

8 UNITED STATES DISTRICT COURT
9 WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

10 MICHAEL SPAFFORD, JR., individually and
11 on behalf of a class of Washington residents
similarly situated,

12 Plaintiff,

13 v.

14 ECHOSTAR COMMUNICATIONS
CORPORATION, a Nevada corporation; et al.,

15 Defendants.

16 ECHOSTAR COMMUNICATIONS
17 CORPORATION, a Colorado corporation, et
al.,

18 Third-Party Plaintiffs,

19 v.

20 SATELLITE SYSTEMS NETWORK, LLC.,
21 a California limited liability corporation,

22 Third-Party Defendant.
23

24 I, Michael F. Ram, declare as follows:

25 1. I am a member in good standing of the California State Bar and have been
26 granted *pro hac vice* admission to the Washington Bar for purposes of representing Plaintiff

NO. CV06-0479 RAJ

DECLARATION OF MICHAEL F. RAM
IN SUPPORT OF JOINT MOTION FOR
CERTIFICATION OF A SETTLEMENT
CLASS AND PRELIMINARY
APPROVAL OF CLASS ACTION
SETTLEMENT AGREEMENT

1 Michael Spafford, Jr., in this matter. I make this declaration based on my personal knowledge
2 and in support of the parties' Joint Motion for Certification of a Settlement Class and
3 Preliminary Approval of Settlement Agreement. If called to testify as to the contents of this
4 declaration, I would competently testify as follows.

5 2. The attorneys of Levy, Ram & Olson have extensive experience in class action
6 litigation, including complex unfair competition and consumer protection cases. For example,
7 Levy, Ram & Olson has served as co-lead counsel in *Chamberlan v. Ford Motor Company*,
8 No. 03-2628 (N.D. Ca.) (certified class action involving defective plastic manifolds); *Falk v.*
9 *General Motors Corporation*, No. 07-1731 (N.D. Ca.) (certified class action involving
10 defective speedometers); *Gardner v. Stimson Lumber Company*, No. 2-17633-3 SEA (Superior
11 Court King County, WA) (nationwide class action involving defective siding); *Rosenberg v. U-*
12 *Haul*, No. CV144045 (Superior Court of Santa Cruz County, Ca.) (certified consumer
13 protection class action for false and deceptive conduct, securing injunctive relief after bench
14 trial); *see also Amico v. General Motors Corporation*, No. 2004-092816 (Superior Court of
15 Maricopa County, Az.) (certified class action involving defective plastic manifolds);
16 *Richison v. American Cemwood Corporation*, No. 5532 (Superior Court of San Francisco
17 County, Ca.) (multi-state certified class action involving defective roofing shakes); *Williams v.*
18 *Weyerhaeuser*, No. 995787 (Superior Court of San Francisco County, Ca.) (nationwide
19 certified class action involving defective hardboard siding); and *Naef v. Masonite*, No. 94-4033
20 (Circuit Court of Mobile County, AL) (nationwide certified class action involving defective
21 hardboard siding). The full resume of Levy, Ram & Olson is attached as Exhibit A.

22 3. After Plaintiff secured sufficient discovery in this case, including Rule 30(b)(6)
23 depositions of three top EchoStar executives, the parties agreed to mediation.

24 4. In three intensive mediation sessions with the Hon. Terrence Carroll (Ret.) in
25 Seattle over the course of four months, the parties negotiated injunctive relief that will
26 significantly benefit members of the proposed class and residents of Washington State

1 generally, and a \$50,000 *cy pres* payment to the Legal Aid for Washington Fund (“LAW
2 Fund”).

3 5. Notably, the Class will not be releasing third-party Retailers from *any* liability.
4 Hence, Class Members retain their right to pursue damage claims, including statutory damage
5 claims, against these parties, who likely placed the calls to Washington consumers.

6 6. Pursuant to the Settlement Agreement, the parties will arbitrate the issue of
7 attorneys’ fees and costs at Judicial Arbitration and Mediation Services before the Hon.
8 William Cahill (Ret.), formerly of the San Francisco Superior Court.

9 7. Regardless of the ultimate attorneys’ fee and cost award, Class Counsel will
10 seek this Court’s approval of the arbitrator’s decision.

11 8. Under the Settlement, EchoStar will pay for the cost of notice to the Class,
12 which will be published over a 14-day period in seven newspapers of general circulation
13 throughout the state.

14 9. Pursuant to the Settlement Agreement, no later than 30 days after preliminary
15 approval, notice will be published for one day in the following newspapers of general
16 circulation: (1) *Vancouver-Columbian*, (2) *Seattle Times/Post-Intelligencer*; (3) *Spokane*
17 *Spokesman-Review*, and (4) *Tri-City Herald*. Fourteen days later, the same notice will be
18 published for one day in each of the following newspapers of general circulation:

19 (1) *Vancouver-Columbian*, (2) *Tacoma news Tribune*, (3) *Bellingham Herald*, (4) *Spokane*
20 *Spokesman-Review*, and (5) *Yakima Herald Republic*. Class Counsel will monitor and track
21 those Class Members seeking exclusion or objecting to the proposed Settlement.

22 10. Class Counsel and EchoStar chose these counties because of the major
23 metropolitan areas present in them and the breadth of distribution.

1 **CERTIFICATE OF SERVICE**

2 I hereby certify that on September 18, 2008, I electronically filed the foregoing with
3 the Clerk of the Court using the CM/ECF system, which will send notification of such filing to
4 the following:

5
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1 DATED this 18th day of September, 2008.

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