

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF KANSAS**

FAYE P. ABBOTT, et al.,	)	
	)	
Plaintiffs,	)	CIVIL ACTION
	)	CASE NO. 11-CV-2572 (EFM/GLR)
v.	)	
	)	
SPRINT NEXTEL CORPORATION, et al.,	)	
	)	
Defendants.	)	

**DEFENDANTS’ ANSWER TO SECOND AMENDED COMPLAINT**

Defendant Sprint Nextel Corporation (“Sprint Nextel”), Sprint Communications, Inc., and Randall T. Parker (“Parker”) (collectively, “Defendants”), through their attorneys, answer Plaintiffs’ Second Amended Complaint (“Complaint”) as follows:

**Answer to Allegations Captioned “Procedural Introduction”**

Defendants state that the text under the caption “Procedural Introduction” includes conclusions of law and statements of Plaintiffs’ intent to which no responsive pleading is required. To the extent a response is required, Defendants admit the allegations in paragraphs (d) and (e) and deny all other allegations for lack of knowledge or information.

**Answer to Allegations Captioned “Introduction”**

Defendants state that the text under the caption “Introduction” includes conclusions of law, statements of Plaintiffs’ intent, and statements concerning prior proceedings in this lawsuit and a related lawsuit to which no responsive pleading is required. To the extent any response is required, Defendants deny the allegations in the first three sentences of that text for lack of knowledge or information, and deny the remaining allegations.

**Answer to Allegations in Numbered Paragraphs**

1. Defendants state that the allegations in paragraph 1 constitute conclusions of law to which no responsive pleading is required, and deny those allegations for lack of knowledge or information to the extent any response is required.

2. Defendants state that the allegations in paragraph 2 constitute conclusions of law to which no responsive pleading is required, and deny those allegations for lack of knowledge or information to the extent any response is required.

3. Defendants deny the allegations in paragraph 3 for lack of knowledge or information.

4. Defendants admit that Sprint Nextel was a corporation incorporated under the laws of the State of Kansas, with its principal place of business in Overland Park, Kansas, and is now known as Sprint Communications, Inc.; admit that Sprint Communications, Inc. may be properly served by appropriately serving its Kansas Registered Agent; admit that Sprint Nextel was formerly known as United Utilities, Incorporated, United Telecommunications, Inc., and Sprint Corporation; state that the allegations in the last two sentences of paragraph 4 state conclusions of law to which no responsive pleading is required, and deny those allegations to the extent any response is required; and deny the remaining allegations of paragraph 4 for lack of knowledge or information.

5. Defendants state that certain allegations in paragraph 5 purport to characterize documents that speak for themselves, and deny these allegations to the extent they are inconsistent with the documents; state that the remaining allegations of paragraph 5 constitute conclusions of law to which no responsive pleading is required, and deny those allegations to the extent any response is required.

6. Defendants deny the allegations that employees and agents of Defendant Sprint Nextel and its predecessors in interest, including Parker and any individuals identified in Appendix A, acting in a fiduciary capacity, made any material promises or representations to Plaintiffs regarding their alleged lifetime rights to post-retirement benefits from the plans at issue in the Complaint; deny that any such alleged statements were within the course and scope of these individuals' employment or fiduciary agency; and deny all remaining allegations of paragraph 6 for lack of knowledge or information.

7. Defendants deny the allegations in paragraph 7.

8. Defendants admit that Parker is a Kansas resident; state that the allegations in the second sentence of paragraph 8 constitute conclusions of law to which no responsive pleading is required, and deny those allegations to the extent a response is required; deny the remaining allegations of paragraph 8.

9. Defendants state that the allegations in paragraph 9 constitute conclusions of law to which no responsive pleading is required, and deny those allegations to the extent any response is required.

10. Defendants state that the allegations of the first two sentences of paragraph 10 state legal conclusions to which no responsive pleading is required, and deny those allegations to the extent any response is required; deny the allegations in the last two sentences of paragraph 10. Insofar as paragraph 10 incorporates information in Appendix A, Defendants deny the allegations in Column E of Appendix A regarding Parker's alleged statements to Plaintiff Robert Harris, deny all allegations in Column E regarding the contents of documents on the ground that those documents speak for themselves, deny on information and belief all other allegations in

Column E, and deny that any of the alleged facts and circumstances described in Column E constitute fraud or concealment.

11. Defendants deny the allegations in paragraph 11.

12. Defendants deny the allegations in paragraph 12.

13. Defendants admit that they have asserted in this action and in *Fulghum* that they believed (correctly) that the retiree benefits at issue in those lawsuits were terminable, and state that they so advised Plaintiffs; deny the remaining allegations in the second sentence of paragraph 13 for lack of knowledge or information as to the meaning of those allegations, including the allegation that “the company believed that the retiree benefits ... were not at all secure or dependable”; deny the remaining allegations in paragraph 13.

14. Defendants deny all allegations in paragraph 14. Insofar as paragraph 14 incorporates information in Appendix A, Defendants deny all allegations in Column E of that appendix regarding Parker’s alleged statements to Plaintiff Robert Harris, deny all allegations in Column E regarding the contents of documents on the ground that those documents speak for themselves, deny on information and belief all other allegations in Column E, and deny that any of the alleged facts and circumstances described in Column E constitute misleading written or oral affirmative misrepresentations of material information.

15. Defendants deny the allegations in paragraph 15.

16. Defendants deny the allegations in paragraph 16 for lack of knowledge or information in light of the vagueness and ambiguity of those allegations.

17. Defendants state that the terms of the Voluntary Employment Benefit Association plan are set forth in documents that speak for themselves, and deny the allegations in paragraph 17 to the extent they are inconsistent with such documents; deny the allegations in the second

sentence of paragraph 17 for lack of knowledge or information as to the meaning of those vague allegations; deny all remaining and inconsistent allegations of paragraph 17.

18. Defendants state that the terms of what the Complaint refers to as the “Grandfathered Life Insurance” plan are set forth in documents that speak for themselves, and deny the allegations in paragraph 18 to the extent they are inconsistent with such documents; deny the allegations in footnote 1 to paragraph 18.

19. Defendants state that the terms of what the Complaint refers to as the “Grandfathered Life Insurance” plan are set forth in documents that speak for themselves, and deny the allegations in paragraph 19 to the extent they are inconsistent with such documents.

20. Defendants deny the allegations in paragraph 20.

21. Defendants deny the allegations in paragraph 21.

22. Defendants state that paragraph 22 purports to characterize an “Employee Bulletin” that speak for itself, and deny the allegations in paragraph 22 to the extent they are inconsistent with such document; deny for lack of knowledge or information the allegations in paragraph 22 regarding whether and when CT&T employees received such document.

23. Defendants deny the allegations in paragraph 23.

24. Defendants state that the last sentence of paragraph 24 purports to characterize a document that speak for itself, and deny the allegations in that sentence to the extent they are inconsistent with such document; deny all remaining allegations in paragraph 24.

25. Defendants state that paragraph 25 purports to characterize e-mails that speak for themselves, and deny the allegations in paragraph 25 to the extent they are inconsistent with such e-mails.

26. Defendants state that paragraph 26 purports to characterize insurance contracts that speak for themselves, and deny the allegations in paragraph 26 to the extent they are inconsistent with such contracts; deny all remaining allegations of paragraph 26.

27. Defendants deny the allegations in the first sentence of paragraph 27 for lack of knowledge or information; deny the allegations in the second sentence of paragraph 27, including the allegation that plaintiffs were “forced” to take any action.

28. Defendants deny for lack of knowledge or information the allegation in paragraph 28 that plaintiffs generally declined the opportunity to obtain optional life insurance coverage, either through Defendants’ own programs or on the open market; deny all remaining allegations in paragraph 28.

29. Defendants deny the allegations in paragraph 29.

30. Defendants deny the allegations in paragraph 30.

31. Defendants state that paragraph 31 purports to characterize documents that speak for themselves, and deny the allegations in paragraph 31 to the extent they are inconsistent with such documents; deny the allegation that Embarq is a Defendant; deny the remaining allegations of paragraph 31.

32. Defendants state that the second sentence of paragraph 32 purports to characterize a document that speaks for itself, and deny the allegations in paragraph 32 to the extent they are inconsistent with such document; deny all remaining allegations in paragraph 32.

33. Defendants state that paragraph 33 purports to characterize a document that speaks for itself, and deny the allegations in paragraph 33 to the extent they are inconsistent with such document; deny all remaining allegations of paragraph 33.

34. Defendants deny the allegations in paragraph 34.

35. Defendants deny the allegations in paragraph 35.

36. Defendants state that paragraph 36 purports to characterize a Flexcare plan document that speaks for itself, and deny the allegations in paragraph 36 to the extent they are inconsistent with such document; deny all remaining allegations of paragraph 36, including the allegations that defendants concealed information from plaintiffs and did not reserve or clearly and conspicuously communicate the right to reduce or terminate benefits.

37. Defendants admit that Sprint Corporation completed its merger with Centel Corporation in or around March 1993 and that Centel Corporation sponsored certain welfare benefit plans for its employees and retirees; deny the remaining allegations of paragraph 37.

38. Defendants state that paragraph 38 purports to characterize a document that speaks for itself, and deny the allegations in paragraph 38 to the extent they are inconsistent with such document; deny all remaining allegations of paragraph 38.

39. Defendants state that paragraph 39 purports to characterize documents that speak for themselves, and deny the allegations in paragraph 39 to the extent they are inconsistent with such documents; deny all remaining allegations of paragraph 39, including the allegation that some retirees, including some Plaintiffs, were “forced” to take any action.

40. Defendants deny the allegations in paragraph 40.

41. Defendants deny the allegations in paragraph 41.

42. Defendants deny the allegations in paragraph 42.

43. Defendants deny the allegations in paragraph 43. Insofar as paragraph 43 incorporates information in Appendix A, Defendants deny the allegations in Column E of that appendix regarding Parker’s alleged statements to Plaintiff Robert Harris, deny all allegations in Column E regarding the contents of documents on the ground that those documents speak for

themselves, deny on information and belief all other allegations in Column E, and deny that Defendants, acting through their fiduciary employees and agents, made any affirmative material misrepresentations to any Plaintiff.

44. Defendants deny the allegations in paragraph 44. Insofar as paragraph 44 incorporates information in Appendix A, Defendants deny all allegations in Column F of Appendix A, including the allegations that Defendants' alleged misrepresentations and omissions caused Plaintiffs any harm or damage or caused them to take the actions or incur the losses described in that column.

45. Defendants state that paragraph 45 purports to characterize documents that speak for themselves, and deny the allegations in paragraph 45 to the extent they are inconsistent with such documents; deny all remaining allegations of paragraph 45.

46. Defendants state that paragraph 46 purports to characterize documents that speak for themselves, and deny the allegations in paragraph 46 to the extent they are inconsistent with such documents; deny all remaining allegations of paragraph 46.

**ANSWER TO "COUNT ONE"**

47. Defendants incorporate by reference their responses to paragraphs 1 through 46.

48. Defendants state that the allegations in paragraph 48 constitute conclusions of law to which no responsive pleading is required, and deny these allegations to the extent they are inconsistent with the statute or do not describe the statute in its entirety.

49. Defendants state that the allegations in paragraph 49 constitute conclusions of law to which no responsive pleading is required, and deny these allegations to the extent they are inconsistent with the statute and/or regulation or do not describe the statute and/or regulation in their entirety.



50. Defendants state that the allegations in paragraph 50 constitute conclusions of law to which no responsive pleading is required, and deny these allegations to the extent they are inconsistent with the statute or do not describe the statute in its entirety.

51. Defendants deny the allegations in paragraph 51.

52. Defendants deny the allegations in paragraph 52.

53. Defendants deny the allegations in paragraph 53.

54. Defendants state that the allegations in paragraph 54 constitute conclusions of law to which no responsive pleading is required, and deny those allegations to the extent any response is required.

55. Defendants deny the allegations in paragraph 55.

56. Defendants deny the allegations in paragraph 56.

57. Defendants deny the allegations in paragraph 57.

Defendants deny all allegations not specifically admitted above, and deny Plaintiffs are entitled to any of the relief sought in the Prayer for Relief.

### **DEFENSES**

1. Plaintiffs' Complaint fails to state a claim upon which relief can be granted.
2. Plaintiffs' claims are time-barred under ERISA's statutes of repose and limitations.
3. The conduct upon which Plaintiffs' claims are based was not fiduciary conduct.
4. Plaintiffs' claims against each Defendant are barred in whole or in part to the extent such Defendant was not a fiduciary with respect to the applicable plan.
5. Plaintiffs and/or their claims are not properly joined in this action.
6. Plaintiffs' claims are barred in whole or in part by their failure to mitigate any harm they allegedly suffered.

7. The claims of any Plaintiffs who have signed releases are barred in whole or in part by such releases.

8. Defendants' actions have been justified by and are consistent with the terms of the applicable plan documents, ERISA, and other applicable law.

Defendants reserve the right to assert any additional defenses that may appear and become applicable during the course of this litigation.

**WHEREFORE**, Defendants respectfully request that this Court enter judgment in their favor on Plaintiffs' claims, that the Complaint be dismissed with prejudice, and that Defendants be awarded their costs, expert witness fees, attorney's fees, and such other and further relief as this Court deems proper.

Dated: October 21, 2015

**STINSON LEONARD STREET LLP**

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**CERTIFICATE OF SERVICE**

I certify that on October 21, 2015, I electronically filed the foregoing document using the CM/ECF system, which will send notice of electronic filing to the following attorneys for Plaintiffs:

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