

United States Government  
Federal Communications Commission  
Consumer & Governmental Affairs Bureau  
Disability Rights Office  
445 12<sup>th</sup> Street, SW  
Washington, D.C. 20554

Filed on  
11/16/2011

**OFFICIAL**  
**NOTICE OF INFORMAL COMPLAINT**

October 20, 2011

In reply refer to case number: 11-C00337178 (SK)  
(Martin) (WCSH-TV)

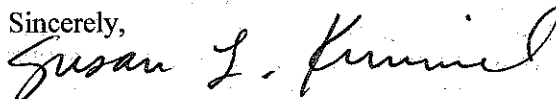
**THE COMPANY IDENTIFIED IN THE ATTACHED COMPLAINT IS REQUIRED TO RESPOND TO THIS NOTICE OF INFORMAL COMPLAINT WITHIN 30 DAYS OF THE DATE OF THIS NOTICE.** Failure of any person to answer any lawful Commission inquiry is considered a misdemeanor punishable by a fine under Section 409(m) of the Communications Act (Act), 47 U.S.C. § 409(m). Further, failure to comply with any order of the Commission can result in prosecution under Section 401(b) of the Act, 47 U.S.C. § 401(b). Section 501 of the Act, 47 U.S.C. § 501, and Section 503(b)(1)(B) of the Act, 47 U.S.C. § 503(b)(1)(B), provide for forfeiture penalties against any person who willfully fails to follow the directives of the Act or of a Commission order. The Commission can impose forfeiture penalties of up to \$1.2 million for certain types of violations.

The attached complaint was filed with the Commission pursuant to Section 713 of the Act, 47 U.S.C. § 613, and Section 79.1 of the Commission's Rules, 47 C.F.R. § 79.1. A letter acknowledging your company's receipt of this Notice and of the enclosed complaint should be sent to each consumer Complainant as soon as your company receives this Notice. Pursuant to Sections 713 and 4(i) of the Act, 47 U.S.C. §§ 613, 154(i), and Section 79.1(g) of the Commission's Rules, 47 C.F.R. § 79.1(g), we are forwarding a copy of the complaint so that your company may satisfy or answer the complaint based on a thorough review of all relevant records and other information. Your company should respond specifically to all material allegations raised in each complaint and summarize the actions taken by your company to satisfy the complaint.

Written responses must be filed with the Commission at 445 12<sup>th</sup> St., SW, Washington, D.C. 20554. A separate response should be filed for each individual complaint. Each response should include: (1) the Complainant's name, and (2) the Case number. Companies are directed to send copies of their responses to the complainant at the same time their responses are forwarded to the Commission.

Due to heightened security measures undertaken in Washington, D.C., and at this agency, you should also send an electronic copy of the response letter to [Susan.Kimmel@fcc.gov](mailto:Susan.Kimmel@fcc.gov) AND to [Sherita.Kennedy@fcc.gov](mailto:Sherita.Kennedy@fcc.gov). Companies are directed to send copies of their responses to consumers at the same time their responses are forwarded to the Commission. Each company required to respond to this Notice is directed to retain all records until final Commission disposition of the complaints. If you have any questions regarding this Notice, please call or email Sherita Kennedy at (202) 418-0287 or [Sherita.Kennedy@fcc.gov](mailto:Sherita.Kennedy@fcc.gov), and leave a detailed message specifying the calling company name, the Case number, and the specific questions that you would like to have answered.

Sincerely,



Susan L. Kimmel, Deputy Chief  
Disability Rights Office/CGB

Attachment(s)  
K:613/79.1



Admin 2000 [ Switch to Admin1088 ]

Sherita.Kennedy [CAM] Logout

HOME SEARCH NEW COMPLAINT HELP DOWNLOAD  
 In-Process Complaints Completed Complaints Served Complaints

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Form 2000C (Disability Access Complaint) : 11-C00337178-1

User Form
Admin Comments
Serve Review
Serve Process
File Attachments
Letters
Show All
Sub Complaints(0)
Print Form
Email Factsheet(s)

USER FORM

[Consumer Party History](#) [Consumer History](#) [Form History](#) [Edit Form](#)

User Complaint Number: 11-C00337178 User Complaint Key: 11-C00337178-1  
 Complaint Source: Web Added User: Consumer  
 Submission date: 10/05/2011

CONSUMER'S INFORMATION

First Name: Robert Last Name: Martin  
 Company Name:  
 (Complete only if you are filing this complaint on behalf of a company or an organization.)  
 PO Box: 57  
 Address1: Address2:  
 City: New Sharon State: ME Zip Code: 04955  
 Telephone Number(Residential or Business): (207) 778 -5685 Ext:

E-mail Address:

Are you filing information on behalf of another party, such as client, parent, spouse or roommate? No  
 If yes, complete items a through h.

Your relationship with the party:

The party's first name:

The party's last name:

The party's daytime phone number: ( ) - Ext:

The party's street address or post office box number:

City: State: Zip Code:

E-mail Address: zzzz9999@myfairpoint.net

Fax Number: ( ) -

**IMPORTANT: Please indicate the preferred format or method of response to the complaint by the Commission and defendant:**

- Letter  Facsimile (fax)  Telephone Voice
- TRS (designate form of TRS and appropriate contact information)
- TTY  Internet E-mail  ASCII Text  Audio-Cassette Recording  Braille

FORM 2000C:

- Check the appropriate box for your type of complaint:
  - Telecommunications Relay Service (TRS) (i.e., TTY-based, IP Relay, CapTel, IP CapTel, Speech-to-Speech, Video Relay Service (VRS))
  - Accessibility of emergency information on television
  - Closed Captioning
  - Wireless telephone equipment or service (includes hearing aid compatibility and other accessibility issues)
  - Wire line telephone equipment or service (includes hearing aid compatibility and other accessibility issues)
- Provide the name, address and telephone number (if known) of the company(s) involved in your complaint:
 

Name: DirecTV  
 City: Newark State: NJ Zip Code: 07101  
 Telephone number: (800) 531- 5000
- If your complaint is about accessibility of telecommunications services or equipment, provide the make and model number of the equipment or device that this complaint is about:
- If your complaint is about closed captioning or emergency information on television, provide the date (mm/dd/yyyy) 09/21/2011 Time: 09:10 PM and any details of when the event or action you are complaining

about occurred: Every week "Harry's Law" on NBC has incomplete closed captioning - captioners (WGBH) say they are OK, NBC refuses to respond to e-mail complaint, and DirecTV says they are not responsible for the failure. Channel 6 (WCSH6) is the Maine NBC channel.

5. If your complaint is about access to emergency information on television, provide the following information:
  - a. Television station call sign and network name (if applicable), or channel name (e.g., "WZUF, CBC," "WZUE-TV," "Sportingchannel West"):
  - b. Channel (e.g., "13"):
  - c. Station or subscription TV provider system location:  
City: County: State:
  - d. Date(s) and time(s) of emergency: and time
  - e. Detailed description of the emergency (i.e., flood, hurricane, tornado, etc., as well as the areas in which the emergency occurred):
6. If your complaint is about closed captioning, provide the following:
  - a. Television station call sign and network name (if applicable), or channel name (e.g., "WZUF, CBC," "WZUE-TV," "Sportingchannel West"): **NBC WCSH6**
  - b. Channel (e.g., "13"): **6**
  - c. Station or subscription TV provider system location:  
City: **Portland** County: State: **ME**
  - d. If you pay to receive television programming, type of subscription service (e.g., cable, satellite): **Satellite DirecTV**
  - e. If you pay to receive television programming, name of company to whom you subscribe: **DirectTV**
  - f. Name of program(s) involved: **Harry's Law, Who Do You Think You Are**
7. Briefly describe your complaint and include the resolution you are seeking. If applicable, provide a full description of the telecommunications equipment or customer premises equipment (CPE) and/or the telecommunications service about which the complaint is made, and the date or dates on which the complaint either purchased, acquired or used, or attempted to purchase, acquire or use the telecommunications equipment, CPE or telecommunications service about which the complaint is being made. **Am hearing impaired so cannot telephone. Captioning is in incomplete sentences. Can anyone help?**

11/16/2011

Contracted DirecTV -

Spoke to Arid Areed -

He looked at Database and

Found FCC Complaint.

↳ DirecTV did monitor WCSH6

and NBC Programming and found

closed captions to be intact on Harry's Law

and other programs

888-854-5222



329 Mt. Hope Avenue  
Bangor, ME 04401  
207-942-4821  
WLBZ2.com

Copy -  
Sent  
via USPS  
11/16/2011



One Congress Square  
Portland, ME 04101-3800  
207-828-6666  
WCSH6.com

November 16, 2011

Dr. Robert Martin  
PO Box 57  
New Sharon, ME 04955

Re: FCC Notice of Informal Complaint No. 11-C00337178 (SK)

Dear Dr. Martin:

This will acknowledge WCSH-TV's receipt of the above-referenced Notice of Informal Complaint from the FCC. WCSH-TV is reviewing its records and will respond in accordance with FCC instructions.

Thank you.

Best regards,

Mike Marshall  
VP/Programming & Marketing  
WCSH-TV

November 16, 2011

**BY OVERNIGHT DELIVERY AND E-MAIL**

Federal Communications Commission  
Consumer & Governmental Affairs Bureau  
Disability Rights Office  
445 12th Street, S.W.  
Washington, D.C. 20554

Sent via  
Fed ex 11/16/2011  
Email to  
FCC 11/16/2011  
mail to Mr. Martin  
11/17/2011

Re: Station WCSH, Portland, Maine  
FCC No. 11-C00337178 (SK)  
DirecTV & WCSH-TV (Martin)

Ladies and Gentlemen:

On behalf of Pacific and Southern Company, Inc., licensee of Station WCSH, Portland, Maine ("WCSH" or the "Station"), this letter responds to the above-referenced FCC Notice of Informal Complaint dated October 20, 2011 (the "NOIC") concerning a closed captioning complaint ("Complaint") filed by Dr. Robert Martin ("Complainant") concerning WCSH's broadcast on September 21, 2011 at 9:10 p.m. (Eastern Time) and other unspecified dates stated in the NOIC with regard to WCSH's presentation of NBC programming (collectively, the "Broadcast"). Complainant states in the Complaint that every week "Harry's Law" on NBC has incomplete closed captioning<sup>1</sup>. The NOIC requests that WCSH respond to all of the material allegations contained in the Complaint, and the actions taken to satisfy the Complainant. For the reasons discussed herein, WCSH respectfully requests that the Complaint promptly be dismissed or denied.

WCSH diligently and consistently complies with FCC rules and regulations regarding the captioning of all non-exempt programming. As standard operating procedure, a WCSH employee verifies closed captioning for each program at WCSH's Master Control. In this case, WCSH reviewed its video recordings and confirms that all closed captioning of its over-the-air signal was intact, continuous, non-garbled and complete on September 21, 2011 and during the week preceding and encompassing such date. Complainant acknowledges in the complaint that he contacted his satellite provider, DirecTV, regarding the malfunctioning of captioning on his television set<sup>2</sup>. Mike Marshall, WCSH's VP/Programming & Marketing, contacted DirecTV to investigate the issue and inquired whether the closed captioning DirecTV received from WCSH's signal was passed through intact and without degradation to DirecTV subscribers. DirecTV acknowledged to WCSH that it had received WCSH's closed captioning intact, continuous and complete, and without any degradation on both SD and HD programming feeds. DirecTV also acknowledged receiving the NOIC and immediately monitored WCSH's closed captioning of Harry's Law and other NBC programming carried by WCSH. DirecTV found closed captioning from WCSH intact and without degradation.

<sup>1</sup> See Item #4, Page 2, of Form 2000C – Disability Access Complaint portion of the Complaint.

<sup>2</sup> See Item #4, Page 2, of Form 2000C – Disability Access Complaint portion of the Complaint.

In addition, Mike Marshall exchanged several emails with the Complainant on this subject. Specifically, on Wednesday October 5, 2011 at 8:56 p.m., Complainant sent an email to WCSH just prior to the "Harry's Law" start time of 9:00 p.m. Complainant stated that captioning was absent in the program prior to the start of the program. It is uncertain how Complainant was able to know the captioning was incomplete if the program had yet started unless he was referring to a previous week's episode. This began an exchange of emails between Complaint in which Mr. Marshall stated that closed-captioning was received by NBC intact and that WCSH had relayed the broadcast with the captioning intact. WCSH's Master Control operator confirmed this. Master Control also confirmed that DirecTV's transmission contained the closed-captioning intact. Mr. Marshall replied to the original email from the Complainant at 9:17 p.m. confirming that no problems existed with closed captioning at or from WCSH or from DirecTV.

It should be noted that Mr. Marshall exchanged subsequent emails with the Complainant in the days following October 5, 2011 through October 20, 2011 to help Complainant solve his captioning problem. Mr. Marshall offered to make an appointment with Complainant to mutually observe WCSH's programming with captioning intact to confirm and ensure that it was properly passed through by WCSH. WCSH received no further comments or responses from Complainant after October 20, 2011. It therefore appears that Complainant's captioning problems stem from another source.

WCSH was not responsible for the incomplete closed captioning during the Broadcast. WCSH fully complied with its closed captioning obligations as set forth in Section 79.1 of the Commission's rules, 47 C.F.R. § 79.1.

WCSH takes seriously its responsibility to make network and local programming accessible to all of its viewers, including viewers with hearing impairments, and to fully comply with FCC rules and regulations

For the foregoing reasons, WCSH respectfully requests that the Complaint promptly be dismissed or denied.

Should there be any further questions about this matter, please feel free to contact me.

Very truly yours,



Steve Carter

Vice President

Pacific and Southern Company, Inc.

cc: Susan L. Kimmel, FCC (via email)  
Sherita Kennedy, FCC (via email)  
Dr. Robert Martin