

**UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT**

Form 7. Mediation Questionnaire

Instructions for this form: <http://www.ca9.uscourts.gov/forms/form07instructions.pdf>

9th Cir. Case Number(s)

Case Name

Counsel submitting this form

Represented party/parties

Briefly describe the dispute that gave rise to this lawsuit.

This Petition for Review arises out of the Declaratory Ruling and Third Report and Order, FCC 18-133, 83 Fed. Reg. 51,867 (Oct. 15, 2018) (“Order”). The Order streamlined local siting review to encourage the deployment of Small Wireless Facilities. In part, the Order adopted "shot clocks" for the siting application approval process, which are tailored to support the installation of these Small Wireless Facilities. The FCC declined to adopt a “deemed granted” remedy when siting authorities fail to act on siting applications within the shot clock windows.

Feedback or questions about this form? Email us at forms@ca9.uscourts.gov

Briefly describe the result below and the main issues on appeal.

In the underlying Order, the FCC considered state and local regulatory barriers to the wireless infrastructure siting review process, particularly the siting of next-generation infrastructure. The FCC's refusal to implement the "deemed granted" remedy is arbitrary and capricious in violation of the Administrative Procedure Act, and is an abuse of the Commission's discretion. It also violates other federal laws, including, but not limited to, the Communications Act of 1934.

Describe any proceedings remaining below or any related proceedings in other tribunals.

This proceeding is consolidated with a number of other petitions brought by other wireless carriers, and by local governments challenging different portions of the FCC Order. The 10th Circuit transferred the consolidated appeal to the 9th Circuit to be heard with an earlier FCC Order that focused on streamlining the process for preparing utility poles for new attachments.

Signature

Date

(use "s/[typed name]" to sign electronically-filed documents)

Feedback or questions about this form? Email us at forms@ca9.uscourts.gov

CERTIFICATE OF SERVICE

I, Henry Weissmann hereby certify that on January 22, 2019, I electronically filed the foregoing Docketing Statement using the court's CM/ECF system, which will send notification of such filing to the following:

Service List:

Robert Nicholson
Adam D. Chandler
U.S. DEPARTMENT OF JUSTICE
ANTITRUST DIVISION
950 Pennsylvania Avenue, NW
Washington, DC 20530
Counsel for Respondent

Thomas M. Johnson, Jr.
Jacob Matthew Lewis
Scott M. Noveck
Richard Welch
FEDERAL COMMUNICATIONS COMMISSOIN
OFFICE OF GENERAL COUNSEL
445 12th Street, SW
8th Floor
Washington, DC 20554

Joseph Leonard Van Eaton
BEST BEST & KRIEGER
2000 Pennsylvania Avenue, NW
Suite 5300
Washington, DC 20006 joseph.vaneaton@bbklaw.com
Counsel for Intervenors

Gail A Karish
BEST BEST & KRIEGER
300 South Grand Avenue
25th Floor
Los Angeles, CA 90071
Counsel for Intervenors

MacKenzie Fallow
NEW YORK CITY LAW DEPARTMENT

100 Church Street, Room 6-200
New York, NY 10007
Counsel for Intervenors

Date: January 22, 2019

Respectfully Submitted,

/s/ Henry Weissmann
Henry Weissmann
Munger, Tolles & Olson, LLP
350 South Grand Avenue
Suite 500
Los Angeles, CA 90071
(213) 683-9150
Henry.Weissmann@MTO.com

CERTIFICATE OF SERVICE

In accordance with the court's CM/ECF User's Manual, I hereby certify that:

- 1) All required privacy redactions have been made per Ninth Circuit Rule 25-5 and FRAP 25(a)(5);
- 2) Hard copies of this pleading that may be required to be submitted to the Court are exact copies of the ECF filing; and
- 3) The ECF submission has been scanned for viruses with the most recent version of a commercial virus-scanning program and, according to the program, is free of viruses.

Date: January 22, 2019

Respectfully Submitted,

/s/ Henry Weissmann
Henry Weissmann
Munger, Tolles & Olson, LLP
350 South Grand Avenue
Suite 500
Los Angeles, CA 90071
(213) 683-9150
Henry.Weissmann@MTO.com