

# EXHIBIT B

IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA

THOMAS H. KRAKAUER,	*	Case No. 1:14CV333
	*	
Plaintiff,	*	
	*	
vs.	*	Greensboro, North Carolina
	*	January 10, 2017
DISH NETWORK, L.L.C.,	*	11:55 a.m.
	*	
Defendant.	*	
*****		

**TRANSCRIPT OF TRIAL**  
BEFORE THE HONORABLE CATHERINE C. EAGLES,  
UNITED STATES DISTRICT JUDGE, and a jury.

APPEARANCES:

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1 lunch, we do have a housekeeping matter that may take 10  
2 minutes. We've agreed on 95 percent of the redactions on the  
3 assurance of compliance. There's a couple paragraphs we're  
4 arguing about we would like to get sorted out so we can clean  
5 up the exhibit.

6 **THE COURT:** All right. We'll do that at lunch.

7 And you all saw the questionnaire specific to this case and  
8 each got a copy of that, right?

9 **MR. BICKS:** Yes.

10 **THE COURT:** Okay. And then there were a few jurors  
11 who -- I think this was actually mostly duplicative of the  
12 specific questionnaire, the one we always have them fill out.  
13 A couple of people did indicate some specifics about health  
14 issues or family members with court appearances, that kind of  
15 thing. So I think she showed that to you as well. Yes. Okay.  
16 All right.

17 (Pause in the proceedings.)

18 **THE COURT:** And we probably won't -- we'll stop for  
19 lunch certainly no later than one o'clock. We'll see how it  
20 goes as to the best time to take a break.

21 (Pause in the proceedings.)

22 (Prospective jurors entered the courtroom.)

23 **THE COURT:** You can remain seated while the jurors  
24 come in.

25 (Pause in the proceedings.)

1           **THE CLERK:** Judge, we have 30 jurors.

2           **THE COURT:** All right. Good afternoon, ladies and  
3 gentlemen on the jury panel. My name is Catherine Eagles. I'm  
4 a United States district judge for the Middle District of  
5 North Carolina assigned to this civil term of court, and I want  
6 to welcome each of you as you begin your jury service and thank  
7 you for braving the elements to get here this morning. I know  
8 we had -- we were hoping to get this trial started yesterday,  
9 but that probably would have been a bad idea given the weather.  
10 So we appreciate you all being here today for us to get started  
11 with this case.

12           I know that when people are summoned for jury service they  
13 do so at some sacrifice to other plans in their lives, and for  
14 some of you, you have to travel a pretty good distance. This  
15 is federal court and the Middle District goes from South  
16 Carolina to Virginia. So I know some of you really had a hike  
17 to get here this morning. I will certainly do my best to see  
18 that your time is used efficiently while you are here.

19           Our jury system is one of the things that sets this nation  
20 apart from others. Jury service is one of the highest callings  
21 of citizenship and by participating in this process, you are  
22 fulfilling one of the guarantees set forth by our nation's  
23 founders over 200 years ago, the right to decide disputes by  
24 trial by jury. In our system of justice, jurors, not judges,  
25 determine the facts. I'm not going to decide who wins or loses

1 this case. The jury is going to make that decision.

2 In this case that we're about to start on, we will select  
3 at least eight people for the jury, but before we do that, I  
4 will have each of you sworn in for your jury service this -- in  
5 this case, so please listen to the clerk.

6 (The prospective jurors were duly sworn.)

7 **THE COURT:** Please say "I do."

8 (Prospective jurors complied with the request.)

9 **THE CLERK:** Thank you. You may be seated.

10 **THE COURT:** All right. Ladies and gentlemen, we are  
11 ready to try -- I've called for trial the case of Thomas  
12 Krakauer against DISH Network, L.L.C. This is a civil case.  
13 It is a dispute between the Plaintiff, Thomas Krakauer, and the  
14 Defendant, DISH Network, L.L.C. It is not a criminal case  
15 where someone might go to jail. If we don't need you in this  
16 case, they are picking a jury in a criminal case down on the  
17 first floor, so we might be trading off on jurors some. But  
18 this case is a civil case.

19 The Plaintiff, Thomas -- is Thomas Krakauer.

20 If you would stand, please, Dr. Krakauer.

21 He's seated -- he's standing there with his hand raised.

22 He is represented by his attorneys in this case.

23 And if each of you would stand when I call your name:

24 Brian Glasser, John Barrett, Matthew McCue, and Matthew Norris.

25 All right. Thank you. You can be seated.

1 The Defendant is DISH Network, L.L.C, who is present in  
2 court through their representative Lawrence Katzin. There is  
3 Mr. Katzin standing on the other side. He is represented --  
4 DISH is represented by Peter Bicks, Elyse Echtman, John Ewald,  
5 and Richard Keshian.

6 All right. Thank you.

7 Now, this case concerns the federal law which establishes  
8 the National Do Not Call Registry. That allows folks to opt  
9 out of receiving sales calls on their residential phone lines.

10 This is a class action involving the Telephone Consumer

11 Protection Act. You may hear that referred to as the TCPA.

12 And the Plaintiff, Thomas Krakauer, seeks to recover money

13 damages on behalf of himself and a class of individuals from

14 the Defendant, DISH Network, for telephone calls made by a

15 company called Satellite Systems Network, or SSN, to phone

16 numbers that were allegedly on the National Do Not Call list.

17 So a class action is a lawsuit that is brought by one or

18 more people on behalf of a larger group of people who have

19 similar legal claims. All of these people together are called

20 a class. In this case, the class is composed of all persons

21 whose telephone numbers were on the National Do Not Call

22 Registry for at least 30 days, but who nonetheless received

23 telemarketing calls from SSN, that's Satellite Systems Network,

24 to promote DISH between May 1st, 2010, and August 1st, 2011.

25 Thomas Krakauer is the representative of this class and his

1 lawyers are also representing these class members. Your  
2 verdict here will be binding on all class members, as well as  
3 on DISH.

4 Now, this statute, the Telephone Consumer Protection Act,  
5 allows persons who receive calls -- telephone calls in  
6 violation of the Act to recover damages up to \$500 each. The  
7 Plaintiff contends that DISH is liable for phone calls made in  
8 violation of the Act by its agent, SSN. And the Defendant,  
9 DISH, contends that SSN was not its agent and was not acting  
10 within its authority, but was an independent contractor; and  
11 that in any event, Dr. Krakauer has not proven that the phone  
12 calls violated the Act.

13 So that's a two-sentence summary of what the case is about.  
14 It's a little more complicated than that, but that gives you a  
15 basic overview.

16 Now, as jurors, it will be your duty to listen to the  
17 evidence and determine the truth of this matter. You are the  
18 judges of the facts, and you will listen to the witnesses and  
19 evaluate their credibility, that is, their believability.  
20 You'll consider any exhibits, such as documents or photographs.  
21 You will weigh all of the evidence and then you will determine  
22 what happened back in 2010 and 2011. You will apply the law  
23 that I will give to you to those facts. It is your duty to  
24 apply the law as I will give it to you and not as you think it  
25 is or might like it to be.