



2200 IDS Center
80 South 8th Street
Minneapolis MN 55402-2157
tel 612.977.8400
fax 612.977.8650

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SOUTH DAKOTA PUBLIC
UTILITIES COMMISSION

December 7, 2006

VIA EMAIL and U.S. MAIL

Darla Pollman Rogers
Ritter, Rogers, Wattier & Brown, LLP
319 South Coteau Street
P.O. Box 280
Pierre, South Dakota 57501-0280

Rolayne Ailts Wiest
South Dakota Public Utilities Commission
500 East Capitol
Pierre, South Dakota 57504-5070

**Re: Verizon Wireless et al. v. State of South Dakota et al.
Court File No. 04-3014**

Dear Darla and Rolayne:

As you are aware, the District Court denied Verizon Wireless' motion for summary judgment and expects this matter to proceed to trial. As we discussed with you earlier this year, the federal rules provide that an expert report must contain all opinions that will be expressed at trial, and must identify all data and other information considered by the expert. The affidavit provided by Mr. Thompson in opposition to our motion for summary judgment contains opinions that went well beyond his expert report. We advised you and the court that we believed that testimony was improper. Rather than move to strike, however, we indicated that if the matter was not disposed of on summary judgment, and if you proposed to amend Mr. Thompson's expert report, we would work to negotiate any necessary discovery and other supplementation to address Mr. Thompson's new opinions. At this time, you have not supplemented Mr. Thompson's report. If you intend for Mr. Thompson to express the opinions contained in his affidavit we will need to have a supplemental report and will need to have the opportunity to conduct appropriate discovery on these new issues.

In light of the upcoming holidays and the January scheduling conference, I would like to discuss these matters with you in the next few business days. Please let me know when you would be available.

Very truly yours,

Philip R. Schenkenberg
(612) 977-8246
pschenkenberg@briggs.com

PRS/smo

cc: Charon Phillips

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