

STATE OF SOUTH DAKOTA)
) SS.
COUNTY OF HUGHES)

IN CIRCUIT COURT
SIXTH JUDICIAL CIRCUIT

AMERICAN CATALOG MAILERS)
ASSOCIATION and NETCHOICE,)

32 CIV. 16-96

Plaintiffs,)

STIPULATION OF DISMISSAL
PURSUANT TO
SDCL 15-6-41(a)(1)(B)

v.)

ANDY GERLACH, in his capacity as)
the Secretary of the South Dakota)
Department of Revenue,)

Defendant.)

American Catalog Mailers Association and Netchoice, by and through their legal counsel, George S. Isaacson and Matthew P. Schaefer, and Richard M. Williams, Deputy Attorney General, Kirsten E. Jasper, Assistant Attorney General, legal counsel for Defendant, state as follows:

WHEREAS, the United States Supreme Court issued its decision in *South Dakota v. Wayfair, Inc.*, 585 U.S. ___, 138 S.Ct. 2080 (2018) ("*Wayfair*"), on June 21, 2018, holding:

For these reasons, the Court concludes that the physical presence rule of *Quill* is unsound and incorrect. The Court's decisions in *Quill Corp. v. North Dakota*, 504 U. S. 298 (1992), and *National Bellas Hess, Inc. v. Department of Revenue of Ill.*, 386 U. S. 753 (1967), should be, and now are, overruled.

Wayfair, 585 U.S. at ___, 138 S.Ct. at 2099.

WHEREAS, SDCL 15-6-41(a)(1)(B) provides that an action may be dismissed after the filing of an answer or motion for summary judgment by

filing a stipulation of dismissal signed by all parties who have appeared in the action.

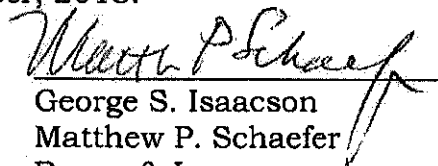
NOW, THEREFORE, the Plaintiffs and the Defendant agree and stipulate as follows:

1. Pursuant to SDCL 15-6-41 (a)(1)(B), and the above recitals, the Plaintiffs and the Defendant jointly stipulate to the voluntary dismissal of this action with prejudice.
2. Plaintiffs and the Defendant are responsible for their own costs and attorney fees.

Each undersigned representative certifies that he or she is fully authorized to enter and execute the terms and conditions of this Settlement Agreement and Voluntary Dismissal.

FOR THE PLAINTIFFS:

Dated this 30th day of October, 2018.



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Matthew P. Schaefer
Brann & Isaacson
184 Main Street
Fourth Floor
P.O. Box 3070
Lewiston, Maine 04243-3070
Telephone: (207) 786-3566

[SIGNATURES CONTINUE ON NEXT PAGE]

FOR THE STATE OF SOUTH DAKOTA:

Dated this 31st day of October, 2018.

**MARTY J. JACKLEY
ATTORNEY GENERAL**

By: 

~~Richard M. Williams~~
Deputy Attorney General
Kirsten E. Jasper
Assistant Attorney General
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AMERICAN CATALOG MAILERS)
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Plaintiff,)

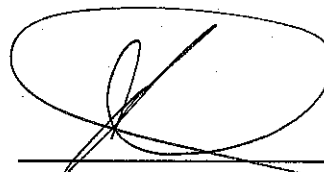
CERTIFICATE OF SERVICE

v.)

ANDY GERLACH, in his capacity as)
the Secretary of the South Dakota)
Department of Revenue,)

Defendant.)

The undersigned hereby certifies that a true and correct copy of the Stipulation of Dismissal Pursuant to SDCL 15-6-41(a)(1)(B), in the above-captioned matter was served electronically through the Odyssey File and Serve System upon Jeff Bratkiewicz, at jeffb@bangsmccullen.com, and by United States mail, first class, postage prepaid and by electronic mail to: George S. Isaacson, Martin I. Eisentein, Matthew P. Schaefer, Brann & Isaacson, 184 Main Street, Lewiston, Maine 04243-3070, gisaacson@brannlaw.com, mschaefer@brannlaw.com, and meisenstein@brannlaw.com, this 31st day of October 2018.



Richard M. Williams
Deputy Attorney General