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NOTE: Where it is feasible, a syllabus (headnote) will be released, as is being done in connection with this case, at the time the opinion is issued. The syllabus constitutes no part of the opinion of the Court but has been prepared by the Reporter of Decisions for the convenience of the reader. See *United States* v. *Detroit Timber & Lumber Co.*, 200 U. S. 321, 337.

SUPREME COURT OF THE UNITED STATES

Syllabus

AMERICAN TELEPHONE & TELEGRAPH CO. *v.* CENTRAL OFFICE TELEPHONE, INC.

CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT

No. 97–679. Argued March 23, 1998– Decided June 15, 1998

Respondent purchases "bulk" communications services from long-distance providers, such as petitioner AT&T, and resells them to its customers. Petitioner, as a common carrier under the Communications Act of 1934, must file with the Federal Communications Commission (FCC) "tariffs" containing all its "charges" for interstate services and all "classifications, practices and regulations affecting such charges," 47 U. S. C. §203(a). A carrier may not "extend to any person any privileges or facilities in such communication, or employ or enforce any classifications, regulations, or practices affecting such charges, except as specified in such [tariff]." §203(c). The FCC requires carriers to sell long-distance services to resellers under the same rates, terms, and conditions as apply to other customers. In 1989, petitioner agreed to sell respondent a long-distance service, which, under the parties' written subscription agreements, would be governed by the rates, terms, and conditions in the appropriate AT&T tariffs. Respondent soon experienced problems with the service it received, and withdrew from the contract before the expiration date. Meanwhile, it had sued petitioner in Federal District Court, asserting, *inter alia*, state-law claims for breach of contract and for tortious interference with contractual relations (viz., respondent's contracts with its customers), the latter claim derivative of the former. Respondent alleged that petitioner had promised and failed to deliver various service, provisioning, and billing options in addition to those set forth in the tariff, and that petitioner's conduct was willful, so that consequential damages were available under the tariff. The Magistrate Judge rejected petitioner's argument that the claims were pre-empted by §203's filed-tariff requirements; he declined,

however, to instruct on punitive damages for the tortious-interference claim. The jury found for respondent and awarded damages. The Ninth Circuit affirmed the judgment, but reversed the Magistrate Judge's failure to instruct on punitive damages and remanded for a trial on that aspect of the case.

Held: The Communications Act's filed-tariff requirements pre-empt respondent's state-law claims. Pp. 7–14.

(a) Sections 203(a) and (c) are modeled after similar provisions of the Interstate Commerce Act (ICA), and the "filed-rate doctrine" associated with the ICA tariff provisions applies to the Communications Act as well. *MCI Telecommunications Corp.* v. *American Telephone & Telegraph Co.*, 512 U. S. 218, 229–231. Under that doctrine, the rate a carrier duly files is the only lawful charge. *Louisville & Nashville R. Co.* v. *Maxwell*, 237 U. S. 94, 97. Even if a carrier intentionally misrepresents its rate and a customer relies on the misrepresentation, the carrier cannot be held to the promised rate if it conflicts with the published tariff. *Kansas City Southern R. Co.* v. *Carl*, 227 U. S. 639, 653. That this case involves services and billing rather than rates or ratesetting does not make the filed-rate doctrine inapplicable. Since rates have meaning only when one knows the services to which they are attached, any claim for excessive rates can be couched as a claim for inadequate services and vice versa. The Communications Act recognizes this in the §203(a) and (c) requirements, and the cases decided under the ICA make it clear that discriminatory privileges are not limited to discounted rates, see, *e.g.*, *United States* v. *Wabash R. Co.*, 321 U. S. 403, 412–413. Pp. 7–10.

(b) This Court's filed-rate cases involving special services claims cannot be distinguished on the ground that the services they involved should have been included in the tariff. That is precisely the case here. Even provisioning and billing are "covered" by the applicable tariff. Nor does it make any difference that petitioner provided the same services, without charge, to other customers; that only tends to show that petitioner acted unlawfully with regard to the other customers as well. Pp. 10–11.

(c) The analysis used in evaluating respondent's contract claim applies with equal force to its wholly derivative tortious-interference claim. The Communications Act's saving clause does not dictate a different result. It copies the ICA's saving clause, which has long been held to preserve only those rights that are not inconsistent with the statutory filed-rate requirements. *Keogh* v. *Chicago & Northwestern R. Co.*, 260 U. S. 156, 163. Finally, respondent's argument that petitioner's willful misconduct makes the relief awarded here consistent with the tariff is rejected. Pp. 12–14.

108 F. 3d 981, reversed.

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SCALIA, J., delivered the opinion of the Court, in which REHNQUIST, C. J., and KENNEDY, SOUTER, THOMAS, GINSBURG, and BREYER, JJ., joined. REHNQUIST, C. J., filed a concurring opinion. STEVENS, J., filed a dissenting opinion. O'CONNOR, J., took no part in the consideration or decision of the case.