

TOP 100 VERDICTS of 2009

Rank	Amount	Type	Name/Court/Docket/Date	Lead Plaintiff's Attorney(s)/Firm	Lead Defense Attorney(s)/Firm
95	\$17,350,217	Breach of Contract	Ammari Electronics v. Pacific Bell Directory , Alameda Co., Calif., Super. Ct., RG05198014, 6/22/2009	Luke Ellis , Gillin, Jacobson, Ellis & Larsen, Orinda, Calif.; Tyler R. Meade , Meade & Schrag LLP, Berkeley, Calif.	Phillip G. Greenfield and Lawrence A. Rouse , Rouse Hendricks German May PC, Kansas City, Mo.

NINETY-FIVE

BREACH OF CONTRACT

Consumer Protection

Pacific Bell failed to deliver directories to customers: class**VERDICT** \$ 17,350,217

CASE Ammari Electronics, Mehdi Ammari and Framers' Workshop, on behalf of themselves and all others similarly situated v. Pacific Bell Directory, individually and d/b/a SBC Pacific Bell Directory and SBC Smart Yellow Pages; SBC Directory Operations Inc.; and Does 1 through 100, inclusive; / Koszdin, Fields, Sherry & Katz and Law Offices of William J. Kropach, a professional corporation, suing individually and on behalf of all others similarly situated and on behalf of the general public v. Pacific Bell Directory, a California corporation, and Does 1 through 20, No. RG05198014, RG05220096 Superior Court of Alameda County, Alameda, CA Steven Brick
6/22/2009

COURT JUDGE DATE

PLAINTIFF ATTORNEY(S) Luke Ellis, Gillin, Jacobson, Ellis & Larsen, Orinda, Calif.; Tyler R. Meade, Meade & Schrag LLP, Berkeley, Calif.

DEFENSE ATTORNEY(S) Phillip G. Greenfield and Lawrence A. Rouse, Rouse Hendricks German May PC, Kansas City, Mo.

FACTS & ALLEGATIONS This consolidated case was brought on behalf of a statewide class of 368,000 California businesses -- including Ammari Electronics, Framers' Workshop, Law Offices of William J. Kropach and Koszdin, Fields, Sherry & Katz -- that paid more than \$2 billion for advertisements in Yellow Pages directories that Pacific Bell Directory, a San Francisco-based, wholly owned subsidiary of SBC Directory Operations Inc., published and distributed in California from February 2002 through May 2004.

The class alleged that a standardized advertising contract required Pacific Bell to use, in good faith, its best efforts and due diligence to deliver its directories within the related directory areas to business and residential telephone customers. However, it allegedly failed to do so.

The class sued Pacific Bell for breach of contract, unjust enrichment, false advertising and breach of duty of good faith and fair dealing. (The breach-of-contract claim was the only charge that went to trial).

Plaintiffs' counsel argued that Pacific Bell breached its obligation

during the class period by failing to deliver substantial percentages of Yellow Pages directories in each directory area.

The plaintiff survey experts testified as to the accuracy and reliability of telephonic delivery verification surveys that Pacific Bell commissioned to measure the success of its deliveries, and the industry standard on delivery verification survey scores.

The defense denied the allegations and argued that Pacific Bell Directory fulfilled its contractual obligations to deliver directories and did not owe the plaintiffs or the class any refunds. This argument was supported by the defense expert in the Yellow Pages delivery business.

INJURIES/DAMAGES Class members alleged that Pacific Bell Directory's failure to deliver Yellow Pages directories to the extent promised during the class period caused them to pay in full for services only partially delivered.

The plaintiffs sought an unspecified amount in damages for partial refund of advertising fees paid to compensate them for Pacific Bell Directory's breach.

RESULTS The jury found that there was a breach of the delivery obligation in 66 of 163 directory areas, awarding the plaintiffs \$17,350,217, which included pro rata refunding in some of the directory areas.

TRIAL DETAILS Trial Length: 1 month
Trial Deliberations: 3 days

PLAINTIFF EXPERT(S) James Desser, statistics & surveys, Mill Valley, CA (delivery verification)
Bruce McFarlane, C.P.A., C.M.A., cpas, Mountain View, CA
Michael J. Sullivan, Ph.D., C.I.H., statistics & surveys, San Francisco, CA

DEFENSE EXPERT(S) James Pierce, business analysis, Oro Valley, AZ

POST-TRIAL The court granted a defense motion for directed verdict in which the plaintiffs recover nothing. A judgment awarding costs was entered in favor of Pacific Bell.

EDITOR'S NOTES This report is based on court documents and information that was provided plaintiffs' counsel and defense counsel.

—Aaron Jenkins