

UNITED STATES DISTRICT COURT
MEMORANDUM

Date: March 6, 2007
To: Counsel
Re: Verizon, et al. v. Kolbeck, et al., 04-3014
From: Judge Kornmann

I have looked at the documents in connection with the motion for a continuance (although there is no trial date presently established) and the motion for additional discovery.

The telephonic pretrial conference is set for March 23. I will not return to South Dakota until March 19. We will proceed with the conference as scheduled.

This will give you a "heads up" on what I probably will do during the telephonic hearing. I will deny both motions. I frankly have no confidence that any agency of the federal government will act promptly. That certainly includes the FCC. I do not have that luxury. Federal judges who have cases pending more than three years are required to file a report with some bureaucrat in Washington. We are then "written up" for being dilatory. The judges in South Dakota have agreed that we will not permit cases to be pending for that period of time without exceptions that are permitted and identified. For example, if a party is in bankruptcy or has been in bankruptcy, the "rule" does not apply.

Let us assume that the FCC would act promptly and deal with the issues which have been pending for so long. That does not nullify any South Dakota statute. Only a final decision by a court or action by the legislature could do that. Nothing is certain about any of that.

My trial schedule is not good in any event. Your case could not be tried until mid-year. I have a very complicated criminal case dealing with claimed tax evasions by a number of people from Hughes County. That case will take perhaps six weeks to try and is set for May.

There is an allegation that plaintiffs have attempted to use discovery beyond the deadline. If so, defendants should pay no attention to such efforts. I would hope, however, that both sides will cooperate fully so that necessary discovery is completed prior to trial.

I will talk with you on the 23rd. Note the new telephone number.



CHARLES B. KORNMAN
UNITED STATES DISTRICT JUDGE
United States Courthouse
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CC: Brad Bunker
Clerk's file