

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA, et al.,

Plaintiff,

v.

ECHOSTAR COMMUNICATIONS CORP., et al.,

Defendants.

Case No. 1:02CV02138 (ESH)

**SUPPLEMENTAL DECLARATION OF ROBERT SILVER**

1. I am a member of the firm of Boies, Schiller & Flexner LLP, which represents EchoStar Communications Corporation (“EchoStar”) in the above-captioned matter.

2. I submit this supplemental declaration in support of Defendants’ motion for an expedited trial in this matter.

3. On Monday, November 4, 2002, I and other counsel for Defendants met by telephone with Claude Scott, counsel for Plaintiff United States of America, and Anne Schneider, liaison counsel for the Plaintiff States, to meet and confer pursuant to Federal Rules of Civil Procedure 16 and 26(f), and Local Civil Rules 7.1(m) and 16.3. Counsel for the Plaintiffs and I had previously agreed to an expedited scheduling conference, which the Court’s staff scheduled for November 5, 2002.

4. In advance of the meet and confer, counsel for Defendants and counsel for United States of America exchanged proposed scheduling orders. Counsel for Defendants proposed a

schedule with trial beginning on or around November 18, 2002, and counsel for United States of America proposed a schedule with trial beginning after June 1, 2003.

5. At the meet and confer, the parties could not agree upon a schedule. Counsel for Defendants explained their position: only a speedy trial would permit meaningful and effective judicial review, while a June trial would effectively preclude such review. Mr. Scott and Ms. Schneider explained their position: they needed substantial additional discovery, and that they required a much longer trial than what the defendants proposed. On these bases, among others, counsel for Plaintiffs took the position that trial not occur until sometime after June 1, 2003, and also reserved the right to ask for a more extended schedule, based on Defendants' position that their proposed transaction with R/L DBS (Cablevision) should be included as an element considered at trial.

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct. Executed on this 4th day of November, 2002, at Armonk, New York.

  
Robert Silver