

**BEFORE  
THE PUBLIC UTILITY COMMISSION OF OHIO**

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In the Matter of the Complaint of	)	
William Stamaton,	)	
	)	
Complainant,	)	Case No. 07-135-TP-CSS
	)	
v.	)	
	)	
First Communications, LLC,	)	
	)	
Respondent.	)	

**RESPONDENT'S MOTION FOR LEAVE TO FILE SUPPLEMENT  
TO INITIAL MOTION FOR LEAVE AND MOTION TO DISMISS**

COMES NOW the Respondent, First Communications, LLC (the "Respondent"), by and through its attorneys, and respectfully moves this Commission for leave to supplement its earlier Motion for Leave and Motion to Dismiss, both of which were filed in this case on June 1, 2007. In support of this Motion, the Respondent respectfully submits that the supplemental information contained herein will assist the Commission in understanding all of the factors relevant to Respondent's initial Motion to Dismiss, including without limitation recent events, and the corresponding applicable legal standards. In addition, consideration of this very brief supplement will not prejudice the parties in any way, in that it merely calls attention to certain facts having a direct impact on the Complaint herein, as well as the Complainant's standing before this Commission.

WHEREFORE, Respondent respectfully requests that this Commission grant its Motion and accept Respondent's Supplemental Brief, attached hereto as Exhibit "A," for filing.

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Respectfully submitted,

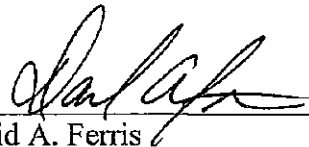


David A. Ferris (0059804)  
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Attorneys for Respondent

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a true and accurate copy of the foregoing Motion for Leave to File Supplement to Initial Motion for Leave and Motion to Dismiss has been served this 23<sup>rd</sup> day of August, 2007, via ordinary, First Class U.S. Mail, postage prepaid, upon the following party:

William Stamaton  
1601 Yorkshire Trace  
Canton, OH 44709



David A. Ferris

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**RESPONDENT'S SUPPLEMENTAL BRIEF**

In supplement to its earlier Motion for Leave and Motion to Dismiss, the Respondent in this matter respectfully submits the following for this Commission's consideration.

**ADDITIONAL FACTS AND ARGUMENT**

Respondent made an appearance in this proceeding for purposes of moving this Commission for leave to file its Motion to Dismiss a Complaint filed by the Complainant, William Stamaton. Respondent's Motion for Leave and Motion to Dismiss were both filed on June 1, 2007, and additional facts have arisen since that time, which bear a direct impact on the proceedings before this Commission and Respondent's Motions.

The first significant development in this case occurred on or about May 18, 2007, when Respondent supplied and Complainant accepted a new 800-number, which is currently being used by Complainant. Given the fact that Complainant has been supplied with a new functioning 800-number, the entirety of all allegations comprising the Complaint have been addressed and

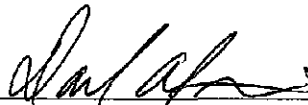
resolved, and the Complaint proceeding is moot and no longer ripe for consideration by this Commission.

Notwithstanding the foregoing chain of events, Respondent understands that Complainant initiated a complaint proceeding before the Federal Communications Commission ("FCC") involving the exact same claims and allegations as comprise these proceedings before this Commission. Although Respondent will vigorously defend against any such claims, the Complaint and Complainant's allegations in this case are barred by the black letter law on collateral estoppel, as well as 49 U.S.C. §208, which speaks to complaint proceedings before the FCC as opposed to this Commission. Accordingly, the Complainant is estopped from pursuing the exact same charges in two separate forums, and this proceeding should be dismissed in its entirety.

#### CONCLUSION

For the foregoing reasons as well as those set forth in Respondent's Motion to Dismiss, incorporated herein in its entirety by reference, the Respondent's Motion to Dismiss should be accepted for filing and granted, and Complainant's Complaint should be dismissed in its entirety.

Respectfully submitted,



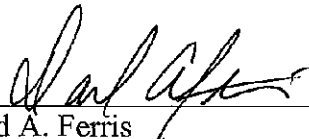
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