

1 PATRICK LYNCH (S.B. #39749)
2 MICHAEL G. YODER (#S.B. 83059)
3 NATHANIEL L. DILGER (S.B. #196203)
4 O'MELVENY & MYERS LLP
5 610 Newport Center Drive, 17th Floor
6 Newport Beach, California 92660-6429
7 Telephone: (949) 760-9600
8 Facsimile: (949) 823-6994

9 DARIN W. SNYDER (S.B. #136003)
10 DAVID R. EBERHART (S.B. #195474)
11 O'MELVENY & MYERS LLP
12 Embarcadero Center West
13 275 Battery Street
14 San Francisco, California 94111-3305
15 Telephone: (415) 984-8700
16 Facsimile: (415) 984-8701

17 Attorneys for Defendant
18 GEORGE TARNOVSKY

19
20
21
22
23
24
25
26
27
28

**IN THE UNITED STATES DISTRICT COURT
FOR THE CENTRAL DISTRICT OF CALIFORNIA
SOUTHERN DIVISION**

ECHOSTAR SATELLITE CORP.,
ECHOSTAR COMMUNICATIONS
CORP., ECHOSTAR TECHNOLOGIES
CORP., AND NAGRASTAR L.L.C.,

Plaintiffs,

v.

NDS GROUP PLC, NDS AMERICAS,
INC., JOHN NORRIS, REUVEN
HASAK, OLIVER KOMMERLING,
JOHN LUYANDO, PLAMEN DONEV,
VESSELINE NEDELTCHEV,
CHRISTOPHER TARNOVSKY, ALLEN
MENARD, LINDA WILSON, MERVIN
MAIN, DAVE DAWSON, SHAWN
QUINN, ANDRE SERGEL, TODD
DALE, STANLEY FROST, GEORGE
TARNOVSKY, BRIAN
SOMMERFIELD, ED BRUCE,
"BEAVIS," "JAZZERCZ,"
"STUNTGUY," and JOHN
DOES 1 - 100.

Defendants.

Case No. SA CV 03-950 DOC(ANX)

**DECLARATION OF G. TARNOVSKY
IN SUPPORT OF DEFENDANT G.
TARNOVSKY'S MOTION TO
DISMISS PLAINTIFFS' SECOND
AMENDED COMPLAINT**

Date: August 2, 2004
Time: 8:30 a.m.
Dept: Judge David Carter
Courtroom 9D

1 **DECLARATION OF GEORGE TARNOVSKY**

2 I, George Tarnovsky, hereby declare and state as follows:

3 1. I am one of the defendants in the above captioned case. The matters
4 stated herein are true and correct and are within my personal knowledge, and if called
5 upon to testify as a witness, I could and would testify competently thereto. I make this
6 Declaration in support of my Motion to Dismiss Plaintiffs' Second Amended
7 Complaint.

8 2. I was served with a Second Amended Complaint in this case on
9 [insert date] at my home in Virginia. I have read plaintiffs' Second Amended Complaint
10 and understand that plaintiffs in this case are seeking to force me to appear in California
11 and defend myself against numerous claims being asserted by plaintiffs.

12
13 3. I am a resident of Manassas, Virginia, where I have lived for the past
14 eight years. I have never been a resident of California. As a resident of Virginia, it is
15 my understanding that I am subject to personal jurisdiction within Virginia.

16 4. I do not own any property in California.

17 5. I do not maintain a bank account in California.

18 6. I do not have any employees or agents in California.

19 7. I understand that the Second Amended Complaint alleges that on or
20 about November 6, 1998, I activated a DISH Network receiver and agreed to a
21 Residential Subscriber Agreement. I do not recall ever signing a Residential Subscriber
22 Agreement. I purchased the DISH Network receiver in the Manassas area, and I have
23 only used it in Virginia. I did not purchase the DISH Network receiver in California,
24 and I have never used it in any way in California.

25 8. Although I am an employee of NDS Americas, Inc., I am not a
26 resident employee of their Newport Beach office. Instead, I work from my home in
27 Manassas. I do not maintain an office in California.

28 9. My duties with NDS Americas are to provide electrical engineering


1 and support to the engineering and security departments. I am neither required to, nor
2 do I solicit business in California, either for myself or on behalf of NDS Americas.

3 10. I visit California approximately 2 to 3 times per year, both for work
4 and to visit my son, Christopher Tarnovsky, who lives in California.

5 11. I have not consented to jurisdiction in California.

6 12. If I am forced to appear in California and defend myself against the
7 numerous claims being asserted against me by plaintiffs, it will result in substantial
8 inconvenience to me, including time away from my family, as a result of needing to take
9 numerous trips across the country to California to attend proceedings in this case and to
10 meet with my attorneys.

11 I declare under penalty of perjury that the foregoing is true and correct and
12 that this declaration was executed on the 19th of May, 2004 at Manassas, Virginia.

13 
14 _____
15 George Tarnovsky

16
17
18
19
20
21
22
23
24
25
26
27
28