

SEP. 3 1992

Decision 92-09-019 September 2, 1992

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

CONTINENTAL CELLULAR, INC.,
a California corporation,

Plaintiff,

vs.

PAC TEL CELLULAR, a California
corporation; PACIFIC TELESIS
COMPANY, business entity
unknown; LOS ANGELES SMSA
LIMITED PARTNERSHIP; and DOES 1
through 50, inclusive,

Defendants.

Case 92-03-047
(Filed March 23, 1992)

O P I N I O N

Continental Cellular, Inc. (Continental), a California corporation, complains of Los Angeles SMSA Limited Partnership (LASLP), and others, that defendants breached their contract with complainant, interfered with complainant's prospective business relations, and engaged in unfair trade practices. Continental requests injunctive relief and damages of at least \$4,000,000. LASLP timely filed its answer together with Motions to Dismiss, the motions stating:

"Rule 10 of the Commission's Rules of Practice and Procedure require that a complaint advise the Commission and the defendant of the facts constituting the grounds of the complaint and the injury suffered. Continental has alleged no facts showing a violation of LASLP's tariffs and, as such, it has failed to comply with the requirement of CPUC Rule 10 and, for that reason, inter alia, the complaint should be dismissed.

"Rule 10 of the Commission's Rules of Practice and Procedure requires that a complainant state its full name. On information and belief, LASLP

alleges Continental is in bankruptcy and its assets (including any alleged claims under this complaint) are in the possession of an entity other than Continental and, as such Continental has failed to properly identify itself in its complaint. The complaint should be dismissed because, inter alia, Continental failed to provide its full name as required by Rule 10.

"Rule 10 of the Commission's Rules of Practice and Procedure requires that a complainant state its address and telephone number. Continental has not done so and, for that reason, inter alia, the complaint should be dismissed. Notwithstanding the uncertainty caused by Continental's failure to provide LASLP or the Commission with any information with which LASLP may contact Continental, LASLP has attempted to serve a copy of its Answer and Motions to Dismiss on Continental by mailing a copy to Continental's last known address."

On May 19, 1992, the administrative law judge (ALJ) assigned to this case issued the following ruling:

"I have reviewed the complaint and answer in this case and find that the answer and the several motions to dismiss have merit. Plaintiff should, however, have the opportunity to amend its complaint to state a cause of action of which this Commission should take jurisdiction.

"IT IS RULED that:

- "1. Plaintiff should amend its complaint to comply with Rule 10, Rules of Practice and Procedure.
- "2. Plaintiff should respond to the motions to dismiss filed by defendant.
- "3. The amendment and response should be filed on or before June 15, 1992."

The ruling was mailed to Continental Cellular, Inc., Attn: Mr. Larry Williams, 328 Beverly Drive, Beverly Hills, CA 90212. As complainant did not state its address and telephone

number in its complaint, the ruling was sent to the address for complainant which was supplied by defendant.

Complainant has not filed an amendment to its complaint and has not otherwise communicated with the ALJ. Accordingly, the complaint should be dismissed as not having been prosecuted with reasonable diligence and as not being in compliance with Rule 10, Rules of Practice and Procedure.

O R D E R

IT IS ORDERED that the complaint is dismissed and the docket is closed.

This order is effective today.

Dated September 2, 1992, at San Francisco, California.

DANIEL Wm. FESSLER
President
JOHN B. OHANIAN
NORMAN D. SHUMWAY
Commissioners

Commissioner Patricia M. Eckert,
being necessarily absent, did
not participate.

I CERTIFY THAT THIS DECISION
WAS APPROVED BY THE ABOVE
COMMISSIONERS TODAY


NEAL J. SCHULMAN, Executive Director