

CURTIS L. KENNEDY
ATTORNEY AT LAW

8405 E. PRINCETON AVE.
DENVER, CO 80237-1741
CurtisLKennedy@aol.com

TELEPHONE (303) 770-0440

FAX (303) 843-0360

February 4, 2009

ALSO ADMITTED IN:
UNITED STATES SUPREME COURT
STATE OF ARIZONA
STATE OF OKLAHOMA
STATE OF TEXAS
WASHINGTON, D.C.

Verizon Management Pension Plan Administrator
Verizon Pension Plan for New York and New England Associates Administrator
Verizon Pension Plan for Mid-Atlantic Associates Administrator
Verizon Master Trust Administrator
Verizon Employee Benefits Committee
c/o Marc Schoenecker, Assistant General Counsel - Employee Benefits
VERIZON COMMUNICATIONS, INC.
600 Hidden Ridge, HQE02J19
Irving, Texas 75038
Tele: 972-718-2903
Fax: 972-719-0034
Marc.Schoenecker@verizon.com (Marc Schoenecker, Esq.)

Idearc Pension Plan for Management Employees Plan Administrator
Idearc Pension Plan for Collectively Bargained Employees Plan Administrator
Idearc, Inc. Master Trust Administrator
Idearc Employee Benefits Committee
c/o Joe A. Garza, Jr., Vice President & Associate General Counsel
IDEARC, INC.
2200 West Airfield Drive
DFW Airport, TX 75261-9810
Tele: 972-453-7160
Fax: 972-453-6869
Joe.Garza@idearc.com (Joe Garza, Esq.)

Re: **Class-wide Administrative Claim and
ERISA Request for Plan Documents**

Plan Administrators:

This is both an administrative claim *and* a request for ERISA documents on behalf of Phillip A. Murphy, Jr., Susan A. Burke, Sandra R. Noe, Joanne Jacobsen, David L. Wibbelsman, and Claire M. Palmer (hereinafter "Claimants"), all active retired plan participants in Idearc's pension plans and former retired plan participants in Verizon's pension plans. While both Verizon's and Idearc's pension plans have clear language with respect to claims challenging denial of benefits, certainly, none of the applicable plans contain language mandating exhaustion of administrative claims for breach of fiduciary duty claims and other ERISA violations,

including interference with protected rights. Therefore, while it is Claimants' position that exhaustion of remedies for the claims asserted herein are not required under the terms of any of the applicable pension plans, Claimants proceed in good faith with this administrative process and they request Respondents to reciprocate in good faith in this endeavor. Therefore, please treat the following as a class-wide claim on behalf of all Claimants and all similarly situated *retired* pension plan participants who, too, were transferred from Verizon pension plans into the current Idearc pension plans.

In addition, Claimants ask Respondents to treat the **13** separate document requests set forth herein as ERISA Section 104(b)(4), 29 U.S.C. § 1024(b)(4), requests for documents and that Respondents timely respond accordingly.

As you must know, in early October, 2006, Verizon announced that its Board of Directors had approved the proposed spin-off of its Information Services division (i.e., domestic print and internet yellow pages directories publishing operations) to its stockholders. The spin-off was completed on or about Nov. 17, 2006 resulting in a new public company called Idearc, Inc.¹ This class-wide claim arises out of that spin-off and formation of Idearc. As part of the spin-off transaction, Verizon selected Claimants and other retired plan participants in Verizon's pension plans for transfer into Idearc pension plans. When Verizon transferred its obligation to provide Claimants' pension benefits to Idearc, Verizon also transferred pension assets. Claimants contend that Verizon pension plan fiduciaries breached duties owed, pursuant to the Employee Retirement Income Security Act of 1974, 29 U.S.C. §§ 1002, et seq. ("ERISA"), which duties were owed to Claimants and all other transferred retirees.

At the time of the spin-off, all Claimants were already retired from Verizon and receiving monthly service pension annuities paid out of Verizon's pension plans. Claimant Phillip A. Murphy, Jr., retired from NYNEX in December 1996. Claimant Susan A. Burke retired from the yellow pages division of Bell Atlantic, Corp., in July 1998. Claimant Sandra R. Noe retired from NYNEX Information Resources, Corp., in April, 1995. Claimant Joanne Jacobsen retired from Verizon Information Resources in January 2002. Claimant David L. Wibbelsman retired from NYNEX Information Resources Co., in January 1988. Claimant Claire M. Palmer retired from NYNEX Information Resources Co., in December 1996. When the spin-off occurred, all Claimants, together with over 2,000 other retirees, were involuntarily transferred from Verizon pension plans into Idearc pension plans.

Claimants do not have information to determine whether or not Verizon transferred funds sufficient to support Idearc's pension obligations to the transferred retirees. Accordingly, Claimants request Respondents produce all documents related to the establishment and operation of the Idearc pension plans, including: **1)** summaries and estimates of costs of providing benefits for transferred retirees; **2)** summaries and estimates of savings to Verizon by

¹ As a result of the spin-off, Verizon expected to reduce its outstanding indebtedness by approximately \$7 billion through a debt-for-debt exchange as described in the Form 10 Registration Statement filed with the Securities and Exchange Commission.

transferring retirees; **3)** summaries and estimates of administrative costs associated with administering pension benefits for all transferred retirees; and **4)** actuarial studies, funding projections, estimates and final reports concerning pension assets expected to be transferred and confirming the transfer of assets to Idearc for payment of pension liabilities.

Claimants understand that Verizon did not transfer any funds to Idearc for purposes of Claimants' welfare benefits (i.e., medical, dental and life). If this understanding is incorrect, please advise.

Claimants contend that the decision to take them out of the well funded Verizon pension plans and master trust and place them into an upstart company's pension plans was not an act in their best interest. Furthermore, Claimants contend that removing them from the Verizon pension plans was a violation of their contractual rights under the Verizon pension plans and in violation of the controlling terms. Accordingly, all Claimants contend there has been a violation of ERISA Section 404(a)(1), 29 U.S.C. § 1104(a)(1).

ERISA Section 404(a)(1) provides that fiduciaries must discharge their duties "(B) with the care, skill, prudence, and diligence under the circumstances then prevailing that a prudent man acting in a like capacity and familiar with such matters would use in the conduct of an enterprise of a like character and with like aims." 29 U.S.C. § 1104(a)(1)(B). "As this section suggests, the duties of an ERISA fiduciary are not limited by that statute's express provisions but instead include duties derived from common law trust principles. "[R]ather than explicitly enumerat[e] all of the . . . duties [of ERISA fiduciaries], Congress invoked the common law of trusts to define the general scope of their . . . responsibility." *Eddy v. Colonial Life Ins. Co.*, 919 F.2d 747, 750 (D.C. Cir. 1990), quoting *Cent. States, SE & SW Areas Pension Fund v. Cent. Transp., Inc.*, 472 U.S. 559, 570, 105 S.Ct. 2833, 2840 (1985) (additional citations omitted). Courts have ruled this statutory provision imposes an unwavering duty on an ERISA plan fiduciary "to make decisions with single-minded devotion to a plan's participants and beneficiaries and, in so doing, to act as a prudent person would act in a similar situation." *Adams v. Avondale Indus., Inc.*, 905 F.2d 943, 946 (6th Cir.1990) (quoting *Morse v. Stanley*, 732 F.2d 1139, 1145 (2d Cir.1984)).

Claimants contend that as of the date the spin-off was concluded - November 17, 2006 - and they had been selected for transfer to Idearc pension plans, none of the then existing terms of the applicable Verizon pension plans authorized such activity. While the applicable Verizon pension plans each contain a specific provision allowing for mergers and consolidations of the pension plans, as of November 17, 2006 there were no existing terms that either specifically allowed either a spin-off or involuntary transfer of retired pension plan participants into a newly formed pension plan. Claimants contend that Verizon amended the pension plans after the fact, almost a month after the spin-off and creation of Idearc. The pension plan amendments were executed and dated December 22, 2006.

For instance, there is a 'Fourteenth Amendment to the Verizon Management Pension Plan' dated and executed by Marc C. Reed, EVP-Human Resources which belated plan

amendment provides, in pertinent part:

3. Effective November 17, 2006, the following new Schedule XLV is hereby added to the Plan:

SCHEDULE XLV

A. For each former Employee who:

(1) on November 1, 2006 or the date on which the shares of Idearc Inc. were spun-off to the shareholders of Verizon Communications, Inc. (The “spin-off date”), was employed by Idearc Inc. or an entity that after the spin-off date is an “Affiliate” as defined in Article II with respect to Idearc Inc. or

(2) is not described in (1), but whose employment with an Affiliate before the spin-off date has been determined by the Plan Administrator to have been with Idearc, Inc., an entity that after the spin-off date is an “Affiliate” as defined in Article II with respect to Idearc, Inc., or a predecessor of either, and:

(a) had an accrued benefit under the Plan that had been fully cashed-out before the spin-off date, or

(b) had an accrued benefit under the Plan as of the spin-off date which he was eligible to receive as a retirement or early retirement pension (i.e., **other than as a deferred pension**) and which had not previously been paid in full (whether or not payments had begun to the individual or his beneficiary),

assets and liabilities for benefit obligations under the Plan, if any, for employment before the spin-off date, including the related Net Credited Service and Pension Accrual Service and any right to restoration of such service following a break in employment, cash-out, forfeiture, or otherwise under any provision of the Plan, shall be transferred from the Plan to the Idearc Pension Plan for Management Employees (the “Idearc Plan”). (emphasis added). ²

Even more troubling is the fact that when Verizon’s retirees were transferred to Idearc, there was no pension plan document in existence at Idearc! Indeed, the Idearc Management Pension Plan document was not created until October 17, 2007, almost a year after the fact, when Idearc Senior Vice President Georgia R. Scaife signed the document.

On January 26, 2009, the United States Supreme Court entered a unanimous decision in the case of *Kennedy v. Plan Administrator for DuPont Savings and Investment*, --- S.Ct. ---, 2009 WL 160440, U.S., January 26, 2009 (NO. 07-636). The outcome of the *Kennedy* case turned on whether or not there had been compliance with the plan’s specific terms, the “plan documents rule.” Justice Souter, writing for the Court, pointed out that the “case does as well as any other in pointing out the wisdom of protecting the plan documents rule” The Court ruled that there is a “bright-line requirement to follow plan documents in distributing benefits”. The

² There is a nearly identically worded December 22, 2006 dated plan amendment for the Verizon Pension Plan for New York and New England Associates, now set forth in Article 5.11 on page 51 of the newly restated governing document, since some of those retiree plan participants were transferred into the Idearc Pension Plan for Collectively-Bargained Employees.

Court's ruling confirms that ERISA provides no exception to the plan administrator's duty to act in accordance with plan documents:

The plan administrator is obliged to act "in accordance with the documents and instruments governing the plan insofar as such documents and instruments are consistent with the provisions of [Title I] and [Title IV] of [ERISA]," § 1104(a)(1)(D), and the Act provides no exemption from this duty when it comes time to pay benefits.

(*Id.* at p. 11). See also, *Allison v. Bank One-Denver*, 289 F.3d 1223, 1236 (10th Cir. 2002) ("we have repeatedly rejected efforts to stray from the express terms of a plan, regardless of whom those express terms may benefit.").

Claimants contend the December 22, 2006 dated plan amendments made retroactive should be declared null and void. As of November 17, 2006 when the retirees were transferred, the pension plan administrators did not act in accordance with then existing rules. Despite any announcement by Verizon to its retirees that they would be transferred to Idearc and despite any informal understanding on the part of Verizon and Idearc there would be a transfer of retirees, on November 17, 2006 the pension plan documents were not in order so as to allow any transfer of retirees. The express terms of the pension plans were violated. In other words, when retirees were transferred, there was a violation of the "plan documents rule", ERISA Section 404(a)(1)(D), 29 U.S.C. § 1104(a)(1)(D), and all Claimants and transferred have been prejudiced by this conduct.

Furthermore, Claimants question the discriminatory treatment with respect to transferring retirees. No retiree with a deferred vested pension benefit was transferred, as they were exempt as shown in the above quoted language in the 14th plan amendment to the Verizon Management Pension Plan. Claimants ask why were the deferred vested pensioners left secure in the Verizon pension plans while those on current pay status were transferred to their detriment over to the less financially secure Idearc pension plans. The action taken demonstrates an intent to get rid of active pay status retirees, so as to interfere with their rights to attainment of future pension and welfare benefits. Certainly, by getting rid of all the active pay status retirees, Verizon was relieved of on-going responsibilities to pay welfare benefits (i.e., medical, dental and life) which enormous expenses are charged to Verizon's operating revenues. This brings into question whether there has been an ERISA Section 510, 29 U.S.C. § 1140 violation. Please treat Claimant's claim as one asserting such a violation.

It is Claimants' understanding that since 2006, there have been two separate spin-offs concerning portions of Verizon businesses, covered employees and pension assets. Of course, the first spin-off concerned the creation of Idearc. A second spin-off concerned the transfer of employees and pension assets to FairPoint Communications Northern New England.

In both instances, the applicable Verizon pension plans assigned the task of identifying and determining the participants to be transferred to the Plan Administrator (i.e., the Verizon

Employee Benefits Committee). Claimants find it most peculiar that Verizon gave the Plan Administrator, a fiduciary, the responsibility for determining what “Eligible Employees” should be transferred to Idearc. Usually that job is a plan sponsor activity making the action immune from legal challenge under federal law ERISA on the grounds there has been a breach of fiduciary duty. But here, the assignment of determining who would be transferred to Idearc’s pension plans was given to the plan fiduciaries. Thus, this activity constituted discretionary plan administration subject to ERISA’s fiduciary duty standards. Claimants challenge the selection of them and all other retired plan participants as conduct amounting to a breach of ERISA Section 404 fiduciary duties.

After plan administrators/fiduciaries carried out the transfer of retirees to Idearc, the first spin-off, they acted differently when carrying out the second spin-off. Claimants understand that there exists a document entitled “Amendment No. 2 to the Verizon Pension Plan for New York and New England Associates, Restated with Amendments through December 31, 2006” which document concerns transfer of workers and pension assets to FairPoint Communications.³ That document is dated April 17, 2008. It provides that for each “Eligible Employee” who was determined by the Plan Administrator (i.e., the Verizon Employee Benefits Committee) to have been last employed with Northern New England Spinco, Inc. or its predecessors, the pension assets and liabilities for benefit obligations under the Plan shall be transferred from the Plan to FairPoint Communications Northern New England Pension Plan for Represented Employees (the “FairPoint Plan”). Claimants understand that while Verizon transferred “Eligible Employees” to the FairPoint Plan, no person already in retirement status was transferred to the FairPoint Plan. Apparently, plan administrators were looking out for the best interest of retirees when carrying out the spin-off to the FairPoint Plan. If this information is incorrect, please advise.

Idearc, Inc. reports in its Form 10-K filed with the Securities Exchange Commission that the company “was formed as a Delaware corporation in June 2006 in anticipation of the spin-off from Verizon.”⁴ Therefore, Verizon’s pension plan fiduciaries had almost ½ year to think about the consequences of involuntarily switching retirees over to Idearc. Claimants complain that Verizon pension plan fiduciaries did not seek the opinion of an independent pension plan fiduciary to guide them in the decision whether or not to transfer retired plan participants. Moreover, Claimants contend the Verizon pension plan fiduciaries did not promote the best interests and protect the welfare of retired plan participants. ERISA fiduciaries are “. . . obliged at a minimum to engage in an intensive and scrupulous independent investigation . . . to insure that they act in the best interests of the plan beneficiaries.” *Fought v. UNUM Life Ins. Co. of Am.*, 379 F. 3d. 997, 1013 (10th Cir. 2004) (citing *Hightshue v. AIG Life Ins. Co.*, 135 F.3d 1144, 1148 (7th Cir. 1998)). When Verizon pension plan fiduciaries begin selecting retired plan

³ In Mr. Schoenecker states in his letter dated November 7, 2008 in response to Pam Harrison’s ERISA document request that he has not produced Amendment No. 1 because it has not yet been adopted by Verizon. Claimants have no idea about the subject matter of this undisclosed Amendment No. 1 not yet adopted. In any event, they hereby request disclosure of this document.

⁴ Idearc, Inc. Form 10-K for year 2007 at p. 1.

participants to be transferred, they were faced with a true conflict of interest and, consequently, the plan fiduciaries should have (1) resigned and quit serving as a plan fiduciaries and they should have secured the appointment of persons or an entity free from a conflict of interest, and (2) informed the soon to be transferred retirees that Idearc might not be a reliable source of pension and welfare benefits and that they might need to make alternative arrangements for the welfare benefits they had become accustomed to receiving as participants in Verizon's employee benefit plans. See *Holdeman v. Devine*, 474 F.3d 770, 782-83 (10th Cir. 2007) (remanding and instructing trial court to consider those issues). By not taking any such action, all Verizon pension plan administrators and fiduciaries involved in the decision to transfer retirees violated their duty of loyalty to Claimants all other retired plan participants.

Claimants contend a prudent plan fiduciary charged with a duty of loyalty and having responsibility to act in the best interests of Claimants and other retired plan participants and beneficiaries would want to take whatever action was necessary to protect their rights to remain within the better maintained Verizon pension plans. The duty to take action is well rooted in the common law of trusts, as reiterated by the distinguished appellate panel in *Eddy*:

as Judge Cardozo noted more than 70 years ago: "The trustee is free to stand aloof, while others act, if all is equitable and fair. He cannot rid himself of the duty to warn and to denounce, if there is improvidence or oppression, either apparent on the surface or lurking beneath the surface, but visible to his practiced eye."

Eddy, supra, 919 F. 2d at 752 (citing *Globe Woolen Co.*, 224 N.Y. at 489, 121 N.E. at 380). In that regard, Claimants hereby request disclosure of any opinion given to Verizon's pension plan fiduciaries by an independent pension plan fiduciary and opinions provided by legal counsel.

Claimants are concerned that Verizon pension plan administrators/fiduciaries were motivated by company interests, or self-dealing consideration. Obviously, the outcome of the transfer soon proved to be imprudent and manifestly adverse to Claimants' financial interests. Not long after being transferred into Idearc pension plans, Claimants and all other transferred retirees suffered loss of retirement benefits not witnessed by those who stayed behind in the more secure Verizon pension plans. The evidence proves that Idearc is a much less stable or secure sponsor of its employee benefit plans. Certainly, Claimants cannot expect any improvement in benefits and they have good reason to look forward to further cuts in benefits and they believe their pension benefits may be in jeopardy. Claimants expect when Idearc makes required disclosure of the year end 2008 pension plan funding status, there will be disappointing if not alarming news. In short, Claimants contend Verizon pension plan administrators/fiduciaries acted underhanded and abused their discretion when involuntarily transferring retirees and putting them into a less desirable financial predicament.

Claimants were vested in their pensions and no one obtained their consent to be transferred out of the better funded and well maintained Verizon pension plans into the care of a novice. Had Claimants and all other retirees stayed put, there would have been continued savings in administrative costs. Due to the transfers of retirees there is duplication and wasteful

unnecessary administrative cost, all of which could have been avoided. Since those costs are charged to the pension funds, the costs erode the financial security for all transferred retirees. Idearc plan administrators/fiduciaries should have stepped into the foray and advocated against having the retirees transferred, because the transfers needlessly caused increased costs of administering the soon to be established Idearc pension plans. Accordingly, Claimants contend that since the Idearc plan administrators/fiduciaries either acquiesced or consented to the unnecessary and involuntary transfer of retirees from Verizon pension plans over to Idearc pension plans, those plan administrators/fiduciaries did not meet their ERISA fiduciary duties of “defraying reasonable expenses of administering the plan.” ERISA Section 404(a)(1)(A)(ii), 29 U.S.C. § 1104(a)(1)(A)(ii).

Claimants request Respondents produce documents disclosing the identities of the plan administrator decision makers and reflecting their meetings concerning transferring retirees, including the following documents: **5)** notices, agenda, documents presented or distributed at or in preparation for such meetings, and minutes of such meetings, including any summaries or notes of such meetings; **6)** all employee matters agreements;⁵ **7)** reports discussing, explaining and describing any curtailment gain or settlement gain on Verizon’s financial statements as a result of the transfer of retirees; **8)** legal opinions with respect to Verizon plan administrators’ decisions to transfer retirees, including all related communications from legal counsel advising plan fiduciaries and plan administrators; and **9)** reports, opinions by independent fiduciaries and consultants with respect to Verizon plan administrators’ decision to transfer retirees.

To date, Claimants have not been informed whether the spin-off transaction was approved by the Treasury Department and whether the Idearc pension plans have been qualified under the Internal Revenue Code and applicable Treasury Department regulations. Therefore, Claimants request Respondents produce the following documents: **10)** documents reflecting application made to the IRS for approval of the transfer of retirees and pension assets and qualification of the pension plans, as well as letters and responses by the IRS.

Claimants demand that their status as transferred retirees into Idearc pension plans be rescinded and that Respondents agree that Claimants and all other transferred retirees be restored to their former status as participants in Verizon’s pension plans. It is *not* in Claimants’ best interests to continue in the retirement rolls of Idearc, a sentiment shared by all other transferred retirees. No one can dispute that Idearc does not have the financial wherewithal to maintain the

⁵ Despite a August 13, 2008 dated ERISA Section 104(b) document request by Claimants Claire Palmer and Sandra Noe for, *inter alia*, “[a]ll other documents created *since January 2006* under which the pension plans and the master trust are established and operated within the meaning of ERISA Section 104(b)(4),” to date, Idearc has failed to provide Claimants with any “Employee Matters” or “Employee Benefits Agreement” which documents concern the establishment of Idearc’s pension plans. Idearc’s Form 10-K for year 2007 lists as Exhibit 10.8 a document described as “Employee Matters Agreement, dated November 17, 2006, between Verizon Communications Inc. and the Registrant (incorporated by reference to Exhibit 10.8 to the Registrant’s Current Report on Form 8-K, filed November 21, 2006).” That document should have been *timely* produced.

same level of retiree benefits comparable to what Verizon maintains for its retirees.⁶

In the event this claim is denied, Claimants wish to gather additional information with respect to the administration of the Idearc pension plans. In addition to those document requests set forth hereinabove, Claimants seek the following: **11)** all amendments and appendices created and adopted *since September 2008* to the controlling/governing plan documents for the pension plans and the master trust, together with all summary of material modifications from *September 2008* to the present; **12)** all resolutions and actions *since September 2008* by the Idearc Board of Directors, the Idearc Plan Design Committee, the Idearc Employee Benefits Committee and Idearc Pension Plan administrators concerning the pension plans and the trusts; and **13)** all other documents created *since September 2008* under which the pension plans and the master trust are established and operated within the meaning of ERISA Section 104(b)(4), including asset allocation policy/guidelines and investment policy/guidelines and proxy voting guidelines.

Please promptly email me to acknowledge receipt of this class-wide claim letter and advise me of the cost of photocopies which charge will promptly be paid. Of course, all requested documentation can be emailed to CurtisLKennedy@aol.com, as that is the preferred manner of delivery/receipt.

Sincerely,



Curtis L. Kennedy

Claimants:

Philip A. Murphy, Jr. 25 Bogastow Circle Mills, MA 02054 phil.murphy@polimortgage.com (Phillip Murphy, Jr.)	Joanne Jacobsen 456 Cerromar Road, # 167 Venice, FL 34293 Jjacobsen2@hotmail.com (Joanne Jacobsen)
Susan A. Burke 2 Berube Road Salem, MA 01970 Susanburke2001@yahoo.com (Susan Burke)	David L. Wibbelsman 4052 Eagle Nest Lane Danville, CA 94506 dlwibbe@aol.com (David Wibbelsman)
Sandra R. Noe 72 Mile Lane Ipswich, MA 01938 capsan@comcast.net (Sandra R. Noe)	Claire M. Palmer 26 Crescent Street West Newton, MA 02465-2008 priesing@aol.com (Claire M. Palmer)

⁶ Soon after the November 17, 2006 spin-off, Idearc common stock rose to about \$23.00 per share. On October 24, 2008, Idearc received notice from the New York Stock Exchange that it is not in compliance with continued listing standards because the 30 trading-day average closing price of Idearc common stock was less than \$1.00 per share. Now, Idearc's common stock trades over the counter on the Pink Sheets under the trading symbol of IDAR. Currently, the closing price of Idearc common stock is *less* than \$0.10 per share.