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January 18, 2024

SENT BY U.S. MAIL AND EMAIL

American Towers, LLC
SpectraSite Communications, LLC
Attention: Margaret Robinson, Senior Counsel of US Tower Division
10 Presidential Way
Woburn , MA 01801
margaret.robinson@americantower.com

AT&T Services, Inc.
New Cingular Wireless Pcs, LLC
Attention: Cecil Matthew
208 S. Akard St. 20f
Dallas, TX 75202
fccmw@att.com

T-Mobile License, LLC
Attention: FCC Regulatory Compliance
12920 Se 38th St
Bellevue, WA 98006
fccregulatorycompliancecontact@t-mobile.com

**Re: Federal Disability Law Accommodation and Modification
for Marcia Haller in Duluth, Minnesota**

Tower and Wireless Providers:

I represent Marcia Haller (“Mrs. Haller”), the 47-year-old homeowner and resident of 7420 Rice Lake Road, Duluth, Minnesota 55803 (“Haller Home”).

Mrs. Haller suffers severe disabilities including multiple strokes with associated cognitive impairment, partial hearing loss and partial loss of vision in one eye and has engaged my law office to request that you provide reasonable accommodations and/or modification of your policies, practices, or procedures related to the wireless operations (tower, equipment, antennae, wireless services) serviced from 7359 Thompson Lake Road, Duluth, Minnesota 55803 (“Tower Site”), which is approximately 900 feet from the Haller Home.

To the extent necessary, Mrs. Haller has authorized me, together with Children's Health Defense and their EMR Litigation Counsel W. Scott McCollough, to pursue litigation against you as joint defendants whose operations are an ongoing and continuous violation of Mrs. Haller's rights under the following laws:

- (a) 42 U.S.C. §§ 12181 *et seq.* (Title III of The Americans with Disabilities Act), and
- (b) 42 U.S.C. §§ 3601 *et seq.* (Fair Housing Act).

Factual Background

Mrs. Haller is disabled. She has been diagnosed with multiple embolic strokes, and autoimmune cerebral arteritis, for which she receives immunosuppressive agents. Mrs. Haller's condition meets the definition of a disability under the ADA as the resulting impairments substantially limit her in more than one major life activity, including balance, orientation, mobility and cognition. In addition, major bodily functions are impacted particularly the nervous system, as manifested by motor weakness, and impaired hearing, reading, learning and inability to concentrate. The levels of RFR exposure in Mrs. Haller's home have the potential to cause new strokes and exacerbate the deficits caused by past strokes. RFR exposure is known to cause and exacerbate cognitive impairment. See attached medical opinion letter by Sharon Goldberg, MD.

Mrs. Haller and her husband Jason are both from Duluth. They attended high school together in Duluth, married thereafter, and raised their son in Duluth. They both work in Duluth.

As you have been conducting RF transmission from your Tower Site approximately 900 feet from the Haller Home, Mrs. Haller's health has suffered and remains impaired because your RF transmission is continuous and ongoing.

Mrs. Haller recalls she first experienced severe, disabling symptoms starting immediately after the tower was upgraded in October 2019. Thus began a series of visits to urgent care and emergency rooms beginning days after conclusion of the tower upgrade which occurred around October 4 and/or October 5 2019. By Monday, October 7, 2019 Mrs. Haller was seen in urgent care after experiencing vertigo. The day prior, October 6, Mrs. Haller had called her husband and described a disturbing pressure in her head. In addition to pressure in her head, Mrs. Haller felt lightheadedness, dizziness and nausea. On Thursday, October 10, Mrs. Haller was brought to the hospital ER and admitted with suspected embolic stroke. Tiny bilateral strokes were confirmed on MRI. Most unfortunately for Mrs. Haller, the strokes continued, necessitating referral to Mayo Clinic where she has cumulatively spent months hospitalized.

By March 2020, the unrelenting symptoms were so severe following multiple strokes, vision loss, hearing loss, headaches, sleep disruption, chronic fatigue and cognitive impairment, Mrs. Haller was forced to move to her parents' home which greatly alleviated her symptoms. During the nearly 8 months Mrs. Haller lived at her mother's home, from March 3, 2020 until October 2020, all strokes ceased.

When Mrs. Haller's parents returned to their home, there was no longer room for Mr. and Mrs. Haller and their son. Upon returning to the Haller Home, Mrs. Haller symptoms as described

above returned. After consultation with a professional building biologist, Mr. Haller began constructing a small, shielded enclosure used to block electromagnetic fields. This "Faraday Cage" is just large enough for a mattress and this is where Mr. and Mrs. Haller sleep and where Mrs. Haller must spend most of her time while at the Haller Home. It is only because of the construction of this RF-EMF-free room that Mrs. Haller was able to move back to the Haller Home in October 2020.

In order to tolerate being in the Haller Home, Mrs. Haller stays largely confined to her small, "Faraday Cage" in the garage, although she can temporarily walk around the home. She has recently begun wearing RF insulated head gear.¹ Her symptoms alleviate when she leaves home so long as she proactively avoids certain RF permeated areas. Mrs. Haller is uncomfortable at the Haller Home. Her head feels different because of a sensation of pressure. At times she describes a vibration in her head. Clear thinking is disrupted, balance is disrupted, headaches are common, together with ear and eye pain. Fatigue is ever present.

Mrs. Haller lives with constant uncertainty that she is risking yet another stroke as she goes about the necessities of daily life outside the protection of the Faraday cage in the garage. She has already experienced 51 strokes since the tower upgrade in 2019.

Mrs. Haller's physician has advised medical accommodation is urgently needed to protect Mrs. Haller's health, safety and ability to function. Mrs. Haller physician has stated she "urgently needs a home environment where the RF-EMF exposure is as close to zero as possible." The Hallers have employed every feasible protection within their financial means to protect Mrs. Haller from EMF and RF radiation at home.

We have conducted scientific measurements demonstrating that the RF emitted from your operations at the Tower Site intrude and continually permeate the Haller Home.

Applying Federal Disability Laws To Your Actions

Mrs. Haller hereby requests (1) your acknowledgment that you owe her duties under the above referenced federal disability laws, (2) your agreement to cease discriminating against her on the basis of her disability, and (3) that you provide her with a reasonable accommodation and/or modify your policies, practices, or procedures in a manner that would allow you to still comply with your obligations and requirements under federal communications laws and regulations.

Duties Owed

ADA

¹ At the Haller Home, the only appreciable relief comes from escaping to this room in the garage, which is essentially a sleeping area within a Faraday cage. Yet household chores and activities take place throughout the Haller Home, such as cooking and cleaning, eating meals, and being present for her family at the kitchen table. Mrs. Haller wears an RF-blocking insulated baseball cap to mitigate the harm, but it offers only limited benefit.

American Towers dba SpectraSite (“SpectraSite”) and its tower that hosts the antennae are commercial facilities pursuant to 42 U.S.C. § 12181(2) and 28 C.F.R. § 36.104. SpectraSite is therefore subject to 28 C.F.R. Part 36, Subpart D. The remaining parties are telecom service providers (“TSPs”) and are public accommodations, as defined in 42 U.S.C. § 12181(7). Their activities and operations create a place of public accommodation under 28 C.F.R. § 36.104. *See also* 28 CFR Part 36, Subparts B, C and D with respect to operations of a place of public accommodation.²

SpectraSite also assumed the role of a public accommodation by hosting the activities of TSPs that are public accommodations, so SpectraSite is also subject to 28 C.F.R. Subpart B and C, in addition to their obligations under Subpart D.

The tower and antennae are physical structures and facilities without which no services can be provided.³ Individually and collectively you own and operate towers that support network elements,⁴ and other equipment owned and operated the TSPs. Collectively you create a physical “place”: the network, over which the TSPs provide their services. Customers physically access this network: they use their own equipment, such as smartphones or other devices, to establish a physical and logical connection to the TSPs’ physical network. Informational content is exchanged between the customer’s device and the network using physical energy, in the form of radiofrequency radiation. Customers enter the network, much as a customer would walk through a door to obtain and use a more traditional service, go to a “motion picture house, theater, concert hall, stadium, or other place of exhibition or entertainment,” or a “museum, library, gallery, or other place of public display or collection,” a “park, zoo, amusement park, or other place of recreation” or an “auditorium, convention center, lecture hall, or other place of public gathering.”⁵ The network is not just “virtual” in the same way a website and the user exchange information using the Internet protocol through applications running on a device; rather, the TSPs provide the physical access network for reaching these other services. Therefore, even if

² The TSPs operate a “place of exhibition and entertainment,” “place of recreation,” “place of public gathering,” “sales or rental establishment,” and “service establishment.” 42 U.S.C. § 12181(7)(C), (D), (F), (I). Some activities and places are “virtual” rather than physical, but that makes no difference for purposes of application, or to these duties. Congress provided flexibility to “keep pace with the rapidly changing technology of the times.” H.R. Rep. 101-485 (II), at 108 (1990). For example, Internet-based video platforms are subject to ADA Title III. *Nat’l Ass’n of the Deaf v. Netflix, Inc.*, 869 F. Supp. 2d 196, 200-201 (D. Mass. 2012). Both TSP parties tout their service as supporting video and has their own video-based offerings. The DOJ rules note that “the category of sales or rental establishments would include an innumerable array of facilities that would sweep far beyond the few examples given in the regulation.” [28 C.F.R. Part 36, Appendix C \(Guidance\)](#).

³ 28 CFR 36.104 (definition of “Facility”). See also 47 U.S.C. §§ 1001-1008, 1455 (references to telecommunications and “information service” “facilities”), 1504(2) (definition of “Broadband infrastructure”); 47 C.F.R. §§ 1.6002 and 1.6100 (repeated reference to wireless “facility” or “facilities”).

⁴ See 47 U.S.C. § 153(35); 47 CFR 51.5 (definition of “Network element”).

⁵ See 28 C.F.R. § 36.104 (3), (4), (8), (9).

the ADA is interpreted to require that a business have a physical “place” before it can be a “service establishment” (which we deny) you still meet the applicable legal criteria.

Since all of you are covered under the ADA, none may discriminate against Mrs. Haller on the basis of her disability. Mrs. Haller will continue subscribing and attempting to subscribe to your personal wireless services (including but not limited to AT&T Mobility), but she cannot use the services as they are currently configured like all other users can as that will trigger severely debilitating and life-threatening symptoms.

Your non-disabled subscribers can obtain service without suffering health consequences. This discrimination – denial of equivalent access and conferral of a separate benefit – is prohibited under the ADA. Further, even if Mrs. Haller were to not desire your service, she is forced to receive it since the RF that is used for physical layer service delivery is continuously forced on her without her consent. In effect, you are forcing Mrs. Haller to “enjoy” a significant aspect of your service regardless of whether she wants it or not. In any event, 42 U.S.C. §§12182(a) and (b)(2)(A)(ii) and (iii) impose certain anti-discrimination duties on public accommodations, even as to those who do not desire equal access to the provider’s goods and services. Each of you must eliminate the discrimination by affording a reasonable accommodation and/or modification of your policies, practices, or procedures.

FHA

With a secured loan, Mr. and Mrs. Haller purchased the land and built their home, which is a dwelling within the meaning of 42 U.S.C. § 3602(b). The RF emitted from your facilities interferes with Mrs. Haller’s exercise and enjoyment of rights granted or protected by sections 42 U.S.C. §§ 3604 or 3605, and therefore you are violating 42 U.S.C. § 3617.

Your placement of the tower and antennae on a private residential property (Tower Site) constitutes a residential real estate-related transaction under 42 U.S.C. § 3605(b)(1)(A). The TSPs maintain a financial arrangement with the Tower Site owner. The construction at the residential site is a type of improvement that, when made operational, has had a discriminatory effect as defined by 24 C.F.R. § 100.500. *See also* 24 C.F.R. §§ 100.115(a)(1), 100.202.

Your RF objectively interferes with the Hallers’ enjoyment of their premises and unreasonably interferes with Mrs. Haller’s use and enjoyment of her property to the point of forcing her out of her home (i.e., forcing her into the hospital; forcing her to selectively use only portions of the home at certain time intervals; forcing her to take healing getaways at her parents’ home).

Your wireless operations so severely sicken Mrs. Haller such that she is unable to continually live in her own home to accomplish major life activities, thereby making the home unavailable and uninhabitable in violation of 42 U.S.C. § 3617.

Mrs. Haller cannot move to other locations that are already flooded by your RF because those places are unavailable to Mrs. Haller, contrary to the requirements of 42 U.S.C. §§ 3604 and 3617. Locations are made unavailable by your wireless systems, which violate the § 3617

protections against interference with, and impose discriminatory effects on, Mrs. Haller's exercise of her right to live and earn a living in the neighborhood of her choice.

Disability accommodation is necessary to afford Mrs. Haller an equal opportunity to use and enjoy her home. Your discriminatory housing practice has not ended but, rather, is ongoing, repeated and continuing.

Reasonable Accommodation and Modification

There are several options available. Mrs. Haller's first preference is that you remove or disable the operation of your tower and antennae.

If you decline that request, her second preference is that you conduct your Duluth, Minnesota operations in a manner that does not injure or trigger major life function-affecting conditions on Americans who experience adverse responses to RF to the point that they have a disability or suffer exacerbation of an existing disability. Regarding equal access, certain of your customers can access your wireless services without being injured, but individuals who suffer significant adverse responses to RF are not afforded that opportunity. Those individuals are, therefore, not afforded equal access. In particular, we specifically request that you modify your operations at the Tower Site so they do not act as an access bar to Mrs. Haller's home environment by triggering severe and potentially life-threatening symptoms.

You are currently forcing your service on Mrs. Haller whether she wants it or not, with devastating effects. You flood her home with RF radiation that is toxic to her, without her consent, thereby affecting subscription by conscription. The uninvited and unwanted harm from your products as they are currently configured crosses her property line. It permeates all areas and passes through the walls, doors and windows. Mrs. Haller has effectively become your 'client and customer' on an involuntary basis because she has no choice but to 'enjoy' your service's irradiation even though it causes harm to her. Therefore, you must end the discrimination against (or, in the alternative, make reasonable modifications for) the disabled Mrs. Haller by not forcing the harmful effects of your service on her in a fashion that causes her debilitating symptoms.

Your software and equipment are technologically advanced. You could easily accommodate or modify your transmitters and networks through technically and economically feasible actions that would address Mrs. Haller's disability without substantially increasing costs in relation to the conduct of your business or fundamentally altering the nature of your goods, services, facilities, privileges, advantages, or accommodations. Technical and/or mechanical adjustments can be made to your equipment or its operation so that Mrs. Haller is not subjected to highly debilitating and symptom-triggering radiation.

Mrs. Haller's position is that federal disability law accommodation/modification is not precluded by the Communications Act, 47 U.S.C. §§151 *et seq* (including Title III) or the Federal Communications Commission's RF human exposure rules. The issue, as always, is whether the requested accommodation/modification is reasonable. Mrs. Haller seeks reasonable

accommodations/modifications, and we request that you engage with us to identify the specifics of the reasonable actions that can be taken.

Conclusion

Please reply within 14-days to address the points above and, specifically, to confirm (a) whether you recognize the applicability of the federal disability laws to your wireless operations irradiating the Haller Home, and (b) the reasonable accommodation or modification that you can offer Mrs. Haller to prevent her further injury or imminent death. We will be happy to engage in an interactive process to determine the best approach that will satisfy legal requirements without unduly burdening your operations or impacting service to others.

Regards,

Marjorie J. Holsten
Attorney at Law