

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLORADO**

Civil Action No. 03-N-184 (MJW)

MAINSTREAM MARKETING SERVICES, INC., et al.

Plaintiffs,

v.

FEDERAL TRADE COMMISSION,

Defendant.

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**DEFENDANT FEDERAL TRADE COMMISSION'S  
MOTION FOR AN EMERGENCY STAY PENDING APPEAL**

Pursuant to Fed. R. App. P. 8(a)(1), defendant Federal Trade Commission hereby moves for a stay pending appeal of that portion of this Court's Order of September 25, 2003, that enjoins the FTC from enforcing those provisions of its Telemarketing Sales Rule, 16 C.F.R. Part 310, that create and implement a do-not-call registry for telemarketers.<sup>1</sup> The Rule's registry provisions that protect consumers from unwanted telemarketing calls were scheduled to take effect on October 1, 2003. We also respectfully request that this Court give expedited consideration to this Motion to give the parties adequate time to plan their conduct, as appropriate, or to give the Tenth Circuit adequate time, before October 1, to consider the matter.

Pursuant to Colorado Local Civil Rule 7.1A, defendant has consulted with counsel for plaintiffs and he has indicated that plaintiffs will oppose this motion.

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<sup>1</sup> Simultaneous with the filing of this Motion, the FTC has filed its Notice of Appeal of the September 25 Order.

Respectfully submitted,

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**CERTIFICATE OF SERVICE**

I hereby certify that, on September 26, 2003, I served a copy of Defendants' Notice of Appeal on plaintiffs by sending that copy by e-mail and by facsimile transmission to:

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Lawrence DeMille-Wagman