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18 **IN THE UNITED STATES DISTRICT COURT**
19 **FOR THE DISTRICT OF ARIZONA**

20 Lydia Bultemeyer, on behalf of herself and
21 all others similarly situated,

22 Plaintiff,

23 vs.

24 CenturyLink, Inc., a foreign corporation,

25 Defendants.

No. CV-14-2530-PHX-SPL

**DEFENDANT CENTURYLINK,
INC.'S ANSWER AND
AFFIRMATIVE DEFENSES TO
PLAINTIFF'S CLASS ACTION
COMPLAINT**

26 For its answer to Plaintiff Lydia Bultemeyer's ("Plaintiff") Class Action Complaint
27 (the "Complaint"), Defendant CenturyLink, Inc.¹ admits, denies, and affirmatively alleges
28 as follows:

¹ CenturyLink, Inc. is not the proper defendant. It is a holding company and does not offer high speed internet service in Phoenix, Arizona. In responding to this Complaint, "CenturyLink" or "Defendant" refers to the named defendant, and "CTL" refers to the affiliated service in Phoenix, Arizona.

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NATURE OF ACTION

1. In response to paragraph 1 of Plaintiff’s Complaint, CenturyLink states that the Complaint speaks for itself.

JURISDICTION AND VENUE

2. In response to paragraph 2 of Plaintiff’s Complaint, CenturyLink states that this paragraph contains a legal conclusion to which no response is required. CenturyLink further states that it does not dispute the jurisdiction of this Court.

3. In response to paragraph 3 of Plaintiff’s Complaint, CenturyLink states that this paragraph contains a legal conclusion to which no response is required. CenturyLink further states that it does not dispute the venue of this Court.

THE FAIR CREDIT REPORTING ACT

4. In response to paragraph 4 of Plaintiff’s Complaint, CenturyLink states that this paragraph contains a legal conclusion to which no response is required.

5. In response to paragraph 5 of Plaintiff’s Complaint, CenturyLink states that this paragraph contains a legal conclusion to which no response is required.

6. In response to paragraph 6 of Plaintiff’s Complaint, CenturyLink states that this paragraph contains a legal conclusion to which no response is required.

7. In response to paragraph 7 of Plaintiff’s Complaint, CenturyLink states that this paragraph contains a legal conclusion to which no response is required.

8. In response to paragraph 8 of Plaintiff’s Complaint, CenturyLink states that this paragraph contains a legal conclusion to which no response is required.

9. In response to paragraph 9 of Plaintiff’s Complaint, CenturyLink states that this paragraph contains a legal conclusion to which no response is required.

10. In response to paragraph 10 of Plaintiff’s Complaint, CenturyLink states that this paragraph contains a legal conclusion to which no response is required.

11. In response to paragraph 11 of Plaintiff’s Complaint, CenturyLink states that this paragraph contains a legal conclusion to which no response is required.

PARTIES

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2 12. In response to paragraph 12 of Plaintiff’s Complaint, CenturyLink lacks
3 knowledge or information sufficient to form a belief about the truth of the allegations
4 regarding the residence of Plaintiff and, therefore, denies the same. CenturyLink further
5 states that the remaining allegations in this paragraph state a legal conclusion to which no
6 response is required.

7 13. In response to paragraph 13 of Plaintiff’s Complaint, CenturyLink states that
8 this paragraph contains a legal conclusion to which no response is required.

9 14. In response to paragraph 14 of Plaintiff’s Complaint, CenturyLink admits
10 that it is a Delaware corporation. CenturyLink denies the remaining allegations in
11 paragraph 14.

12 15. In response to paragraph 15 of Plaintiff’s Complaint, CenturyLink states that
13 this paragraph contains a legal conclusion to which no response is required.

FACTUAL ALLEGATIONS

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15 16. In response to paragraph 16 of Plaintiff’s Complaint, CenturyLink admits
16 only that it is holding company of entities that provide telecommunications services to
17 both business and residential customers, including traditional telephone and internet
18 services to customers in Phoenix, Arizona and the surrounding area. CenturyLink denies
19 the remaining allegations in paragraph 16.

20 17. In response to paragraph 17 of Plaintiff’s Complaint, CenturyLink admits
21 only that its affiliated entities provide customers the option to purchase CTL products and
22 services online via a website, www.CenturyLink.com (“CTL Website”), and that the on-
23 line purchasing process requires consumers to go through a discrete series of steps to
24 purchase CenturyLink services. CenturyLink denies the remaining allegations in
25 paragraph 17.

26 18. In response to paragraph 18 of Plaintiff’s Complaint, CenturyLink admits
27 only that, at the times when Plaintiff used the CTL Website, the on-line purchasing process
28 was a five step process: (1) “Choose Services;” (2) “Customize;” (3) “Shopping Cart;” (4)

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1 “Customer Info;” and (5) “Checkout.” CenturyLink denies the remaining allegations in
2 paragraph 18.

3 19. In response to paragraph 19 of Plaintiff’s Complaint, CenturyLink admits
4 that the first two steps of the CTL on-line purchasing process provided customers pricing,
5 product, and service information, which enabled customers to review the products and
6 services and decide whether to order the products and services without providing personal
7 information. CenturyLink denies the remaining allegations in paragraph 19.

8 20. In response to paragraph 20 of Plaintiff’s Complaint, CenturyLink admits
9 that Plaintiff visited the CTL Website on April 6, 2014 and April 18, 2014. CenturyLink
10 lacks knowledge or information sufficient to form a belief about the truth of the allegations
11 regarding Plaintiff’s intentions for visiting the CTL Website. However, upon information
12 and belief, CenturyLink alleges that, although Plaintiff presented herself as a legitimate
13 customer to CTL when visiting the CTL Website, she was actually attempting to
14 manufacture a lawsuit instead of becoming a customer. CenturyLink denies the remaining
15 allegations in paragraph 20.

16 21. In response to paragraph 21 of Plaintiff’s Complaint, CenturyLink admits
17 that Plaintiff completed and accepted steps 1 through 4 of the on-line purchasing process
18 on the CTL Website to reach step 5 for credit card payment of certain charges.
19 CenturyLink denies the remaining allegations in paragraph 21.

20 22. In response to paragraph 22 of Plaintiff’s Complaint, CenturyLink admits
21 that, on both April 6, 2014 and April 18, 2014, Plaintiff terminated at step 5 the on-line
22 purchasing she had initiated. CenturyLink lacks knowledge or information sufficient to
23 form a belief about the truth of the allegations regarding Plaintiff’s intentions for
24 abandoning the order process. However, upon information and belief, CenturyLink alleges
25 that Plaintiff abandoned her order because she had no intention to become a CTL customer
26 and instead intended to manufacture a lawsuit. CenturyLink denies the remaining
27 allegations in paragraph 22.

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1 31. In response to paragraph 31 of Plaintiff’s Complaint, CenturyLink states that
2 this paragraph contains a legal conclusion to which no response is required. CenturyLink
3 denies that certification of the class alleged by Plaintiff is appropriate.

4 32. In response to paragraph 32 of Plaintiff’s Complaint, CenturyLink states that
5 this paragraph contains a legal conclusion to which no response is required. CenturyLink
6 denies that certification of the class alleged by Plaintiff is appropriate.

7 33. In response to paragraph 33 of Plaintiff’s Complaint, CenturyLink states that
8 this paragraph contains a legal conclusion to which no response is required. CenturyLink
9 denies that certification of the class alleged by Plaintiff is appropriate.

10 34. In response to paragraph 34 of Plaintiff’s Complaint, CenturyLink states that
11 this paragraph contains a legal conclusion to which no response is required. CenturyLink
12 denies that certification of the class alleged by Plaintiff is appropriate.

13 35. In response to paragraph 35 of Plaintiff’s Complaint, CenturyLink states that
14 this paragraph contains a legal conclusion to which no response is required. CenturyLink
15 denies that certification of the class alleged by Plaintiff is appropriate.

16 36. In response to paragraph 36 of Plaintiff’s Complaint, CenturyLink states that
17 this paragraph contains a legal conclusion to which no response is required. CenturyLink
18 denies that certification of the class alleged by Plaintiff is appropriate.

19 37. In response to paragraph 37 of Plaintiff’s Complaint, CenturyLink states that
20 this paragraph contains a legal conclusion to which no response is required. CenturyLink
21 denies that certification of the class alleged by Plaintiff is appropriate.

22 38. In response to paragraph 38 of Plaintiff’s Complaint, CenturyLink states that
23 this paragraph contains a legal conclusion to which no response is required. CenturyLink
24 denies that certification of the class alleged by Plaintiff is appropriate.

25 39. In response to paragraph 39 of Plaintiff’s Complaint, CenturyLink states that
26 this paragraph contains a legal conclusion to which no response is required. CenturyLink
27 denies that certification of the class alleged by Plaintiff is appropriate.

28

1 following paragraph 48 of Plaintiff’s Complaint. Should a response be required,
2 CenturyLink denies that Plaintiff is entitled to any of the relief sought therein.

3 **TRIAL BY JURY**

4 49. In response to paragraph 49 of Plaintiff’s Complaint, CenturyLink states that
5 this paragraph contains a legal conclusion to which no response is required. To the extent
6 a response is required, CenturyLink states that the Complaint speaks for itself.

7 **AFFIRMATIVE DEFENSES**

8 1. CenturyLink, Inc. is not a proper defendant and not a real party in interest.

9 2. CenturyLink and/or CTL complied at all times with the Fair Credit
10 Reporting Act (“FCRA”).

11 3. Plaintiff has no cognizable claim for relief under the FCRA because CTL
12 had a permissible purpose for obtaining Plaintiff’s credit report. Plaintiff initiated a
13 transaction using the on-line ordering process to order CTL services on April 6, 2014.
14 Plaintiff’s affirmative acts included, after comparison shopping and selecting the desired
15 services, providing CTL with her name, email address, phone number, and date of birth.
16 Then, Plaintiff selected when she wanted to activate service, whether she wanted to
17 provide any other individuals account access, whether she wanted paperless billing, and
18 whether she wanted her existing phone number transferred to CTL. Plaintiff also approved
19 the Terms and Conditions after selecting her desired services. After Plaintiff initiated the
20 transaction by taking those steps, CTL had a legitimate business purpose to obtain her
21 credit in order to determine if the customer was legitimate and creditworthy enough to be
22 offered service by CTL.

23 4. Plaintiff has no cognizable claim for relief under the FCRA because she
24 consented to the credit check during the ordering process. Plaintiff consented to the credit
25 check by agreeing to the Terms and Conditions by clicking the box next to the words,
26 “I’ve read these terms and conditions and I accept them” before moving to the final step in
27 the order process.
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1 5. Plaintiff lacks standing to assert the claims in her Complaint because she did
2 not suffer any actual or statutory injuries or damages for which she may recover.

3 6. Plaintiff's claim is barred by the doctrine of unclean hands. She has unclean
4 hands because, upon information and belief, although Plaintiff presented herself as a
5 legitimate customer to CTL when visiting the CTL Website, she was actually attempting to
6 manufacture a lawsuit instead of becoming a customer. Indeed, Plaintiff has filed at least
7 six other complaints related to her rights as a consumer or debtor. *See Bultemeyer v.*
8 *Thunderbird Collection Specialists, Inc.*, No. 2-14-cv-02597-SRB (D. Ariz. filed Nov. 25,
9 2014) (alleging violations of the Fair Debt Collection Practices Act ("FDCPA"));
10 *Bultemeyer v. Fitness Alliance, LLC*, 2014 U.S. Dist. LEXIS 22178, 7 (D. Ariz. Feb. 20,
11 2014) (granting defendant's motion for summary judgment where, incidentally,
12 Bultemeyer had "not incurred any actual damages as a result of the alleged violation of
13 [Electronic Funds Transfer Act]"); *Bultemeyer v. IQ Data Int'l, Inc.*, No. 2:12-cv-01109-
14 GMS (D. Ariz. filed May 25, 2012) (claims of violations of the FDCPA settled July 17,
15 2012 for \$1,500.00); *Bultemeyer v. Sys. & Servs. Techs. Inc.*, No. 2:12-cv-00998-DGC (D.
16 Ariz. filed May 11, 2012) (claims of violations of the FDCPA settled Mar. 8, 2013);
17 *Bultemeyer v. IQ Data Int'l, Inc.*, No. 2:11-cv-01491-MHB (D. Ariz. filed July 29, 2011)
18 (claims of violations of the FDCPA settled Aug. 19, 2011).

19 7. Plaintiff failed to mitigate her damages, if any.

20 8. CenturyLink is entitled to recover its attorneys' fees and costs incurred in
21 defense of this action pursuant to 15 U.S.C. § 1681n(c) and/or § 1681o(b).

22 9. CenturyLink reserves the right to further amend this Answer and Affirmative
23 Defenses consistent with Fed. R. Civ. P. 8.

24 10. CenturyLink denies each and every allegation in Plaintiff's Complaint not
25 intentionally and unequivocally admitted in this Answer and Affirmative Defenses.

26 WHEREFORE, CenturyLink respectfully requests that Plaintiff's Class Action
27 Complaint be dismissed with prejudice in its entirety; for CenturyLink to recover its court
28

1 costs and attorneys' fees incurred in this action; and for such further relief as this Court
2 deems just.

3 DATED this 1st day of October, 2015.

4 BRYAN CAVE LLP

5
6 By /s/ Peter J. Korneffel Jr.
7 Peter J. Korneffel Jr.
8 Attorney for CenturyLink
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