
UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH DAKOTA
CENTRAL DIVISION

Verizon Wireless (VAW) LLC,
CommNet Cellular License Holding, LLC,
Missouri Valley Cellular, Inc.,
Sanborn Cellular, Inc., and
Eastern South Dakota Cellular, Inc.,
d/b/a VERIZON WIRELESS,

Plaintiff,

vs.

Steve Kolbeck, Gary Hanson, and Dustin
Johnson, in their official capacities as
the Commissioners of the South Dakota
Public Utilities Commission,

Defendants,

South Dakota Telecommunications Ass'n
and Venture Communications Cooperative,

Intervenors.

Civil Number 04-3014

**STIPULATED MOTION TO REMOVE
THE STATE OF SOUTH DAKOTA
AS A PARTY**

Plaintiffs Verizon Wireless (VAW) LLC, CommNet Cellular License Holding, LLC, Missouri Valley Cellular, Inc., Sanborn Cellular, Inc., and Eastern South Dakota Cellular, Inc., d/b/a VERIZON WIRELESS ("Verizon Wireless"), defendants Steve Kolbeck, Gary Hanson, and Dustin Johnson, in their official capacities as the Commissioners of the South Dakota Public Utilities Commission ("Defendants"), and intervenors South Dakota Telecommunications Ass'n and Venture Communications Cooperative ("Intervenors") (collectively, the "Parties"), by and through their undersigned counsel, hereby stipulate, agree and move the Court pursuant to Fed. R. Civ.

P. 21 for an order removing the State of South Dakota ("State") as a party defendant in this matter. The Parties base this Motion on the following facts:

1. Verizon Wireless named the State as a party defendant in the original Summons and Complaint ("Original Complaint") dated August 6, 2004.

2. Subsequent to filing the Original Complaint, and after discussions with the South Dakota Attorney General's office regarding immunity of the State, Verizon Wireless determined that the State was not an appropriate defendant.

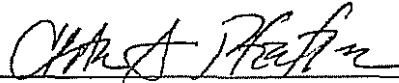
3. The State was not named as a party defendant in Verizon Wireless' Amended Complaint dated August 30, 2004. The State did not at that time, nor has it at any time, participated in these proceedings.

4. The trial in this matter was held in Aberdeen, South Dakota on August 15, 2007. During the trial, the Court indicated that although the State had been dropped as a party defendant in the Amended Complaint, parties may not be added or removed from a matter absent Court authority to do so.

5. The Parties hereby stipulate and agree to the removal of the State as a party in this matter. Removal of the State as a party defendant from this matter is appropriate and just.

WHEREFORE, the Parties respectfully request that this Motion be granted, and that the Court enter an order removing the State as a party defendant in this matter. A proposed order is attached to this Motion for the Court's convenience

Dated this 2 day of ^{October}~~September~~, 2007.



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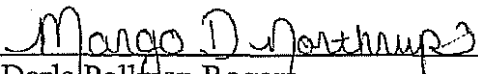
Dated this 26th day of September, 2007.

Rolayne Ails Wiest

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ATTORNEY FOR DEFENDANTS

Dated this 26th day of September, 2007.


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Dated this 26th day of September, 2007.


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