

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF OKLAHOMA**

IN RE:

**COX ENTERPRISES, INC.,
SET-TOP CABLE TELEVISION
BOX ANTITRUST LITIGATION**

This document relates to:

RICHARD HEALY,

Plaintiff,

v.

COX COMMUNICATIONS, INC.,

Defendant.

Case No. 12-ML-2048-C

NOTICE OF CONDITIONAL CROSS-APPEAL

Notice is hereby given that, in light of Plaintiff Richard Healy's November 16, 2015 Notice of Appeal (Doc. No. 440), defendant Cox Communications, Inc. ("Cox") conditionally cross-appeals to the United States Court of Appeals for the Tenth Circuit from this Court's judgment of November 12, 2015 (Doc. No. 439), as well as other Orders from this Court including its Order of September 24, 2015 (Doc. No. 370), its October 26, 2015 Jury Instructions (Doc. No. 422), its Order of November 12, 2015 (Doc. No. 437), and its Order of November 12, 2015 (Doc. No. 438) insofar as it failed to conditionally grant Cox's alternative motion for a new trial. Cox does not believe that it will be necessary or appropriate for the Tenth Circuit to reach these issues, as the Tenth Circuit should affirm this Court's judgment, both on the grounds stated in this Court's

Order of November 12, 2015 (Doc. No. 438), as well as on alternative grounds. However, should the Tenth Circuit disagree with this Court's entry of judgment as a matter of law, Cox is entitled to a new trial based on the errors in these Orders.

Additionally, Cox conditionally cross-appeals from this Court's Order of January 9, 2014 (Doc. No. 123) granting class certification as well as this Court's Order of September 24, 2015 (Doc. No. 370), which permitted Plaintiff to proceed as a representative of a legally impermissible class. Should the Tenth Circuit disagree with this Court's entry of judgment as a matter of law, the errors in these Orders support vacating the judgment in favor of the class as well as the award of damages.

Dated: November 24, 2015

Respectfully Submitted,

/s/ Margaret M. Zwisler

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CERTIFICATE OF SERVICE

I hereby certify that on November 24, 2015, I electronically transmitted the attached document to the Court Clerk using the ECF System for filing. Based on the records currently on file, the Clerk of Court will transmit a Notice of Electronic Filing to all ECF registrants.

/s/ Margaret M. Zwisler

Margaret M. Zwisler