

FILED

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ALABAMA  
SOUTHERN DIVISION

FEB -3 PM 2:17  
U.S. DISTRICT COURT  
N.D. OF ALABAMA

CARL WRIGHT, individually and on )  
behalf of others similarly situated, )

Plaintiffs, )

FELICIA D. CARTER, )

Plaintiff-Intervenor, )

vs. )

SOUTH CENTRAL BELL, BELLSOUTH )  
TELECOMMUNICATIONS, and )  
COMMUNICATIONS WORKERS OF )  
AMERICA, )

Defendants. )

Civil Action Number

93-C-1530-S

**DEFENDANT'S RENEWED MOTION FOR SUMMARY JUDGMENT**  
**BASED ON MR. WRIGHT'S FAILURE TO FILE A TIMELY EEOC CHARGE**  
**AND**  
**MOTION TO DECERTIFY THE CLASS**

Based on the Supreme Court's recent decision in *National R.R. Passenger Corp. v. Morgan*, 536 U.S. 101 (2002), and on other intervening precedent, the disparate impact claims of named Plaintiff Carl D. Wright ("Mr. Wright" or "Plaintiff") involving the Technical Telephone Ability Battery ("T-TAB") should be dismissed. Mr. Wright failed to comply with the statutory requirement of filing a charge of discrimination with the EEOC within 180 days of October 10, 1991, when he learned that he had failed T-TAB and was immediately and irrevocably disqualified for one year thereafter from all technical positions, for which passing T-TAB was required. Pursuant to Rule 56(c) of the

153

Federal Rules of Civil Procedure, Defendant BellSouth Telecommunications, Inc., formerly d/b/a South Central Bell ("Defendant"), therefore respectfully renews its motion for summary judgment on Mr. Wright's Title VII claims, which are based on T-TAB's disparate impact.

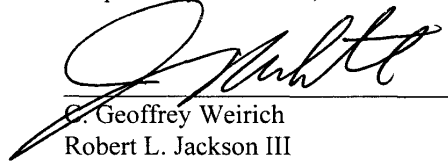
Mr. Wright cannot boot-strap his untimely EEOC charge on the improperly certified two-year class period. That most certainly would be putting the cart before the horse. Because Mr. Wright's individual disparate impact claims must be dismissed as untimely, he lacks standing to represent a class of individuals challenging T-TAB's disparate impact. Absent a representative, the class must be decertified.

WHEREFORE, Defendant respectfully prays that this motion be granted, that the claims of Plaintiff Carl D. Wright be dismissed with prejudice, and that the class be decertified.

The factual and legal grounds for this motion are set forth fully in the accompanying Memorandum.

This 3<sup>d</sup> day of February, 2003

Respectfully submitted,



Geoffrey Weirich  
Robert L. Jackson III  
W. Cory Barker  
Paul, Hastings, Janofsky & Walker LLP  
600 Peachtree Street, N.E.  
Suite 2400  
Atlanta, Georgia 30308  
Telephone: (404) 815-2400  
Facsimile: (404) 815-2424

Mark White  
White, Dunn & Booker  
2025 3rd Avenue North, Suite 600  
Birmingham, AL 35203  
Telephone: (205) 323-1888  
Facsimile: (205) 323-8907

Attorneys for Defendants South Central Bell  
and BellSouth Telecommunications, Inc.

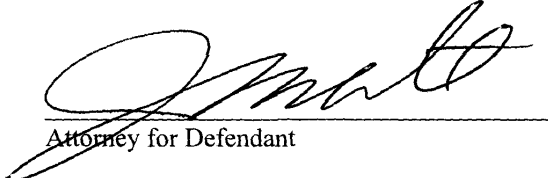
**CERTIFICATE OF SERVICE**

I hereby certify that a copy of the foregoing **DEFENDANT'S RENEWED  
MOTION FOR SUMMARY JUDGMENT BASED ON MR. WRIGHT'S FAILURE  
TO FILE A TIMELY EEOC CHARGE AND MOTION TO DECERTIFY THE  
CLASS** was served on the following counsel, via hand delivery, on

February 27, 2003:

Robert F. Childs, Jr.  
Robert L. Wiggins, Jr.  
Gordon, Silberman, Wiggins & Childs, PC  
1400 SouthTrust Tower  
420 N. 20th Street  
Birmingham, AL 35203

John L. Quinn  
Nakamura, Quinn & Walls LLP  
Landmark Center, Suite 300  
2100 First Avenue North  
Birmingham, AL 35202-4201

  
\_\_\_\_\_  
Attorney for Defendant