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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF ILLINOIS
SPRINGFIELD DIVISION

UNITED STATES OF AMERICA and the STATE OF CALIFORNIA, ILLINOIS, NORTH CAROLINA, and OHIO, Plaintiffs, v. DISH NETWORK L.L.C., Defendant.	Case No.: 3:09-cv-03073-SEM-TSH

DEFENDANT DISH NETWORK L.L.C.'S OPPOSITION TO PLAINTIFFS' MOTION IN LIMINE TO PRECLUDE CERTAIN EVIDENCE OF SETTLEMENTS

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PRELIMINARY STATEMENT

In this case, the United States seeks close to one billion dollars in penalties against defendant DISH Network L.L.C. ("DISH") for violations of the TSR, a shocking amount far in excess of any penalties that the federal government has sought or obtained from any other entity for telemarketing violations, and for which the United States provides no factual support. DISH seeks to admit evidence at trial of stipulated judgments in other cases that the United States has brought that assess markedly lower penalties for illegal telemarketing, among other things, and public statements that the United States has made publicizing those penalty sums as tough and appropriate to punish the defendants and deter others from engaging in similar wrongful conduct. This evidence is squarely relevant to any statutory penalty determination this Court may make under the TSR, and should be considered by the Court. The attached Appendix A contains a list of the evidence DISH seeks to admit on penalties that the United States has imposed against other entities in cases involving TSR and other violations.

Notably, as Plaintiffs concede, several of the judgments that DISH seeks to admit into evidence impose drastically lower TSR penalties for, literally, the *very same* calls at issue in this case. For instance, on summary judgment, this Court found DISH vicariously liable for in excess of 43 million prerecorded telemarketing calls that Guardian Communications ("Guardian") made for DISH retailer Star Satellite—representing approximately 80% of the calls for which the Court imposed liability at summary judgment. The United States sued Star Satellite and Guardian with respect to those very same calls. In the Star Satellite case, the court entered a stipulated judgment assessing a $4,347,768 penalty against Star Satellite, translating to 10 cents per call. All but $75,000 of that penalty was suspended based upon Star Satellite's inability to pay.

The government's case against Guardian involved the Star Satellite calls, as well as more than 6 million additional prerecorded telemarketing calls that Guardian made for another DISH retailer, Dish TV Now, for which this Court similarly held DISH vicariously liable. In the Guardian case, the court entered a stipulated judgment assessing a $7,892,242 penalty, translating to approximately 15 cents per call. All but $150,000 of that penalty was suspended based upon Guardian's inability to pay.

The suit against Caribbean Cruise Lines, an entity with no relationship to DISH, serves as yet another example. In that case, the FTC alleged that the company had "engaged in deceptive acts" and "bombarded American consumers with billions of robocalls." The court entered a stipulated judgment assessing a $7,730,000 civil penalty (amounting to less than a penny per violation), all but $500,000 of which was suspended.

These gross penalty sums assessed against Star Satellite, Guardian, and Caribbean Cruise Lines could not have been based on the defendants' relative ability to pay. Indeed, the United States conceded that the penalties were beyond those entities' ability to pay. Instead, the United States selected the penalties as representative of the defendants' culpability, as the entities primarily responsible for those telemarketing violations, for deterrent effect, and serving the interests of justice.[1]

In other cases that the United States brought against DISH's competitors for telemarketing violations—major pay-television providers with significant means—the government also endorsed penalties that pale in comparison to the penalties sought here. In a case against Comcast for 900,000 telemarketing call violations, the court entered a stipulated

[1] On Appendix A, the figures in the "Amount Per Violation" column are based on the full penalty assessed, and do not take into account any penalty amount that may have been suspended.

judgment for $900,000, or $1 per call. In a case against DirecTV as a repeat offender for violation of a telemarketing consent order that DirecTV entered into with the government, the court entered a stipulated judgment for $2,310,000, or just over $2 per call. The United States issued a press release touting these Comcast and DirecTV penalties as sounding a warning bell, stating that "we won't tolerate firms that disregard consumers' specific requests not to be called, and *we will be especially tough on companies that ignore their obligations under prior court orders.*" Press Release, Federal Trade Commission, "DIRECTV, Comcast to Pay Total of $3.21 Million for Entity-Specific Do Not Call Violations," April 16, 2009, available at https://www.ftc.gov/news-events/press-releases/2009/04/directv-comcast-pay-total-321-million-entity-specific-do-not-call (emphasis added).[2]

Plaintiffs seek to exclude evidence of all of these stipulated judgments under Rule 408. The Seventh Circuit holds, however, that Rule 408 does not apply to settlements from other cases, and Plaintiffs do not assert that these judgments are from the very same case as this one.[3] Instead, Plaintiffs' protestations that the underlying facts are the same in the other cases where judgments were entered for penalties markedly less than the penalties sought here serve only to reinforce the relevance of those judgments to this case.

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[2] Plaintiffs themselves have affirmatively cited court filings and press releases like the ones discussed above in arguing that DISH was aware of the FTC's interpretation of the law. *See* Dkt. No. 14 at 7-8 & n.2 (citing a press release regarding a settlement with DirecTV and stating that "[t]he FTC has thus publicized its position on seller liability, and has laid it out in public statements and in law enforcement actions publicized on its website").

[3] Indeed, to the extent that the cases are the same, then Plaintiffs' claims should be barred by *res judicata*, because those cases were resolved by final judgments. *See Graebel/Los Angeles Movers, Inc. v. Johnson*, No. 04 C 8282, 2006 WL 533360, at *3 (N.D. Ill. Mar. 1, 2006) (holding that "[a] stipulated judgment is on the merits for res judicata purposes.").

The records of these civil penalties should be admitted into evidence in this case to provide guidance to the Court on appropriate statutory penalties, if any, under the TSR.[4]

ARGUMENT

I. THESE OTHER PENALTIES ARE RELEVANT

A. Legal Standards

In its pre-trial submissions, the United States represents that it seeks $900 million in penalties against DISH in this case. But, it provides no methodology for demanding such a shockingly high sum under the factors dictated by the TSR, which include "degree of culpability," "ability to pay," and "such other matters as justice may require." 15 U.S.C. §45(m)(1)(C).

In determining the appropriate penalties to be imposed under a statute, the penalties imposed in other cases are relevant, among other reasons, for gauging proportionality and culpability. *United States v. Ekco Housewares, Inc.*, 62 F.3d 806, 816 (6th Cir. 1995) ("The penalties imposed in other cases are indeed relevant."); *see also Saline River Properties, LLC v. Johnson Controls, Inc.*, No. CIV.A. 10-10507, 2011 WL 6031943, at *4 (E.D. Mich. Dec. 5, 2011) (evidence regarding penalties in "other, albeit not entirely similar, cases" are relevant to the court's determination of an appropriate penalty). Public judgments and the FTC's public statements represent strong evidence of appropriate penalty amounts, including but not limited to penalty sums that reflect "culpability" and the interests of "justice." 15 U.S.C. 45(m)(1)(c). Among other reasons, this Court should consider the prior penalties that the United States sought

[4] Plaintiffs' motion in limine addresses only the stipulated judgments that DISH specifically referenced in its proposed findings of fact and conclusions of law; it does not address the remaining stipulated judgments and press releases on DISH's exhibit list, which appear on the attached Appendix. For purposes of this memorandum, in order to reserve its rights, DISH will address the admissibility of all of the stipulated judgments and press releases on its exhibit list.

or obtained from other entities for telemarketing violations for proportionality, fairness, and culpability purposes in making any penalty determinations in this case under the factors set forth in the TSR.[5]

B. Penalties In Cases Against DISH Retailers Provide Relevant Guidance

Plaintiffs' motion *in limine* concedes that the judgments entered against DISH retailers and related telemarketers—Star Satellite, Guardian Communications, New Edge Satellite, Planet Earth Satellite, and Vision Quest—"arose from the same facts as the civil penalties claims that will be in dispute at trial." Dkt. No. 532 at 3. Given the similar nature of the claims at issue, the civil penalties imposed in those cases are highly relevant to any penalty determination in this case. *See Ekco Housewares*, 62 F.3d at 816.

On summary judgment in this case, the Court found DISH responsible for 43,100,876 prerecorded telemarketing calls by Star Satellite, a former DISH retailer, and for an additional 6,673,196 prerecorded telemarketing calls by Dish TV Now, another former DISH retailer, all of which were placed for those retailers by Guardian, an entity that had no association with DISH. The United States sued Star Satellite alleging that "Defendant Star Satellite marketed Dish Network satellite television programming through a variety of methods, including

[5] For example, the $900 million penalty sought by the United States represents the same penalty recently imposed on General Motors for concealing an ignition switch defect that caused 124 deaths and numerous serious life-limiting injuries. Press Release, Department of Justice, U.S. Attorney of the Southern District of New York Announces Criminal Charges against General Motors and Deferred Prosecution Agreement with $900 Million Forfeiture, Sept. 17, 2015; Detailed Overall Program Statistics, http://www.gmignitioncompensation.com/docs/Program%20Statistics%20(2015-10-09).pdf (last visited Oct. 14, 2015). Similarly, in a case against airbag manufacturer Takata over airbag defects that caused deaths and serious injuries, the U.S. Department of Transportation fined Takata $70 million, with an additional $130 million to be paid if Takata violates the terms of the settlement. *See* Mike Spector, "U.S. Auto Regulator Hits Takata With $70 Million Fine in Air-Bag Settlement," Wall St. J., Nov. 3, 2015, *available at* http://www.wsj.com/articles/federal-regulators-set-to-hit-takata-with-70-million-fine-1446568993. The United States cannot reasonably assert that DISH's telemarketing behavior bears a similar level of culpability or that justice might require the same or greater penalty level.

telemarketing." *United States v. Star Satellite LLC, et al.*, No. 2:08-cv-00797-RLH-LRL (D. Nev.), Dkt. No. 1 at 4. The United States also sued Guardian with respect to the calls that it made for Star Satellite and Dish TV Now. *United States v. Guardian Communications, Inc., et al.*, No. 07-4070 (C.D. Ill.), at Dkt. No. 1.

Other suits by the United States involved claims against DISH retailers New Edge Satellite, Planet Earth Satellite, and Vision Quest. *See United States v. New Edge Satellite, Inc*., No. 2:09-cv-11100-MOB-PJK (E.D. Mich.), Dkt. No. 1 at 4-5; *United States v. Planet Earth Satellite, Inc*., No. 2:08-cv-1274-PHX-EHC (D. Ariz.), Dkt. No. 1 at 4; *United States v. Vision Quest, LLC*, No. 2:09-cv-11102-AJT-VMM (E.D. Mich.), Dkt. No. 1 at 4-5.

In each of those cases, the parties entered, and the courts approved, public stipulated judgments, which imposed civil penalties for violations of the TSR

- *Star Satellite LLC*, No. 2:08-cv-00797, Dkt. No. 6 (judgment in the amount of $4,374,768, all but $75,000 of which was suspended);
- *Guardian Communications*, No. 07-4070, Dkt. No. 2 (judgment in the amount of $7,892,242, all but $150,000 of which was suspended);
- *New Edge Satellite*, No. 2:09-cv-11100, Dkt. No. 7 (judgment in the amount of $570,000, the entire amount of which was suspended);
- *Planet Earth Satellite*, No. 2:08-cv-1274, Dkt. No. 6 (judgment in the amount of $7,094,354, all but $20,000 of which was suspended);
- *Vision Quest*, No. 2:09-cv-11102, Dkt. No. 9 (judgment in the amount of $690,000, the entire amount of which was suspended).

As set forth above, the penalties assessed in those cases, which are drastically lower than the penalties sought here, are relevant to show the level of penalty appropriate to reflect the "culpability" involved in those telemarketing calls. The penalties imposed in each of those cases represent the federal government's assessment, and the various courts' approval, of the appropriate amount of penalties to impose for violations under the TSR. The government explicitly stated as much in the stipulated judgments in the *Star Satellite* and *Guardian* cases;

each of those filings includes a statement by the government that the civil penalty amount is "appropriate" "[o]n the basis of the allegations contained in the complaint." *See Star Satellite LLC*, No. 2:08-cv-00797, Dkt. No. 6 at 18; *Guardian Communications*, No. 07-4070, Dkt. No. 2 at 28.

In addition to being publicly filed on the court dockets, the FTC promoted these complaints and judgments on its website along with corresponding press releases. *See, e.g.*, Press Release, Federal Trade Commission, "FTC Charges Dish Network Marketers with Do Not Call and Abandoned Call Violations," July 15, 2008, available at https://www.ftc.gov/news-events/press-releases/2008/07/ftc-charges-dish-network-marketers-do-not-call-and-abandoned-call ("[T]he order enters a judgment of $4.37 million against the Star Satellite defendants, and requires the relief defendants to disgorge $56,665. However, due to the defendants' inability to pay, the total combined payments by defendants and relief defendants is $75,000 – including the $56,665 in disgorgement.").

Significantly, the Star Satellite and Guardian judgments assess penalties against the *primary* actors involved in the alleged telemarketing violations, whose conduct is necessarily more culpable than that of DISH, which was held vicariously liable for these calls. Should the Court consider imposing penalties against DISH for these very same calls, the penalties imposed against the makers of the calls should provide relevant guidance.

C. Penalties In Cases Against Other Entities Provide Relevant Guidance

In other cases that the government has prosecuted alleging violations of the TSR, public stipulated judgments assess a range of penalties, none of which comes close to approaching the penalties sought here. In a very recent suit against Caribbean Cruise Line, the United States alleged that Caribbean Cruise Line had "engaged in deceptive acts" and "bombarded American consumers with billions of robocalls, an average of 12-15 million calls per day." *F.T.C. v.*

Caribbean Cruise Line, Inc., No. 0:15-cv-60423-WJZ (S.D. Fla.), Dkt. No. 1 at 4-5. That case closed with a stipulated judgment assessing a $7,730,000 civil penalty, all but $500,000 of which was suspended. *Caribbean Cruise Line, Inc*., No. 0:15-cv-60423, Dkt. No. 6-1. This penalty amounted to less than one penny per alleged call violation.

In *United States v. Comcast Corporation*, No. 09-cv-1589 (E.D. Pa.), Dkt. No. 1, the FTC sued Comcast for making "more than 900,000 outbound telephone calls to consumers" in violation of the entity-specific Do Not Call requirements. The court entered a stipulated judgment providing for $900,000 in civil penalties, or $1 per call. In *United States v. DirecTV, Inc*., No. 2:09-cv-02605-DOC-AN (C.D. Cal.), Dkt. No. 1 at 6, the United States sued DirecTV for ***violating a court order*** by making 1,050,000 calls in violation of the TSR's Do Not Call provisions through a retailer. In a stipulated judgment, DirecTV, as a repeat offender, was ordered to pay $2,310,000 in civil penalties, amounting to a per call penalty of approximately $2.30.[6]

Each judgment was made available on the FTC's website, accompanied by press releases. In the press release announcing the *Comcast* and *DirecTV* judgments, the FTC used the penalty amounts as a "warning" to deter others, claiming that the penalties show that: "we won't tolerate firms that disregard consumers' specific requests not to be called, and we will be especially tough on companies that ignore their obligations under prior court orders." Press Release, Federal Trade Commission, "DIRECTV, Comcast to Pay Total of $3.21 Million for Entity-Specific Do Not Call Violations," April 16, 2009, available at https://www.ftc.gov/news-events/press-releases/2009/04/directv-comcast-pay-total-321-million-entity-specific-do-not-call.

[6] Plaintiffs concede the relevance of the DirecTV judgment, asserting that it "involve[d] many of the same sets of facts as this case." Dkt. No. 532 at 5.

In these judgments, and the other judgments detailed in the attached Appendix, the United States endorsed statutory penalties that do not come close to the penalties sought here. The statutory framework for the assessment of civil penalties in this case requires the Court to take into consideration the "degree of culpability" and "matters as justice may require." 15 U.S.C. 45(m)(1)(c). Given the similarity of the conduct for which penalties are sought, and the vast discrepancy in amounts of penalties, all of these penalties constitute relevant evidence for this Court to consider.

II. THE JUDGMENTS CONSTITUTE ADMISSIBLE EVIDENCE

A. The Court Should Take Judicial Notice Of The Public Judgments And Related Court Records

Plaintiffs do not dispute that this Court may take judicial notice of the judgments detailed in the attached Appendix, and the public court records on which they are based. Federal Rule of Evidence 201 provides that a court may take judicial notice of "a fact that is not subject to reasonable dispute because it: (1) is generally known within the trial court's territorial jurisdiction; or (2) can be accurately and readily determined from sources whose accuracy cannot reasonably be questioned." Fed. R. Evid. 201. "The most frequent use of judicial notice of ascertainable facts is in noticing the contents of court records." 21 Charles Alan Wright & Kenneth W. Graham, Jr., Federal Practice & Procedure: Evidence § 5106, at 505 (1st ed. 1977 & Supp. 1997).

According to the Seventh Circuit, courts have "the power, in fact the obligation, to take judicial notice of the relevant decisions of courts and administrative agencies," and "[d]eterminations to be judicially noticed include proceeding[s] in other courts . . . if the proceedings have a direct relation to matters at issue." *Opoka v. I.N.S.*, 94 F.3d 392, 394 (7th Cir. 1996) (citations and internal quotation marks omitted). The Seventh Circuit has applied this

rule to take judicial notice of judgments like the ones at issue here. *See Philips Med. Sys. Int'l, B.V. v. Bruetman*, 982 F.2d 211, 215 (7th Cir. 1992) (taking judicial notice of a default judgment in a related case); *Cenco Inc. v. Seidman & Seidman*, 686 F.2d 449, 457 (7th Cir. 1982) (holding that the district court "should have taken judicial notice of the [cross-claimant's] settlement" with related parties).

B. Rule 408 Does Not Bar This Evidence

Plaintiffs' primary objection to the stipulated judgments is grounded in Federal Rule of Evidence 408.[7] But Rule 408 does not bar the admission of the stipulated judgments for the purpose of providing guidance to the Court in determining appropriate penalties, if any. The Seventh Circuit has explained that:

> In deciding whether Rule 408 should be applied to exclude evidence, courts must consider the spirit and purpose of the rule and decide whether the need for the settlement evidence outweighs the potentially chilling effect on future settlement negotiations. The balance is especially likely to tip in favor of admitting evidence when the settlement communications at issue arise out of a dispute distinct from the one for which the evidence is being offered.

Zurich Am. Ins. Co. v. Watts Indus., Inc., 417 F.3d 682, 689-90 (7th Cir. 2005) (citations omitted).

Courts in the Seventh Circuit have held that Rule 408 "precludes evidence of settlement discussions in a particular case from being mentioned at the trial of that case," but "does not bar settlement information in one case from admissibility in another case." *United States v. McCorkle*, No. 93 C 6528, 1994 WL 329679, at *2 (N.D. Ill. July 7, 1994); *see also Am. Roller*

[7] Plaintiffs apparently concede that Rule 408 does not prohibit the introduction of stipulated judgments and press releases from cases that are not related to the claims against DISH here. *See* Dkt. No. 532 at 6; *see also* Dkt. No. 528-12 (making no objection under Rule 408 to the admission of any of the non-DISH-related stipulated judgments or press releases on DISH's exhibit list).

Co., LLC v. Foster-Adams Leasing, LLP, No. 05 C 3014, 2006 WL 1371441, at *2 n.1 (N.D. Ill. May 16, 2006) ("Rule 408 does not bar evidence regarding settlement of a claim different from the one litigated").

The cases that Plaintiffs rely upon endorse this rule. Plaintiffs cite *Zurich*, 417 F.3d at 689 (quoted above) and *Armstrong v. HRB Royalty, Inc.*, 392 F. Supp. 2d 1302, 1304 & n.4 (S.D. Ala. 2005), which notes that "Rule 408 excludes evidence of settlement offers only if such evidence is offered to prove liability for or invalidity [or amount] ***of the claim under negotiation***" (emphasis in the original). *See* Dkt. No. 532 at 6. Another case cited by Plaintiffs, *Fenner Investments, Ltd. v. Hewlett-Packard Co.*, No. 08-cv-273, 2010 WL 1727916 (E.D. Tex. Apr. 28, 2010), acknowledges that courts in the Seventh Circuit have held that "Rule 408 is inapplicable to settlement agreements from prior litigations." 2010 WL 1727916, at *3 n.2 (citing *Sunstar, Inc. v. Alberto–Culver Co.*, No. 01 C 0736, 01 C 5825, 2004 WL 1899927, at *29 (N.D.Ill. Aug. 23, 2004)).

None of the Plaintiffs' other cited authorities challenges this principle. In each of the Seventh Circuit cases Plaintiffs cite—*Quad/Graphics, Inc. v. Fass*, 724 F.2d 1230, 1234-1235 (7th Cir. 1983), and *Walker v. Walker*, 701 F.3d 1110, 1117 (7th Cir. 2012)—the court held that evidence of the settlements by defendants ***in that very case*** was inadmissible.[8] Plaintiffs offer no authority to suggest that the Seventh Circuit would apply Rule 408 to settlements from other cases, regardless of whether the settled cases shared similarities with the ongoing litigation.

Furthermore, the admission of the judgment penalties included in the attached Appendix does not risk any chilling effect. In many of the subject judgments, the penalties bore no

[8] The cases from outside the Seventh Circuit that Plaintiffs cite for the proposition that settlements with non-parties are subject to Rule 408 cannot override the abundant Seventh Circuit authority to the contrary.

relationship to the amounts that the defendants actually paid, but appear to have been selected by the United States purely as representative of an appropriate penalty. For example, in the case of Star Satellite, the FTC accepted $75,000 as the paid settlement amount, while assessing a penalty 57 times greater, in excess of $4.3 million. *Star Satellite LLC*, No. 2:08-cv-00797, Dkt. No. 6 at 9. Thus, the $75,000 payment—not the full amount of the civil penalty—was, by the FTC's own admission, the true compromise of that case.

On this point, again, the cases cited by Plaintiffs are inapposite. None of these cases involved a settlement agreement in which the amount determined to be the proper calculation of damages or penalties was independent of the amount that the parties determined was an acceptable compromise. Indeed the settlement evidence in *Quad*, a case on which Plaintiffs rely, was held to be inadmissible, in part, because the settling defendant "testified that the monetary aspect of the settlement was based on the amount he was financially able to pay"; "[t]he appellants [] offered no challenge to that evidence"; and "[t]hat consideration . . . demonstrates that the amount of the settlement payment bore no relationship to the validity or value of [the plaintiff's] claim." *Quad*, 724 F.2d at 1235.

C. <u>The Penalty Evidence Is Not Prejudicial To Plaintiffs</u>

Finally, Plaintiffs argue that even if the stipulated judgments and related documents are relevant and admissible under Rule 408, they should still be excluded under Federal Rule of Evidence 403. That rule states that "[t]he court may exclude relevant evidence if its probative value is ***substantially outweighed*** by a danger of one or more of the following: unfair prejudice, confusing the issues, misleading the jury, undue delay, wasting time, or needlessly presenting cumulative evidence." Fed. R. Evid. 403 (emphasis added). As discussed above, the evidence in question is highly relevant and critical to DISH's defense against the astronomical penalties that the government has requested. The rationales that Plaintiffs cite as grounds for Rule 403

exclusion do not come close to "substantially outweigh[ing]" the probative value of that evidence.

Plaintiffs' primary Rule 403 objection is that the evidence would require mini-trials on the facts of the other cases to rebut their relevance here. But, Plaintiffs have it backwards. DISH has a need for this evidence to rebut the unjustified $900 million penalty demand made by the United States in this case. Plaintiffs cannot deny DISH the right to use the most probative evidence on penalties, because it may be challenging for them to try to explain it away.

In any event, the only cases that Plaintiffs cite in support of this argument are inapposite. Those cases—*Fenner*, 2010 WL 1727916, and *Pioneer Hi-Bred Intern., Inc. v. Ottawa Plant Food, Inc.*, 219 F.R.D. 135 (N.D. Iowa 2003), along with all of the authorities to which they refer—each deal with the unique situation of patent royalty litigation.

Contrary to Plaintiffs' assertion, DISH does not seek to use the stipulated judgments and related documents "to nullify Congress' judgment about how FTC Act violations should be penalized." Dkt. No. 532 at 8. Instead, DISH plans to introduce this evidence for the purpose of guiding the Court in determining the appropriate amount of penalties, if any, in the interest of justice, as required by the statute.

CONCLUSION

Based on the foregoing, DISH respectfully requests that this Court deny Plaintiffs' motion and admit the public court records and press releases on civil penalties.

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Respectfully submitted,

By: */s/ Elyse D. Echtman*

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CERTIFICATE OF SERVICE

I hereby certify that on November 19, 2015, I electronically filed the above document and supporting documentation with the Clerk of Court using the CM/ECF system, which will send notification of such filing to all counsel of record.

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Appendix A: Chart of Penalties in Other Cases

Ex. Nos.	Defendant	No. of Violations	Penalty Amount	Amount per Violation
DTX 716, 717, 619	Caribbean Cruise Line	Billions	$7,730,000 (all but $500,000 suspended)	< $0.01
DTX 712, 713	Asia Pacific Telecom, Inc.	2.6 billion	$5,330,000 (all but $3 million suspended)	< $0.01
DTX 722, 723	Ebersole, Voice Marketing, Inc. and B2B Broadcasting, Inc.	> 248 million	$2,000,000 (all but $10,000 suspended)	< $0.01
DTX 326, 327	JGRD, Inc.	> 56 million	$1,000,000 (all but $10,000 suspended)	$0.01
DTX 312, 313	The Broadcast Team	> 65 million	$2,800,000 (all but $1 million suspended)	$0.04
DTX 735, 736	Voice-Mail Broadcasting Corporation	> 46 million	$3,000,000 (all but $180,000 suspended)	$0.06
DTX 730, 731	The Talbots, Inc.	> 3.4 million	$224,000 (all but $161,000 suspended)	$0.06
DTX 308, 309, 624	Star Satellite	> 43 million	$4,347,768 (all but $75,000 suspended)	$0.10
DTX 302, 303, 622	Guardian	> 49 million	$7,892,242 (all but $150,000 suspended)	$0.15
DTX 718, 719	Credit Foundation of America	> 3 million per week	$1,029,085 ($676,745 consumer redress, $250,000 penalty, $102,340 suspended)	$0.34
DTX 317, 318	Electric Mobility Corporation	> 3 million	$2,100,000 (all but $100,000 suspended)	$0.70
DTX 323, 324, 325	JAK Productions and John Keller	> 2 million	$1,750,000 (all but $300,000 suspended)	$0.87
DTX 295, 296, 620	Comcast	> 900,000	$900,000	$1.00
DTX 724, 725	Mortgage Investors Corporation	> 5.4 million	$7,500,000	$1.39
DTX 733, 734	Versatile Marketing Solutions	> 2 million	$3,400,000 (all but $320,700 suspended)	$1.70
DTX 714, 715	Braglia Marketing Group	> 300,000	$526,939 (all but $3,500 suspended)	$1.75
DTX 297, 298, 299, 300, 301, 620	DirecTV (2009)	1,050007	$2,310,000 (repeat offender)	$2.19

Ex. Nos.	Defendant	No. of Violations	Penalty Amount	Amount per Violation
DTX 726, 727	Navestad	8 million; case involved significant fraud	$30,000,000 ($1,100,000 of which was for consumer restitution)	$3.88
DTX 732	T-Mobile USA, Inc.	Unknown	$100,000	N/A
DTX 728	Sprint (2011)	Unknown	$400,000	N/A
DTX 304, 305, 625	New Edge Satellite	Unknown	$570,000 (entirety suspended)	N/A
DTX 310, 311, 625	Vision Quest LLC	Unknown	$690,000 (entirety suspended)	N/A
DTX 293, 294, 622	ADT Security	Unknown	$2,000,000	N/A
DTX 720, 721, 621	DirecTV (2005)	Unknown	$5,335,000	N/A
DTX 306, 307, 624	Planet Earth Satellite	Unknown	$7,094,354 (all but $20,000 suspended)	N/A
DTX 729, 623	Sprint (2014)	Unknown	$7,500,000	N/A
DTX 686	Sprint (2015)	Millions of dollars in unauthorized charges to consumers	$68,000,000 ($50,000,000 of which was for reimbursements to consumers)	N/A
DTX 687	T-Mobile	Millions of dollars in unauthorized charges to consumers	$90,000,000 ($67,500,000 of which was for reimbursements to consumers)	N/A
DTX 685	Verizon	Millions of dollars in unauthorized charges to consumers	$90,000,000 ($70,000,000 of which was for reimbursements to consumers)	N/A
DTX 684	AT&T Mobility	Millions of dollars in unauthorized charges to consumers	$105,000,000 ($80,000,000 of which was for reimbursements to consumers)	N/A
DTX 834, 863, 864	General Motors	Mishandling of ignition switch safety defect that was linked to more than 100 deaths	$900,000,000	N/A