

NOT RECOMMENDED FOR FULL-TEXT PUBLICATION
File Name: 13a0898n.06

No. 09-4525

UNITED STATES COURT OF APPEALS
FOR THE SIXTH CIRCUIT



PHILIP J. CHARVAT,)
)
Plaintiff-Appellant,)
)
v.)
)
ECHOSTAR SATELLITE, LLC,)
)
Defendant-Appellee.)

ON APPEAL FROM THE UNITED
STATES DISTRICT COURT FOR THE
SOUTHERN DISTRICT OF OHIO

Before: SUTTON and GRIFFIN, Circuit Judges, and BERTELSMAN, District Judge.*

PER CURIAM: On December 30, 2010, we issued an opinion in this case, invoking the doctrine of primary jurisdiction and referring the matter to the Federal Communications Commission (FCC) to allow the agency to interpret certain provisions of the Telephone Consumer Protection Act, 47 U.S.C. § 227, and its accompanying regulations. *Charvat v. EchoStar Satellite, LLC*, 630 F.3d 459, 468 (6th Cir. 2010). On May 9, 2013, the FCC issued a declaratory ruling interpreting the Telephone Act. *In re Dish Network, LLC*, 28 FCC Rcd. 6574 (2013). Accordingly, we now vacate the judgment of the district court and remand this case for consideration of Charvat's claims in light of the FCC's ruling.

* The Honorable William O. Bertelsman, United States District Judge for the Eastern District of Kentucky, sitting by designation.