

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLORADO

Civil Action No. **05-cv-00478-BNB-PAC**

EDWARD J. KERBER,  
NELSON B. PHELPS,  
JOANNE WEST,  
NANCY A. MEISTER,  
THOMAS J. INGEMANN, JR.,  
Individually, and as Representative of plan participants  
and plan beneficiaries of the QWEST PENSION PLAN,

Plaintiffs,

vs.

QWEST PENSION PLAN,  
QWEST EMPLOYEES BENEFIT COMMITTEE,  
QWEST PENSION PLAN DESIGN COMMITTEE,  
QWEST COMMUNICATIONS INTERNATIONAL, INC.,

Defendants.

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**PLAINTIFFS' MOTION TO WITHDRAW  
MOTION TO COMPEL DEPOSITION TESTIMONY and SANCTIONS (Docket 64)**

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Named Plaintiffs hereby move to withdraw their previously filed motion to compel and for sanctions (Docket 64), on the grounds there is a resolution of the underlying discovery dispute, as reflected in the attached letter, which terms are agreed to by Named Plaintiffs.

**WHEREFORE**, Named Plaintiffs move to withdraw their pending motion, Docket 64, and the Court may vacate the hearing currently set for August 21, 2006 at 11:00 a.m.

Dated: August 11, 2006.

s/ Curtis L. Kennedy  
Curtis L. Kennedy  
8405 East Princeton Avenue  
Denver, CO 80237-1741  
Telephone: 303-770-0440  
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e-mail CurtisLKennedy@aol.com  
*Attorney for Named Plaintiffs*

# BAIRD & KIOVSKY, LLC

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ATTORNEYS AND COUNSELORS AT LAW

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BETH DOHERTY QUINN  
DIRECT DIAL NO. 303.322.5334  
bdq@bairdkiovisky.com

August 10, 2006

## VIA EMAIL

Curtis Kennedy, Esq.  
8405 E. Princeton Ave.  
Denver, CO 80237-1741

Dear Curtis:

Qwest agrees to resolve the discovery dispute between the parties that is the subject of Plaintiffs' pending Motion To Compel, filed on July 21, 2006, as follows: (i) Qwest will pay you \$ 900 (\$ 300.00 x 3 hours) for the time it took you to draft and file the Motion to Compel; this payment to be either delivered or mailed to you on or before August 31, 2006; (ii) Qwest will pay the "appearance fee", if any, charged by the court reporter to return for a continuance of Ms. O'Herron's deposition; and (iii) Ms. O'Herron's deposition will be reconvened for up to 2 ½ hours on Wednesday, September 6<sup>th</sup> at 9:30 a.m. at our law offices to answer questions, including the question pending regarding whether Qwest is considering eliminating life insurance benefits for management retirees and to otherwise conclude the deposition.

In exchange, Plaintiffs will withdraw their Motion to Compel by no later than August 11, 2006 and advise the Court of this agreement

Sincerely,

BAIRD & KIOVSKY, LLC



Beth Doherty Quinn

cc: Cynthia Delaney, Esq.

**CERTIFICATE OF SERVICE**

I hereby certify that on the 11<sup>th</sup> day of August, 2006, a true and correct copy of the above and foregoing document was electronically filed with the Clerk of the Court using the CM/ECF system and a courtesy copy was emailed to Defendants' counsel of record as follows:

Elizabeth I. Kiovsy, Esq.  
Beth Doherty Quinn, Esq.  
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BDQ@bairdkiovsy.com (Beth Doherty Quinn, Esq.)  
*Counsel for Qwest Defendants*

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*Counsel for Qwest Defendants*

Also, copy of the same was delivered via email to Named Plaintiffs as follows:

Edward J. Kerber  
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bikenbabe@qwest.net (Joanne West)

/s/ Curtis L. Kennedy  
Curtis L. Kennedy

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**MINUTE ORDER**

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**Minute Order Entered by Magistrate Judge Boyd N. Boland**

This matter is before the Court on the **Plaintiffs' Motion to Withdraw Motion to Compel Deposition Testimony and Sanctions** [docket no. 66, filed August 11, 2006] (the "Motion").

IT IS ORDERED that the Motion is GRANTED.

IT IS FURTHER ORDERED that the **Motion to Compel Deposition Testimony and Sanctions** [docket no. 64, filed July 21, 2006] is DENIED AS MOOT, and the hearing set for August 21, 2006, is VACATED.

DATED: August 16, 2006