that supported the Board's Decision. It acted recklessly when it was informed of the degraded service, the us to seek formal venues to complain for defective telephone and xDSL Broadband services.

f. It was not uncommon for Verizon's xDSL to work for an hour. Then not work for the next 10-hours consecutively. Then resumed xDSL service would access degrade routinely or failed to download information in the midst of doing so. It would then cut off when accessing court electronic records. To obtain the same court records, I. Florence Chaila was required to contact the court. Request it provide me with a physical paper copy(ies). This routinely caused significant delays, interruption, expense and a waste of time over and above what could be considered reasonable in a civilized society especially where Broadband is a right.

32. A graduate of Seton Hall University School of Law, on numerous occasions between 3/2019 to 6/4/2019, I, Florence Chaila had to go to Newark, NJ to

conduct research as an alumni. There, I had access to working xDSL, Lexis, West Law and other legal research tools to manage my caseloads. See Affidavit for frequency of visits to Seton Hall University School of Law.

33. I, Florence Chailla was required to visit Seton Hall law school to access the Internet to conduct research became frequent during the three to four month period all due to inadequate and unreasonable service that violated Section 1501 of the Code, 66 Pa. C. S. §1501.

a. Verizon's conduct and character in its lackluster technical response to repair requests was extreme in degree due to the frequency, persistence associated with the dual outages of both the xDSL and landline telephone and was beyond all bounds of decency in a civilized society where DSL Broadband, in the Commonwealth of Pennsylvania, is a right of its citizens to receive such service within 10-days of order; further, it cut us off from our children and family whom we communicated with frequently as seniors to assure them of our safety, health and wellness conditions while in their respective residences of United Kingdom, Uganda, Tanzania, Canada and states of New Jersey, New York and Florida.

b. In disregard of our rights, Verizon took up to four months to correct the defective problems with its xDSL services when it knew or should have known its equipment was defective and did not operate as intended via its own ambivalence and attempts to make it appear we were uncooperative which served to compound problems associated with its own outrageous behavior and conduct.

c. Verizon conduct was atrocious in that it did not take seriously the complaints made until these same complaints were formally made to the PAPUC.

d. In so doing Verizon wholeheartedly disregarded its ILEC agreement with the Commonwealth⁶, such that the PAPUC charged Verizon a financial \$2,000 Civil Penalty, imposed as restitution for wrongdoing as defined by its regulations where a \$1,000 is the least, Verizon was charged double.

e. Verizon intentionally failed to provide us as a particular class of consumers -seniors- with xDSL and telephone services. It caused intended or reckless personal injuries to us which forced us to take extensive measures to obtain access to readily available xDSL by traveling routinely more than two hours away for two to four months. Many seniors in this region complain about Verizon's treatment when they complain of service problems. For us, Verizon caused anxiety, emotional fatigue and upset due to its exceedingly long term failure to provide accessible, adequate telephone and xDSL service.

f. Verizon caused the increased expense of traveling out of state from the comfort of our home to do work that required access to the xDSL to complete.

⁶ Local Service Telephone Competition for Verizon Customers

Verizon Local Service Telephone Competition Fact Sheet - On March 4, 2015, in response to a Petition by Verizon North LLC and Verizon Pennsylvania LLC, the PUC determined that Basic Standalone Local Telephone Service is competitive in 153 wire centers in seven geographical areas within the Commonwealth served by Verizon. The wire centers are located in the following general service regions: **Philadelphia, Erie, Scranton/Wilkes-Barre, Harrisburg, Pittsburgh, Allentown and York**. The PUC determined that enough competition exists in these wire centers from other voice service providers, including competitive local exchange carriers, cable telephony providers and wireless carriers.

Cell phone and iPad devices purchased to make up where Verizon repeatedly failed for a long period of time was intentional acts of Verizon that cost us money since it has not to provide xDSL required by law. Cricket and AT&T cell phone bills total \$60.00 x 4 = \$240 for the four months of civil penalty \$3,000 x 4 = 12,000 for a total calculate damage of \$12,240.00.

g. Despite Verizon is a monopoly ILEC, it promised to provide services purchased via equipment it installed outside the home.

h. It also knew that equipment was outside the home, that it would be defective when it became wet due to weather affixed outside of our home. See Exhibit 3 as an illustration of outside Verizon of Pennsylvania, LLC box outside.

i. It still uses the same defective equipment under such conditions that cause it to become wet is neither under our' or Verizon' control.

j. What is under Verizon's control is to shore up its equipment unless it also begins to predict or can determine weather patterns day-by-day.

k. Verizons' conduct and actions contributed to the delays and we've suffered via increased anxiety and emotional distress associated with xDSL service outage problems and dealings with repeated technical calls to remain home when the problem all the long was identified as being outside the home at its box outside.

34. Specifically, Verizon Pennsylvania, LLC failed to:

- a. furnish and maintain adequate, efficient, safe, and reasonable service and facilities within the three to four month period, and

- b. make all such repairs, changes, alterations, substitutions, extensions, and improvements in or to such service and facilities within the there to four month period
- c. make necessary or proper for the accommodation, convenience, and safety of its patrons within the three to four month period
- d. make such service reasonably continuous and without unreasonable interruptions or delay over the course of the three to four month period,
- e. assure that such service and facilities shall be in conformity with the regulations and orders of the commission within the three to four month period and
- f. Despite Verizon is subject to the provisions of this part and the regulations or orders of the commission, every public utility may have reasonable rules and regulations governing the conditions under which it shall be required to render service; it still failed to do so within the three to four months for the telephone and DSL Broadband services Plaintiffs' sought to obtain.

35. DSL Is/Was Required for Work and Legal Matters

My wife, a senior, she must have continuous access to the Internet to conduct her District Court work with the court's electronic system. Because she does not have unlimited access to the Court's system.

36. Once she is sent a filing via electronic legal dockets, she can open it to access for free once.

37. If after opening or the download is interrupted the first time, she cannot open it again. No subsequent access is provided without added expense and delay.

38. The only way she has to get a copy is to travel from out home in Stroudsburg, PA to Scranton, PA courts for expediency to request a paper copy or pay for each page through a secondary service.
39. With readily available reliable xDSL access all that could have been avoided.
40. For the entire month of March and beyond to June, 2019, she has not had the required continuous access to the Internet provided by Verizon Pennsylvania, LLC.
41. As a result, she has had to request paper copies be sent to her email as an alternative to traveling to Scranton, PA. See Exhibit 2 - District Court of Pennsylvania 4/16/2019 Request for emailing of several docket filled due to degraded broadband service from Verizon Pennsylvania, LLC illustrated in this case as filed with the Pennsylvania Public Utilities Commission earlier.
42. Without the filed documents, she cannot understand the issue or respond timely to any issues raised.
43. She needs to respond, to do so, she needed the ability to receive and open all legal documents sent by and from the court and open documents filed by adversaries and to send her responses to both the court and adversaries, timely.
44. Verizon Pennsylvania, LLC's outrageous character and conduct was regarded as atrocious, and utterly intolerable in a civilized society; especially where DSL is a right and where it is necessary to receive electronic court papers and to work from home to earn a living as a Life Sciences freelance editor.

45. Alienation of affection was suffered by me, Dr. Chailla. My wife, Mrs. Chailla spent no time with me due to her commitments with the courts consumed by the gyrations made to meet deadlines. The extraordinary effort she had to take to keep up with the workload demands of the courts to participate in managing her cases was extraordinary. Further, it was completely unnecessary had xDSL worked as intended.

a. As her caseload demands increased her affections equally decreased.

b. At the height of the three to four month period I saw my wife's depression, emotional distress and anxiety increase over meeting her timelines as they drew near. As a result, I got less affection and saw less and less of my wife.

c. Not only was she not sleeping adequately but her moods changed. Speaking to each other decreased to almost nothing but 'good morning' and 'good night' but only I was in our marital bed. Mrs. Chailla stayed up sometimes as late as 7:00 a.m. the next day to meet her deadlines.

d. The sleeplessness, long hours, traveling long distances to conduct research and driving back worried me - Dr. Chailla. Mrs. Chailla not intending to inconvenience me, she tried to travel to and from Seton Hall University alone. I insisted for her sake and since I was nervous about her alertness and health since she was sleep deprived and anxiety filled during the three to four month periods, I traveled with her each time.

e. Due to her legal caseload that could have easily been completed at home had Verizon Pennsylvania LLC's xDSL worked over the three to four month period, Mrs. Chailla would not have had to endure the extraordinary effort of traveling to Newark, NJ to meet her timelines for caseloads she managed.

f. After Board's Order of March 31, 2020, it is wondered if Verizon Pennsylvania, LLC will allow its equipment to fall back into its former inadequate, unreasonable and inoperable state because since the Order, Plaintiffs experienced DSL outages, again. Sure enough, April 13, 2020, a xDSL outage occurred. See Complaint for Damages: Affidavit - DSL Outage.

WHEREFORE: Plaintiffs seek damages from Verizon for intentional infliction of emotional distress it inflicted on them for three to four months as mentioned by the PA PUC.

BREACH OF CONTRACT

46. Under Breach of Contract claims, there are three elements to such a claim under Pennsylvania law:

- (1) a contract;
- (2) a breach of a duty imposed by that contract; and
- (3) resulting damages. *Kaymark v. Bank of Am., N.A.*, [783 F.3d 168](#), 182 (3d Cir. 2015) (quoting *Omicron Sys., Inc. v. Weiner*, 860 A.2d 554, 564 (Pa. Super. Ct. 2004)), *JOHN DOE v. University of the Sciences*, USDC, E.D PA Civil Action No. 19-358

47. Breach of contract context relied upon by my wife and I is supported under the Public Utilities Commission Chapter 30 regulations provides:

PUC Chapter 30 regulations require companies to make broadband/Internet service available within 10 business days of a request at a speed equal to or greater than 1.544 megabits per second (Mbps) in the downstream direction and equal to or greater than 128 kilobits per second (Kbps) in the upstream direction.

A telephone company is permitted to meet its broadband obligation by using either its own facilities or the facilities of an affiliated company through any kind of technology. ⁷

⁷ § 3011. Declaratio)n of policy.

The General Assembly finds and declares that it is the policy of this Commonwealth to:

- (1) Strike a balance between mandated deployment and market-driven deployment of broadband facilities and advanced services throughout this Commonwealth and to continue alternative regulation of local exchange telecommunications companies.
- (2) Maintain universal telecommunications service at affordable rates while encouraging the accelerated provision of advanced services and deployment of a universally available, state-of-the-art, interactive broadband telecommunications network in rural, suburban and urban areas, including deployment of broadband facilities in or adjacent to public rights-of-way abutting public schools, including the administrative offices supporting public schools, industrial parks and health care facilities.
- (3) Ensure that customers pay only reasonable charges for protected services which shall be available on a nondiscriminatory basis.
- (4) Ensure that rates for protected services do not subsidize the competitive ventures of telecommunications carriers.
- (5) Provide diversity in the supply of existing and future telecommunications services and products in telecommunications markets throughout this Commonwealth by ensuring that rates, terms and conditions for protected services are reasonable and do not impede the development of competition.
- (6) Ensure the efficient delivery of technological advances and new services throughout this Commonwealth in order to improve the quality of life for all Commonwealth residents.
- (7) Encourage the provision of telecommunications products and services that enhance the quality of life of people with disabilities.
- (8) Promote and encourage the provision of competitive services by a variety of service providers on equal terms throughout all geographic areas of this Commonwealth without jeopardizing the provision of universal telecommunications service at affordable rates.
- (9) Encourage the competitive supply of any service in any region where there is market demand.
- (10) Encourage joint ventures between local exchange telecommunications companies and other entities where such joint ventures accelerate, improve or otherwise assist a local exchange telecommunications company in implementing its network modernization plan.
- (11) Establish a bona fide retail request program to aggregate and make advanced services available in areas where sufficient market demand exists and to supplement existing network modernization plans.
- (12) Promote and encourage the provision of advanced services and broadband deployment in the service territories of local exchange telecommunications companies without jeopardizing the provision of universal service.
- (13) Recognize that the regulatory obligations imposed upon the incumbent local exchange

48. The context for breach of contract is further supported by Pennsylvania “Broadband Consumer Rights” afforded to its citizens:

49. **BROADBAND CONSUMER RIGHTS IN PENNSYLVANIA**

a. Under state law, Pennsylvania consumers have the right to request and receive broadband access service to the Internet from their incumbent local exchange carrier (ILEC), the established local telephone company. These companies include Verizon Pennsylvania, Verizon North, CenturyLink, Frontier, Windstream, and other smaller companies. This law is set out in Chapter 30 of the Public Utility Code at 66 Pa. C.S. §§ 3011-3019.

b. Under state law, the ILEC must make broadband access service available that meets the Pennsylvania statutory standard download speed of no less than 1.544 megabits per second (Mbps) and an upload speed of no less than 0.128 Mbps. Various providers of broadband access service in Pennsylvania, including the ILECs, often make available broadband access service to the Internet at much higher speeds. However, the only carriers that must make broadband available under state law are the ILECs.

c. Pennsylvania state law requires that the ILECs must make such broadband access service available and provide it within ten (10) business days from the date the consumer requests such service. 66 Pa. C.S. § 3014(b)(5).

d. The ILECs may make the requested broadband access service available using any technology. Such technologies can include wireline-based network facilities and service (e.g., digital subscriber line, or DSL, and fiber optic based service), wireless service and products, and satellite service. 66 Pa. C.S. § 3014(n)(1).

e. The ILEC remains the only provider responsible to make available the requested broadband access services even if service is ultimately provided through a partnership or other arrangement with an affiliated or non-affiliated entity. 66 Pa. C.S. § 3014(n)(2).

f. The Pennsylvania Public Utility Commission (PUC) regulates only the availability and provisioning of broadband access service to the Internet by the

ILECs. The PUC does not regulate the prices for these broadband access services, the delivery of these services that exceed the 1.544 Mbps download and 0.128 Mbps upload speed standards, or broadband access service provided by other entities like cable companies.

g. Consumers are encouraged to contact their respective ILEC on any issues they are having with the ordering and/or provisioning of broadband access service required by Chapter 30.

h. If broadband access service is not made available by the ILEC at the Pennsylvania statutory standard speed of 1.544 Mbps down and 0.128 Mbps up, and a requesting consumer is not satisfied after contacting the ILEC, the consumer may complain to the PUC. Informal consumer complaints and inquiries can be directed to the PUC's Bureau of Consumer Services (BCS) at 1-800-692-7380, or by using the PUC's website at www.puc.pa.gov/filing_resources/filing_complaints.aspx, and the informal complaint electronic form at www.puc.state.pa.us/filing_resources/filing_complaints/informal_complaint_form.aspx. Formal complaints can be filed with the Secretary's Bureau of the PUC. Formal complaints will be decided before the PUC's Office of Administrative Law Judge and may require participation at an in-person or telephonic hearing. More information on informal and formal complaints can be found on the PUC's website at www.puc.pa.gov/filing_resources/filing_complaints.aspx.

50. With respect to Broadband Bill of Rights, as Pennsylvania we experienced difficulty obtaining broadband access service to the Internet from an Incumbent Local Exchange Carrier, (ILEC) to which we entered a contract to receive.

Verizon breached our contract.

As early as 2016, Verizon provided basic telephone service to our home via a landline. February 2019, we sought to obtain sDSL service. A contract existed with Verizon since 2016 for telephone service. For the foregoing above and below counts, Verizon breached its contractual duties owed to Optatus N. Chailla.

51. We initially complained to Verizon February 2019.
52. When no meaningful action was taken by Verizon, we formally complained to the Public Utilities Commission during March 2019.
53. We participated in an ALJ hearing; it was decidedly in favor of Verizon Pennsylvania, LLC and
54. We appealed that decision to The PUC Board.
55. The Board decided and entered its Order March 12 and made it a final Order on March 31, 2020. See Exhibit A.

The Board's Opinion stated:

“Considering the testimony offered by the Complainant’s witness Ms. Chailla and that of Mr. Hand of Verizon PA, it is reasonable to conclude that Verizon PA provided inadequate, unreliable, and unreasonable telephone service to the Complainant for a period of eighteen (18) days during the February 22 – March 11, 2019 time period, and for thirty-nine (39) days during the March 26 – June 3, 2019 time period, for a total of fifty-seven (57) days. However, even without such a conclusion, the record evidence shows that the Complainant met his burden of proof that, at a minimum, he experienced intermittent telephone service problems over a three to four-month period in 2019 that rise to the level of inadequate and unreasonable service in violation of Section 1501 of the Code , 66 Pa. C.S. § 1501. Because Verizon PA’s telephone service during that period did not meet the statutory standards of Section 1501 of the Code, we will sustain the

Complainant's Exceptions, in part, and direct Verizon PA to issue an appropriate bill credit to the Complainant.⁸ Pages 17- 19 of Order.

56. Over the course of the three to four months of, "inadequate, unreliable and unreasonable telephone service beginning March 2019 continuing through to June 3, 2019; the Verizon dated April 3, 2020, totaled \$1,522.68 for that year's period.

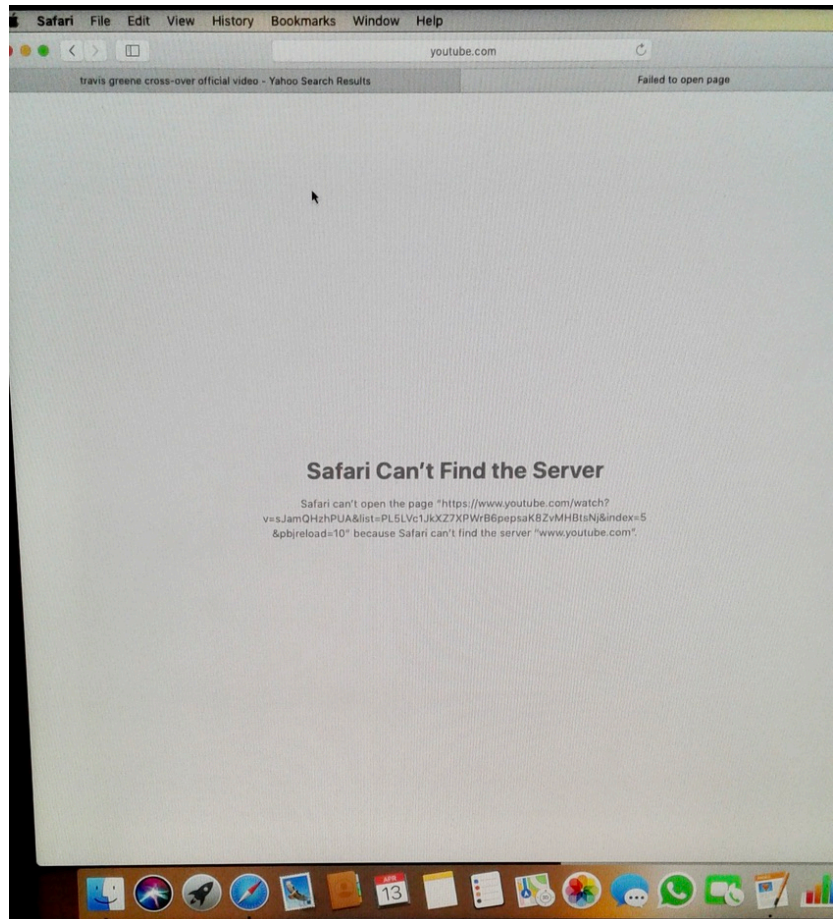
57. April 15, 2020, Verizon sent a texted message to Plaintiff's wife' cell phone, It informed her of the credit amount it intended to provide to meet the Order of the PAPUC; that amount was, "\$115.93 to be made in 1 - 2 billing cycles."

58. Monthly bills for the year ranged from \$99.00 to \$172.02 for an averaged bill of \$135.51. The \$115.93 credit is unreasonable in light of the protracted period

⁸ The testimony contains multiple references to the Complainant's efforts to contact Verizon PA or otherwise document his service issues. During cross-examination by the Complainant, Verizon PA's witness Hand testified that Verizon PA was able to fix the problem the first time without entering the Complainant's home; however, sometime between March 26 and May 23, "the trouble became apparent again[.]" Tr. at 68. Ms. Chailla testified that she communicated with Verizon PA by both text and email in addition to returning calls. Tr. at 44, 56-57. The Complainant objected to the admission of Verizon PA Exhibit 1 partly on the basis that "[t]here are certain entries that are not there[.]" Tr. at 73. Verizon PA's witness Tibbs referenced Ms. Chailla's return message on April 9, 2019. Tr. at 76. And, finally, the Complainant's witness testified to multiple pleadings with exhibits that were filed by the Complainant with the Commission's Secretary's Bureau, served on Verizon PA, and which Verizon PA witness Tibbs acknowledged receiving. Tr. at 82. This indicates that Verizon PA had knowledge of the Complainant's continued service issues. With respect to the Complainant's filed documents, the ALJ noted that the Complainant had not served the documents on him, and for that reason he did not consider them exhibits intended for the hearing. As previously stated, however, the Complainant was anticipating proceeding with a prehearing on June 13, 2019, not a hearing, and appeared otherwise unaware that the filed documents needed to be moved into evidence to be considered as such. We do not consider the contents of those pleadings as part of the evidentiary record, since they were never moved into evidence. We take notice of their filing, however, since according to Ms. Chailla's testimony, these pleadings were intended to further document the Complainant's service issues from April through June 2019, and, as stated, Verizon PA's witness acknowledged their receipt. Tr. at 8-24, 82. *See also* 52 Pa. Code §§ 5.406, 5.408.

of inadequate, unreliable and defective to non-existent or intermittent telephone and xDSL broadband service outages for three to four months.

59. Plaintiffs' anticipated that due to faulty equipment, they will experience ongoing service interruptions with their landline telephone and DSL service. This is especially the case since no-access to xDSL service occurred on April 13, 2020, from Verizon Pennsylvania, LLC. See photo to the side. It is provided as an Exhibit in the Affidavit. Exhibit 1 - 4/13/20 Outage A larger view is at the last page.



60. Due to the extensive outage of telephone and especially xDSL Broadband service I, Florence R. Parker Chailla was required to physically go to the Monroe County Public Library, Seton Hall University School of Law and Staples to compose documents, conduct legal research and to print and then use the USP to mail documents rather than submit them electronically.

61. Briefs, motions and replies were either filed electronically or these pleadings had to be mailed as paper versions to the various courts to manage legal issues.

62. Each of the four court systems, i.e., Supreme Court of the United States, 2nd Circuit, 3rd Circuit and the Middle District for the District of Pennsylvania - exclusive of the PAPUC Administrative matter; she was required to meet the different procedural timelines to participate effectively in legal claims, else I would face dismissal of claims I believed warranted a just decision.

63. All four courts filing procedures were different. An excuse of a degraded to non-existent online xDSL Broadband service was not an acceptable excuse to delay responses to legal matters.

64. To remedy, I was to go to my Alma mater, Seton Hall University School of Law. There I could conduct legal research, write and print papers to a specific number of pages allotted Alumnus.

65. Alternatively, I also visited the Monroe County Eastern Monroe Public Library to print at \$0.25/page.

66. Eastern Monroe Public Library's computers are incompatible platforms. The public library used a *Microsoft Word*. Our home computer was an *Apple Pages* platform. Software program 'Pages' on iMACs' Apple does not communicate with 'Word' Microsoft platforms. Once a Word document is opened in Apple, it is converted into Pages permanently. Therefore, legal documents prepared at the public library, had to be printed at Staples in Stroudsburg, PA.

67. Visits to Seton Hall University School of Law, Eastern Monroe Public Library and Staples during the material time occurred when it was expected that the xDSL services needed to conduct research, revise and file electronically would be provided in our home using the Verizon DSL service. That did not happen for three to four months.

68. To submit legal pleadings timely into the various courts, I traveled to and from these locations the several times between March 2019 through June 4, 2019:

Month	Seton Hall University School of Law	Library	Staples
March 2019		3	8
April 2019	4	4	
May 2019	5	5	1
June 2019	2	4	1
Subtotal visits	11	16	11

Combined cost for the 38 travels and visits was \$607.92. Calculating civil penalties 38 x \$3,000 is \$114,000, adding the costs totals \$114,607.92.

69. Traveling from Stroudsburg, PA to Newark, NJ is 66.5 miles, round trip it is 123 miles plus the cost of gasoline and parking.

70. Among the 38-trips to Seton Hall, the local library and Staples, all that could have been avoided had the xDSL ordered within 10-days of order; or during the three to four months had it worked as intended. Additionally, the expense, aggravation and anxiety associated with recalling which computer software platform a document was initially prepared - *Microsoft or Apple* -. Added to

having to return repeatedly to either Seton Hall Law or the local library during the three to four months caused stress, anxiety and anguish that was at best described as a night mare.

71. The Easton Monroe Public Library serves a population of 6,700 citizens. It has approximately 22 desktop stations, five private rooms and approximately 10 laptop computers to accommodate visitors during its hours of operation.

72. It opened from 9:00 a.m. Monday to Friday, closes at 9:00 p.m. Monday to Thursday; Friday at 6:00 p.m.; Saturday it opens at 9:00 a.m., closes at 6:00 and Sunday it opens at 1:00 p.m. and closes at 5:00 p.m.

73. Arrival after 9:15 a.m, may result in unavailable access to a computer.

74. Depression, nervousness, stress and fear of missing timed deadlines caused problems associated with unexplained pains, aches and nervous jitteriness anxiety.

75. Aware of my legal duties, and the demands of the courts, my fears turned into stress. Emotional pangs resulted into increased visits to my treating family physician for relief.

76. Unlike my general health, visits increased during the 3 - 4 months:

Months	Medical/Express Care Visits
February 2019	1
March 2019	2
April 2019	2
May 2019	1
June 2019	1

Co-pay per visit if \$15.00. For the seven visits I - Florence R. Parker Chaille paid \$105.00. Including the civil penalty \$21,000 (7 x \$3,000). Total damages are \$21,105.00.

77. The nervous fear of missed deadlines due to lack of access to xDSL, Notices of what the various Courts sent; whether I could open the xDSL provided by Verizon and if it would disconnect in the midst of access; such caused significant emotional distress and increased the number of my Express Care visits, co-pays and prescriptions. See Affidavit's Exhibit B - PAPUC Interim Order Exhibits 1 thru 6.2 see that internal Exhibit 2 -letter to the U. S. District Court for the Middle District of Pennsylvania.

78. It is believed that the Board's Order caused further animosity and malice towards our complaints to the PAPUC about the lack of Verizon Pennsylvania, LLC's inoperable, unreasonable and inadequate telecommunication and DSL services.

WHEREFORE, for the reasons and facts stated above, in exhibits and the Order of the PAPUC, Plaintiffs request the Monroe County Court of Common Pleas consider this Affidavit submitted in support of Entry of Default Judgment against Defendant, Verizon of Pennsylvania, LLC for damages to reach to making us - Plaintiffs' - whole.

It is further, requested that the damages be compensatory and exemplary for the off the chart outrageous, indecent and unreasonable treatment characterized by being actions that seem squarely pointed at and taking advantage of seniors.

Suffered a calculated three to four months period is nothing compared to the egregious anxiety, mental anguish, loss of consortium, et al., it caused without our right to secure adequate telephone and DSL service from Verizon Pennsylvania, LLC, a recognized ILEC and is ongoing.

Despite the long period of outage lasting three to four months, it appears each and every time the weather outside rains, snows or humidity increases in this area of Pennsylvania, the equipment owned, operated and used by Verizon to provide services - telephone and DSL broadband - it is interrupted, completely or for longer than acceptable periods out service, intermittent or simply defective in its degraded delivery to our residence.

WHEREFORE: Plaintiffs seeks breach of contract damages from Verizon for the above and subsequent Counts which are incorporated by reference below.

Loss of Consortium

In Pennsylvania, when one spouse is injured, the uninjured spouse may bring a claim for monetary compensation under a theory of loss of consortium. Under Pennsylvania law, the uninjured spouse is legally entitled to compensation for the loss of all the services and companionship of the injured spouse. This includes but is not limited to the loss of marital relations. This is what a person suffers when their spouse is injured

in such a way that he or she can no longer participate in life in the same way that they did before.

Legal duties that took my wife Florence a few hours to complete typically, now took more than double that time because of the incomparable software between Apple and Microsoft platforms. The changes from one computer system at home to that of the Library to that Seton Hall School of Law caused her much emotional distress as did remembering the four different and competing court procedural time line deadline demands. As a result over the course of the four months she routinely did not to sleep in our marital bed. During the four month period she may have slept in our bed four times. When she did sleep in our marital bed, exhausted there was no ability to show affection or love making because she quickly fell fast asleep. Frightened for her health, she one of the four times in our marital bed over the four month period she slept for 19-hours interrupted only by a needed bathroom break. We routinely cooked at least one daily meal together for a consecutive three and a half months that no longer took place due to her legal work load demands. Generally a pleasant person, irritation, short and angry outbursts were commonplace. Relationship with our friends stopped completely for nearly the same period of time due to the need for my wife to be timely and manage her duties.

Due to the degraded, nonexistent and inoperable xDLS and telephone service I lost certain aspects of our relationship because of the inoperable Broadband service purchased from Verizon of Pennsylvania, LLC.

WHEREFORE, calculations to be a sum certain for loss of consortium are left to the court to determine.

PUNITIVE DAMAGES

61. The Pennsylvania Supreme Court has assessed the conduct necessary to demonstrate punitive damages, particularly as it regards the concept of reckless indifference to the rights of others. In *Martin v. Johns-Manville Corp.*, the Court relied on the Restatement Second of Torts, Section 908(2). Particularly, the court stated that a defendant's mental state must rise above gross negligence, such that their outrageous conduct is accompanied by a reckless indifference to the interests of other people.

According to the Court in *Martin*, reckless conduct requires that an individual make a conscious choice of a course of action. They must know of the serious danger posed to others. By defining "outrageous conduct" as reckless indifference, the Court intended it to require that an individual have decided to bring about the result or be aware it was substantially certain to occur.

Mental state of the defendant is an essential aspect of recovering an award of punitive damages. Plaintiff must assert that the defendant intended harm or was indifferent to the potential of causing extreme harm.

Throughout we have alleged that Verizon of Pennsylvania, LLC intended its actions. It intended to charge for services it has not delivered - Freedom Essentials. It has intended to charge for TechSure Plus, but not deliver the services of - covering the inside wiring as the advertisement stated it would. The testimony of Mr. Randy Tibbs,

Jr., that TechSure Plus applied to existing service was specious at best. The telephone service at our home existed since 2016. Further it was purchased February 22, 2019, in advance of the xDSL to be installed during March 2019.

Verizon's conduct was outrageous in the fact that it agreed to provide xDSL service into our home. By law, we were entitled to that service within 10-days of order. Ordered February 22, 2019, thereafter to face the punitive suffering of degraded, intermittent to completely inoperable xDSL and telephone service for four months is as outrageous as can be and transcends all bounds of decency in a civilized society to treat any customer with such deplorable tactics; atop demand payment of monthly bills when no service was provided is a travesty.

Further, it violates RICO for mail page 9 above for mailed billing and wired bills Exhibits G and J fraudulent electronic bills it sent between pre March 2019 thru today for *Freedom Essentials* level of service, upon testing we and friends clearly substantiated that in our home landline level of service is restricted to the 570 area code. We do not have *Freedom Essentials service that* allows for national and international calls. Yet the landline telephone cannot call Wayne, PA, 610 or New York 347 area codes.

WHEREFORE calculations for punitive damages sum certain are left to the court to determine.

We therefore move this Court to enter calculated sum certain of \$572,885.92 plus Sheriff's Return of Service of \$48.10 equals \$572,934.02 and those damages to be calculated to determine amounts for *Intentional Infliction of Emotional Distress, Loss of*

Consortium and *Punitive damages* to be calculated by the court be entered as default judgment against the defendant in the amount prayed for in the Affidavit, plus interest, and for such other relief as this Court may deem necessary and appropriate.

**CEASE AND DESIST ORDER OF PAPUC ENTERED
MARCH 31, 2020 HAS NOT BEEN COMPLIED WITH**

79. PAPUC's Board in paragraph 10 stated:

That Verizon Pennsylvania LLC is hereby directed to cease and desist from further violations of the Public Utility Code, 66 Pa. C.S. §§ 101, et seq., and the Regulations of this Commission, 52 Pa. Code §§ 1.1, et seq.

Since the PAPUC Board's March 31, 2020, Order Plaintiffs have experienced:

i. Continued fraudulent and misrepresented billing statements from Verizon of Pennsylvania, LLC charges and bills Plaintiff for *Freedom Essentials* calling plan when that level and quality of telecommunication and xDSL service has not been installed; additionally, the three to four months of outage recognized and identified by the PAPUC Board is not represented in the bill credit issued by Verizon of Pennsylvania.

A reasonably prudent person would consider reasonable, if a monthly bill is representative of what a credit should be an average bill of \$120/month, then a total amount of a four months of outage of telecommunication and xDSL is \$480.00, (\$120 x 4) ;not \$115.93 as was issued.

ii. Continued outages of xDSL has occurred on April 13, 2020 et al., see #59 above for detailed snapshot of inoperable service.

iii. Continued service of telephone. See Exhibits H and I respectively of Pamela Wyckoff and Jeanne Windbisch for material misrepresentation regarding restricted telephone service to the 570 area code and the failure of Verizon of Pennsylvania, LLC to clarify its billing for services as requested in the my email of August, 2020- Exhibit J.

Respectfully submitted,

Date: November 2, 2020

Dr. Optatus Chailla
Dr. Optatus Chailla
25 Garden Street
P.O. Box 1111
Stroudsburg, PA 18360
570 424-5386

Florence R. Parker Chailla, J.D.
Florence R. Parker Chailla, J.D.
25 Garden Street
P.O. Box 1111
Stroudsburg, PA 18360
570 534-7082

CERTIFICATION

We affirm that the foregoing statements made herein are true to the best of our knowledge and belief. We are aware that if any of the foregoing statements are willfully false, we may be subject to punishment.

Respectfully submitted,

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PROOF OF MAILING

We affirm that the Motion and Affidavit of Entry of Default Judgement was sent to Defendant's counsel Brian L. Caltristi by first class mail today at the law firm address of:

Weber & Gallagher
Attn. Brian L. Caltristi, Esq.
200 Market Street
Suite 1300
Philadelphia, PA 19103

We affirm that the foregoing statements made herein are true to the best of our knowledge and belief. We are aware that if any of the foregoing statements are willfully false, we may be subject to punishment.

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