

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of)	
)	
SPRINT COMMUNICATIONS CO., L.P.,)	
)	
Complainant,)	MDRD ECFS No. 14-223
)	
v.)	File No. EB-14-MD-014
)	
NORTH COUNTY COMMUNICATIONS CORP.,)	
)	
Defendant.)	

**OBJECTIONS OF NORTH COUNTY COMMUNICATIONS CORP. TO
SPRINT'S NOTICE OF SUPPLEMENTAL AUTHORITY**

North County Communications Corporation ("NCC") hereby objects to the March 27, 2015 Notice of Supplemental Authority ("Notice") filed by Sprint Communications Company L.P. ("Sprint").

Sprint asserts that it submitted the Notice pursuant to 47 C.F.R. § 1.727: "Parties are responsible, however, for the continuing accuracy and completeness of all information and supporting authority furnished in a pending complaint proceeding as required under §1.720(g)." 47 C.F.R. § 1.727(f). As explained herein, Sprint's filing is anything but accurate. Indeed, Sprint's mischaracterizations violate 47 C.F.R. § 1.17, which requires Sprint to provide truthful and accurate statements to the Commission.

Sprint's Notice attaches, refers to, and expounds on a *Tentative Decision After Bench Trial* ("TD") in the case of *NCC v. Vaya Telecom, Inc.*, Case No. 37-2011-00083845 (Superior County of San Diego County). Sprint's reference to the TD as an "Order" constitutes an intentional mischaracterization of the TD. Sprint fails to point out to the Commission that the TD is an informal indication of the court's contemplated judgment. See Cal. Rules of Court, Rule 3.1590 (see Att. A, which is a true and correct

copy of that rule); *see also* Cal. Code of Civ. Pro. § 632. Moreover, the *TD* is not a judgment, is not binding on the court, and may be modified or changed at any time. Cal. Rules of Court, Rule 3.1590(b).

Sprint ignores the entirety of Rule 3.1590, which details the process for Tentative Decisions followed by: (i) requests for a Proposed Statement of Decision (“PSOD”); (ii) issuance and service of a PSOD; (iii) objections to the PSOD; (iv) submission of a proposed judgment; (v) objections to Proposed Judgment; (vi) potential hearings on the proposed judgment; and (vii) court signature and filing of the final judgment. Instead, Sprint intentionally misleads the Commission as to the legal significance of the *TD*.

As the San Diego Superior Court’s Register of Actions (“ROA”) indicates for the *NCC v. Vaya* matter, the case is only at the PSOD issuance stage. *See Att. B*, which is a true and correct copy of the ROA for *NCC v. Vaya* as of April 2, 2015. There is no final order and judgment in *NCC v. Vaya*. Indeed, the *TD* is not “authority.” Thus, the *TD* attached to Sprint’s Notice and the related arguments in the Notice should be stricken.

Regarding the other “authorities” cited by Sprint and argued in the Notice, NCC will address those cases when the Commission requests further briefing on the applicability of those decisions to the current case.

Respectfully submitted,

/s/R. Dale Dixon, Jr.

R. Dale Dixon, Jr.

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Counsel for North County

Communications Corporation

Dated: April 2, 2015

ATTACHMENT A



California Rules of Court (Revised January 1, 2015)

Rule 3.1590. Announcement of tentative decision, statement of decision, and judgment

(a) Announcement and service of tentative decision

On the trial of a question of fact by the court, the court must announce its tentative decision by an oral statement, entered in the minutes, or by a written statement filed with the clerk. Unless the announcement is made in open court in the presence of all parties that appeared at the trial, the clerk must immediately serve on all parties that appeared at the trial a copy of the minute entry or written tentative decision.

(Subd (a) amended effective January 1, 2010; previously amended effective January 1, 1969, July 1, 1973, January 1, 1982, January 1, 1983, and January 1, 2007.)

(b) Tentative decision not binding

The tentative decision does not constitute a judgment and is not binding on the court. If the court subsequently modifies or changes its announced tentative decision, the clerk must serve a copy of the modification or change on all parties that appeared at the trial.

(Subd (b) amended effective January 1, 2010; adopted as part of subd (a); previously amended and lettered effective January 1, 2007; previously amended effective January 1, 2007.)

(c) Provisions in tentative decision

The court in its tentative decision may:

- (1) State that it is the court's proposed statement of decision, subject to a party's objection under (g);
- (2) Indicate that the court will prepare a statement of decision;
- (3) Order a party to prepare a statement of decision; or
- (4) Direct that the tentative decision will become the statement of decision unless, within 10 days after announcement or service of the tentative decision, a party specifies those principal controverted issues as to which the party is requesting a statement of decision or makes proposals not included in the tentative decision.

(Subd (c) amended effective January 1, 2010; adopted as part of subd (a); previously amended and lettered effective January 1, 2007.)

(d) Request for statement of decision

Within 10 days after announcement or service of the tentative decision, whichever is later, any party that appeared at trial may request a statement of decision to address the principal controverted issues. The principal controverted issues must be specified in the request.

(Subd (d) adopted effective January 1, 2010.)

(e) Other party's response to request for statement of decision

If a party requests a statement of decision under (d), any other party may make proposals as to the content of the statement of decision within 10 days after the date of request for a statement of decision.

(Subd (e) amended and relettered effective January 1, 2010; adopted as subd (b); previously amended effective January 1, 1969, and January 1, 1982; previously amended and relettered as subd (d) effective January 1, 2007.)

(f) Preparation and service of proposed statement of decision and judgment

If a party requests a statement of decision under (d), the court must, within 30 days of announcement or service of the tentative decision, prepare and serve a proposed statement of decision and a proposed judgment on all parties that appeared at the trial, unless the court has ordered a party to prepare the statement. A party that has been ordered to prepare the statement must within 30 days after the announcement or service of the tentative decision, serve and submit to the court a proposed statement of decision and a proposed judgment. If the proposed statement of decision and judgment are not served and submitted within that time, any other party that appeared at the trial may within 10 days thereafter: (1) prepare, serve, and submit to the court a proposed statement of decision and judgment or (2) serve on all other parties and file a notice of motion for an order that a statement of decision be deemed waived.

(Subd (f) amended and relettered effective January 1, 2010; adopted as subd (c); previously amended effective January 1, 1969, July 1, 1973, and January 1, 1982; previously amended and relettered as subd (e) effective January 1, 2007.)

(g) Objections to proposed statement of decision

Any party may, within 15 days after the proposed statement of decision and judgment have been served, serve and file objections to the proposed statement of decision or judgment.

(Subd (g) amended and relettered effective January 1, 2010; adopted as subd (d), previously amended effective January 1, 1969, and January 1, 1982; previously relettered as subd (f) effective January 1, 2007.)

(h) Preparation and filing of written judgment when statement of decision not prepared

If no party requests or is ordered to prepare a statement of decision and a written judgment is required, the court must prepare and serve a proposed judgment on all parties that appeared at the trial within 20 days after the announcement or service of the tentative decision or the court may order a party to prepare, serve, and submit the proposed judgment to the court within 10 days after the date of the order.

(Subd (h) amended and relettered effective January 1, 2010; previously amended effective January 1, 1969; previously amended and relettered as subd (e) effective January 1, 1982, and as subd (g) effective January 1, 2007.)

(i) Preparation and filing of written judgment when statement of decision deemed waived

If the court orders that the statement of decision is deemed waived and a written judgment is required, the court must, within 10 days of the order deeming the statement of decision waived, either prepare and serve a proposed judgment on all parties that appeared at the trial or order a party to prepare, serve, and submit the proposed judgment to the court within 10 days.

(Subd (i) adopted effective January 1, 2010.)

(j) Objection to proposed judgment

Any party may, within 10 days after service of the proposed judgment, serve and file objections thereto.

(Subd (j) adopted effective January 1, 2010.)

(k) Hearing

The court may order a hearing on proposals or objections to a proposed statement of decision or the proposed judgment.

(Subd (k) amended and relettered effective January 1, 2010; adopted as subd (f) effective January 1, 1982; previously relettered as subd (i) effective January, 2007.)

(l) Signature and filing of judgment

If a written judgment is required, the court must sign and file the judgment within 50 days after the announcement or service of the tentative decision, whichever is later, or, if a hearing was held under (k), within 10 days after the hearing. The judgment constitutes the decision on which judgment is to be entered under Code of Civil Procedure section 664.

(Subd (l) amended and relettered effective January 1, 2010; adopted as part of subd (e); previously amended and lettered as subd (h) effective January 1, 2007.)

(m) Extension of time; relief from noncompliance

The court may, by written order, extend any of the times prescribed by this rule and at any time before the entry of judgment may, for good cause shown and on such terms as may be just, excuse a noncompliance with the time limits prescribed for doing

any act required by this rule.

(Subd (m) relettered effective January 1, 2010; previously amended effective January 1, 1969, and July 1, 1973; previously amended and relettered as subd (g) effective January 1, 1982, and as subd (j) effective January 1, 2007.)

(n) Trial within one day

When a trial is completed within one day or in less than eight hours over more than one day, a request for statement of decision must be made before the matter is submitted for decision and the statement of decision may be made orally on the record in the presence of the parties.

(Subd (n) amended and relettered effective January 1, 2010; adopted as subd (h) effective January 1, 1983; previously amended and relettered as subd (k) effective January 1, 2007.)

Rule 3.1590 amended effective January 1, 2010; adopted as rule 232 effective January 1, 1949; previously amended and renumbered effective January 1, 2007; previously amended effective January 1, 1969, July 1, 1973, January 1, 1982, January 1, 1983, and January 1, 2007.

ATTACHMENT B

**Superior Court of California, County of San Diego - Register of Actions**[Page](#)[Case Number Search](#)[Participant Name Search](#)[Date Search](#)[Unlawful Detainer Search](#)[Printer Friendly Version](#)[FAQ](#)[Cart](#)

Register of Actions (ROA)

Case Information

Case Number: **37-2011-00083845-CU-BC-CTL**

Date Filed: 01/14/2011

Case Title: North County Communications Corporation vs. Vaya Telecom Inc

Case Status: Appeal

Case Category: Civil - Unlimited

Location: Central

Case Type: Breach of Contract/Warranty

Judicial Officer: Judith F. Hayes

Case Age: 1539 days

Department: C-68

Future Events

Event Date	Event Time	Location	Event Type
No future events			

Participants

Name	Role	Representation
North County Communications Corporation	Plaintiff, Appellant	DIXON, R DALE
Vaya Telecom Inc	Defendant, Respondent on Appeal	Taff-Rice, Anita

1

Representation

Name	Address	Phone Number
DIXON, R D	LAW OFFICES OF DALE DIXON 402 W Broadway 1500 San Diego CA 92101	(619) 770-1884, (888) 677-5598
TAFF-RICE, ANITA	1547 Palos Verdes Mall 298 Walnut Creek CA 94597	

1

Register of Actions

All Entries

Filing Entries

Minutes Entries

Scheduling Entries



Enter text to search

1 2 3 4 5 6 7 8 9 10

ROA#	Entry Date	Short/Long Entry	Filed By	Document	Cart
456	03/25/2015	Statement of Decision (Defendant's (Proposed) Statement of Decision) filed by Vaya Telecom Inc.	Vaya Telecom Inc (Defendant)		
454	03/26/2015	Clerk's Certificate of Service By Mail SD generated.		Clerk's Certificate of Service By Mail SD	Add to Cart
452	03/26/2015	Statement of Decision (Proposed) filed by The Superior Court of San Diego.			
451	03/19/2015	Request for Statement of Decision filed by North County Communications Corporation.	North County Communications Corporation (Plaintiff)		
450	03/10/2015	Minutes finalized for Civil Court Trial heard 03/10/2015 09:00:00 AM.		Minute Order with Attachment	Add to Cart
449	03/10/2015	Court trial resumed.			
448	03/11/2015	Minutes finalized for Civil Court Trial heard 03/11/2015 08:30:00 AM.		Minute Order	Add to Cart
447	03/11/2015	court trial resumed.			
445	03/10/2015	3:55 pm Court adjourned until 03/11/2015 at 08:30AM in Department C72.			
443	03/10/2015	Witness List filed by North County Communications Corporation; Vaya Telecom Inc.	North County Communications Corporation (Plaintiff); Vaya Telecom Inc		

CERTIFICATE OF SERVICE

I hereby certify that on April 2, 2015, copies of the foregoing Objections to Sprint's Notice of Supplemental Authority were served via the methods specified below to the following:

Marlene H. Dortch
Office of the Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554
Via ECFS

Rosemary McEnery
A.J. DeLaurentis
Lisa Griffin
Enforcement Bureau - MDRD
Federal Communications Commission
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Via E-Mail

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Bret Lawson
Sprint Communications Co., L.P.
6450 Sprint Parkway
Overland Park, KS 66251
Via E-Mail and ECFS

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct.

Executed on April 2, 2015, in San Diego, California.

/s/R. Dale Dixon, Jr
R. Dale Dixon, Jr.