

ORAL ARGUMENT SCHEDULED FOR OCTOBER 19, 2016

**IN THE UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT**

ACA INTERNATIONAL,

Petitioner,

v.

**FEDERAL COMMUNICATIONS
COMMISSION and UNITED
STATES OF AMERICA,**

Respondents.

**No. 15-1211 (consolidated with
Nos. 15-1218, 15-1244, 15-1290,
15-1304, 15-1306, 15-1311, 15-
1313, 15-1314, 15-1440, & 15-
1441)**

**PETITIONERS' JOINT UNOPPOSED MOTION
FOR 20 MINUTES OF ORAL ARGUMENT TIME FOR EACH SIDE**

Petitioners respectfully request that the Court allocate 20 minutes of argument time to each side in these consolidated cases. In support of that request, Petitioners state as follows:

1. These consolidated cases seek review of the Federal Communications Commission's order in *In re Rules and Regulations Implementing the Telephone Consumer Protection Act of 1991*, Declaratory Ruling and Order, 30 FCC Rcd. 7961 (2015) (Order). On July 25, 2016, this Court set oral argument for October 19, but did not specify the amount of time allocated for that argument. See July 25 Order, Dkt. No. 120.

2. These cases raise important, complex questions. The Commission's 81-page Order addressed key TCPA issues: the kinds of equipment that fall within the statute's restrictions on calls to wireless numbers from "automatic telephone dialing systems," 47 U.S.C. § 227(b)(1)(A)(iii); the scope of liability for those who call numbers that (unbeknownst to them) have been reassigned from one, consenting consumer to another, non-consenting one; and the methods by which consumers may revoke consent. *See* Order ¶¶ 10-24, 55-97 (JA1154-61, 1176-95). These issues, which are addressed in the joint briefs of all Petitioners other than Rite Aid, are important to a wide swath of the American economy.

3. The Order also concluded that some kinds of informational healthcare-related calls should be exempt from the TCPA while others should not. *See* Order ¶¶ 143-46 (JA1213-14). Petitioner Rite Aid, one of the nation's largest pharmacy chains, challenged that decision by the Commission in its separate briefs.

4. This Court has already recognized the need for full consideration of these issues. It authorized Petitioners other than Rite Aid to file a consolidated, full-length brief (and corresponding reply) raising their challenges. It also authorized Rite Aid to file its own, 2,500-word opening brief (and 1,250-word reply) raising its healthcare-related challenge.

5. In keeping with the Court's decision to grant Petitioners additional words and separate briefs, the Court should give each side a total of 20 minutes of argument time—fifteen minutes for Petitioners other than Rite Aid, five minutes for Rite Aid, and twenty minutes for Respondents.¹ As with the additional amount of briefing, Petitioners' request regarding argument time will ensure that the Court can fully and properly consider all of the important issues raised in these cases.

6. Counsel for Petitioners have consulted with Respondents and Intervenors regarding the relief requested. Respondents and Intervenors consent to this request.

CONCLUSION

For the foregoing reasons, Petitioners respectfully request that the Court allot 20 minutes of oral argument time to each side.

¹ Intervenors have informed Petitioners that they do not intend to request argument time.

Dated: September 13, 2016

Respectfully submitted,

Helgi C. Walker
Scott P. Martin
Lindsay S. See
GIBSON, DUNN & CRUTCHER LLP
1050 Connecticut Avenue, N.W.
Washington, DC 20036
Telephone: (202) 955-8500

/s/ Shay Dvoretzky
Shay Dvoretzky
Jeffrey R. Johnson
JONES DAY
51 Louisiana Avenue, N.W.
Washington, DC 20001
Telephone: (202) 879-3914

Kate Comerford Todd
Steven P. Lehotsky
Warren Postman
U.S. CHAMBER LITIGATION CENTER
1615 H Street, N.W.
Washington, DC 20062
Telephone: (202) 463-5337

*Counsel for Petitioners Sirius XM Radio
Inc. and Professional Association for
Customer Engagement, Inc.*

*Counsel for Petitioner Chamber
of Commerce of the United States*

Brian Melendez
DYKEMA GOSSETT PLLC
4000 Wells Fargo Center
90 South Seventh Street
Minneapolis, MN 55402-3901
Telephone: (612) 486-1589

Tonia Ouellette Klausner
Keith E. Eggleton
WILSON SONSINI GOODRICH & ROSATI,
P.C.
1301 Avenue of the Americas, 40th
Floor
New York, NY 10019
Telephone: (212) 497-7706

*Counsel for Petitioner ACA
International*

*Counsel for Petitioners salesforce.com
and ExactTarget, Inc.*

Christopher J. Wright
Jennifer P. Bagg
Elizabeth Austin Bonner
HARRIS, WILTSHIRE & GRANNIS LLP
1919 M Street, N.W., 8th Floor
Washington, DC 20036
Telephone: (202) 730-1300

*Counsel for Petitioner Vibes Media,
LLC*

Amy L. Brown
Jonathan Jacob Nadler
SQUIRE PATTON BOGGS (US) LLP
2550 M Street, N.W.
Washington, DC 20037
Telephone: (202) 457-6000

*Counsel for Petitioner Consumer
Bankers Association*

Paul Werner
Brian Weimer
Drew Svor
SHEPPARD MULLIN RICHTER &
HAMPTON LLP
2099 Pennsylvania Avenue, N.W.
Suite 100
Washington, DC 20006
Telephone: (202) 747-6892

*Counsel for Petitioner Rite Aid Hdqtrs.
Corp.*

Robert A. Long
Yaron Dori
Michael Beder
COVINGTON & BURLING LLP
One CityCenter
850 Tenth Street, N.W.
Washington, DC 20001
Telephone: (202) 662-6000

*Counsel for Petitioner Portfolio
Recovery Associates, Inc.*

RULE ECF-3(B) ATTESTATION

In accordance with D.C. Circuit Rule ECF-3(B), I hereby attest that all other parties on whose behalf this joint motion is submitted concur in its content.

/s/ Shay Dvoretzky
Shay Dvoretzky

*Counsel for Sirius XM Radio Inc. and
Professional Association for Customer
Engagement, Inc.*

Dated: September 13, 2016

CERTIFICATE OF SERVICE

I hereby certify that on September 13, 2016, I electronically filed the foregoing Petitioners' Joint Unopposed Motion for 20 Minutes of Oral Argument Time for Each Side on the Court's CM/ECF System, which caused those documents to be served on all parties or their counsel.

/s/ Shay Dvoretzky

*Counsel for Sirius XM Radio Inc. and
Professional Association for Customer
Engagement, Inc.*