

WEGNER AUTO COMPANY, INC., a South
Dakota corporation, and the SOUTH DAKOTA
PUBLIC UTILITIES COMMISSION, an agency of
the State of South Dakota,

Plaintiffs,

vs.

LES SUMPTION d/b/a S&S Communications and
S&S COMMUNICATIONS, a South Dakota general
partnership,

Defendants.

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CIV 09-483

**MOTION TO JOIN AS
PARTIES PLAINTIFF**

Plaintiffs Wegner Auto Company, Inc. ("Wegner Auto") and the South Dakota Public Utilities Commission ("Commission") move the Court for one or more orders, pursuant to SDCL 49-13-27:

- A. Joining the 131 additional Damages Awardees under the Commission's Damages Order (as these terms are defined in the Complaint), other than Wegner Auto, as parties plaintiff in this action to obtain a judgment on the Damages Order in favor of Wegner Auto and the other Damages Awardees, jointly, pursuant to SDCL 49-13-24 through 49-13-27;
- B. Approving the objection to joinder and opt-out mechanism for consent to joinder employed by Plaintiffs to enable any of the Damages Awardees who do not wish to join as plaintiffs in this action to return the opt-out form in a self-addressed, postage pre-paid envelope within 30 days after the date of service by mail and opt out of joinder as a plaintiff; and
- C. Approving service by first class mail, postage pre-paid with return service requested as an acceptable method of service upon the 131 Damages Awardees to be joined as plaintiffs, of this Motion, the Complaint (exclusive of the Exhibits which have previously been served on them in Docket CT05-005), an explanatory cover letter and the opt-out form together with a self-addressed, postage pre-paid return envelope for the opt-out form.

In support of this Motion, Plaintiffs state as follows:

- 1. The explanatory letter and opt-out form to be served upon the 131 Damages Awardees to be joined as parties plaintiff are set forth on Exhibit A to this Motion. The names of the 131 Damages Awardees to be joined as parties plaintiff in this action are set forth in alphabetical

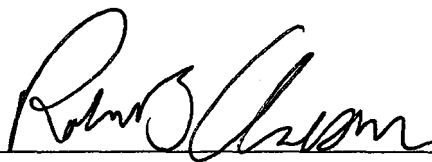
order on Exhibit B to this Motion. Exhibit C is a listing of the complaint numbers and address information, in complaint number order, for the Damages Awardees, including Plaintiff Wegner Auto and the 131 Damages Awardees to be joined as parties plaintiff by this motion as copied from Exhibit C to Commission Staff's Motion for Summary Disposition in Docket CT05-005.

2. Each of the Damages Awardees is a "person for whose benefit the order was made" within the meaning of that phrase in SDCL 49-13-24. Wegner Auto and the Damages Awardees to be joined as plaintiffs by this Motion constitute "all parties in whose favor the commission has made an award of damages [pursuant] to a single order" as provided in SDCL 49-13-27.

3. The reason the Commission joined all of the Damages Awardees and non-awardee complainants against S&S Communications into a single case in Docket CT05-005 was to achieve a workable, orderly and equitable process for hearing and deciding their complaints and also to cause any ensuing enforcement proceeding in circuit court to be brought pursuant to the joinder and joint recovery provisions of SDCL 49-13-27 to ensure that any recovery under the judgment would be a shared and equitably apportioned recovery by all Damages Awardees.


4. The opt-out and notice procedures requested by Plaintiffs are reasonable under these circumstances, similar to a class action situation, where the interests of all Damages Awardees in obtaining a judgment to effectuate the Damages Order are the same and may be fairly and adequately protected by action undertaken by a representative plaintiff such as Wegner Auto on behalf of all Damages Awardees jointly.

Dated this 18th day of November, 2009.



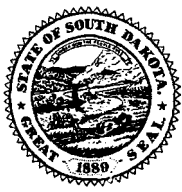
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Attorney for Plaintiff, South Dakota Public
Utilities Commission



Dustin Johnson, Chair
Steve Kolbeck, Vice-
Chair
Gary Hanson,
Commissioner

Exhibit A
SOUTH DAKOTA
PUBLIC UTILITIES COMMISSION

500 East Capitol Avenue
Pierre, South Dakota 57501-5070
www.puc.sd.gov

Capitol Office
(605) 773-3201
(866) 757-6031 fax

Warehouse
(605) 773-5280
(605) 773-3225 fax

Consumer Hotline
1-800-332-1782

November _____, 2009

**TO ALL PERSONS WHO WERE AWARDED DAMAGES BY THE COMMISSION IN
DOCKET CT05-005 INVOLVING S&S COMMUNICATIONS:**

Wegner Auto Company, Inc. of Pierre ("Wegner Auto") and the South Dakota Public Utilities Commission ("Commission") have instituted a legal action against S&S Communications ("S&S") and Les Sumption to attempt to obtain a money judgment from the Court for the damages that were awarded by the Commission to Wegner Auto and 131 other persons, including yourself or your company. S&S Communications and Les Sumption have not paid any of the damages awarded by the Commission. We have also made a motion to the Court to join as Plaintiffs in the case the 131 persons besides Wegner Auto who were awarded damages, including yourself, so that if a judgment is granted and any recovery is obtained, the money will be shared by all the persons who were awarded damages in proportion to the size of their damages awards.

By this mailing, we are serving notice on you of the filing of the Complaint and the Motion to Join as Parties Plaintiff, copies of which are enclosed. We did not include the Exhibits to the Complaint as these are documents that have previously been provided to you during the Commission's damages proceeding. We have also enclosed a form for Objection to Joinder and Opt-Out and self-addressed stamped return envelope so that if you do not want to be included as a Plaintiff, we will remove you from the list of persons to be joined as Plaintiffs. You will not incur any costs as a result of being joined as a Plaintiff.

Note that we have requested the Commission to be appointed as receiver in order to have an orderly and equitable process for attempting to execute on the judgment and fairly disburse any funds that might be recovered from Mr. Sumption or S&S. As we have stated previously, we have reason to believe no non-exempt assets may be available to levy against, so we want to emphasize that a damages award will not necessarily mean you will receive any money. Our reason for getting a judgment, however, is so that in case any assets can be found, now or in the future, a judgment is on record to enable a recovery for the customers awarded damages.

Please contact me at the Commission if you have questions or concerns: South Dakota Public Utilities Commission, 500 E. Capitol Ave., Pierre, SD 57501; ph: (800) 332-1782 or (605) 773-3201; fax: (866) 757-6031; john.j.smith@state.sd.us; www.puc.sd.gov.

Sincerely,

John J. Smith
Commission Counsel

Enclosures

Exhibit A (cont)

STATE OF SOUTH DAKOTA
COUNTY OF HUGHES

IN CIRCUIT COURT
SIXTH JUDICIAL CIRCUIT

WEGNER AUTO COMPANY, INC., a South
Dakota corporation, and the SOUTH DAKOTA
PUBLIC UTILITIES COMMISSION, an agency of
the State of South Dakota,

Plaintiffs,

vs.

LES SUMPTION d/b/a S&S Communications and
S&S COMMUNICATIONS, a South Dakota general
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CIV _____

**OBJECTION TO JOINDER
AS PARTY PLAINTIFF AND
OPT-OUT**

COMPLAINANT CONTACT: [First Name] [Last Name]
COMPLAINANT BUSINESS NAME: [Business Name]
COMPLAINT DOCKET NUMBER: [Complaint Docket Number]

Note: Only fill out and return this form if you DO NOT WISH TO BE JOINED AS A PLAINTIFF in the above entitled case to obtain a judgment from the Court against S&S Communications and Les Sumption in favor of the persons who were awarded damages by the South Dakota Public Utilities Commission in Docket CT05-005. If you are not joined as a Plaintiff, you may not be entitled to share in any recovery of money or property that may occur on execution on the judgment.

I, _____, state that I am an authorized representative of the above-referenced Complainant and Damages Awardee in Docket CT05-005 and that I am authorized to state, on behalf of such Damages Awardee, that Damages Awardee does not wish to be joined as a Plaintiff in the case to obtain a judgment on behalf of all persons who were awarded damages by the Commission in Docket CT05-005.

Dated this _____ day of _____, 2009.

By: _____
[Signature]

[Print Name]

[Title, if any]

EXHIBIT B – ALPHABETICAL LIST OF PERSONS TO BE JOINED

CORPORATE PARTIES

Auto Shoppe Inc.
Barber Farm Service, Inc.
Beck Motors, Inc.
BMI Agency, Inc.
Brookings Auto Mall, LLC
Chase Auto Connection
Clarke Insurance Agency
Corsica Implement Inc.
Country Ford Inc.
Dakota Premium Hay
Dave Hahler Automotive, Inc.
Doug's Anchors Marine Inc.
Duling Financial Services
Eastern Plains Urology
Ellefson Implement
Erv's Furniture
Eugene Beckman & Sons
Evanson Jensen Funeral Home
Faith Livestock
Farmers Implement &
Irrigations Inc.
Farmers Union Service
Association
First National Bank
First State Bank Miller
Fort Pierre Livestock Inc
Funk Harvesting
Gesswein Motors
Graham Tire Co.
Grant County Implement
Great Plains Internat. Inc
Haberer's Imp.
Hagan Benefits
Harry K Chevy
Harry K Ford
Healthy Lifestyles
Highmore Cattle Co
Hoffman Harvesting
Huron Manufact. Corp.
Jensen Rock & Sand Inc.
Jobbers Moving & Storage
Jones Trucking
Koletzky Implement Inc.
Krause Financial Planning
Lake County International, Inc.
Legend Seeds
Midland Pub. And Printing
Midwest Credits
Miller Livestock
Mobridge Regional Hospital
Montgomry Furniture
Moodie Implement
Moreau-Grand Elect. Co-Op
New Frontier Station

Newport Colony
North Central Farmers Elevator
O'keefe Implement Inc.
Olsen Implement
Paul Nelson Farm
Pharmco Industries
Platte Parts Store
Prostrollo Motors
Rapid Precision
Riverside Motel
Rushmore Electric
Schulte's Flandreau Motors
Scott Supply
Shawn Chase Ford
Skorpik's, Inc.
South Dakota Automobile Club,
Inc. d/b/a AAA South Dakota
State Farm Insurance
Tyndall Motors Inc
V & S Trucking
Van Der Werff Imp.
Variable Investment Advis
Whetstone Ag Supply, Inc.
Winner Livestock Auction

NATURAL PERSONS

Kyle Ammann
Pat Amman
Jamie and Jason Anderberg
Sherry Badger
Tember Beckett
Glen Behnke
Charles and Orpha Bensen
Dennis Bieber
Richard and Carolyn Bieber
Margaret Bohner
Bob and Diane Booth
Curtis Bossert
Brian Brockel
Jeff and Debbie Bumpous
Allen and Jean Croyle
Linda Dikoff
Colin Dutenhoffer
Craig Engel
Darren and Heidi Engelhart
Rod and Suzanne Gepper
Nicole and Chris Glines
Ronald Graves
Vicki and Bruce Graves
Tim and Elaine Hall
Wayne Heien
Delton Hitchcock
Maurice Hoffman
Calvin and Marcella Huber
Melvin and Phoebe Huber
Tim and Sonja Huber
Bart Johnson
Neal and Janet Johnson
Myron Joneson
John Koskan
Lauren Langdeau
Gerald Larson
Denny and Doris Lauing
Jack R. Leininger
Myrt Liebig
Janice Mellema
Judy Nichols
Duane O'neal
Lavonne and Steve Oswald
Kevin Parmely
Lyle Perman
Sandra Schaack
Joseph and Penny Schonebaum
Chuck Simon
Curtis Sylte
Judy and Herman Symens
Jake Volk
Bill Wagner
Terry and Joann Wheeler
Arnold Wienk
Kenny Wiese
Byron and Penny Woodruff