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December 18, 2023

Via CM/ECF

Honorable J. Paul Oetken
United States District Court
Southern District of New York
40 Foley Square
New York, NY 10007

Re: *National Association of the Deaf, et al. v. SiriusXM Holdings Inc., et al.*, No. 1:21-cv-10542-JPO (S.D.N.Y.)

Your Honor,

Pursuant to Paragraph 3(C) of Your Honor's Individual Rules and Practices, Plaintiffs write to provide an update on settlement negotiations and to request an extension of the summary judgment deadline in the above-captioned litigation by one month. Defendants have indicated that they do not agree with, but do not oppose this request. This is the second request for an extension of the summary judgment deadline, the first of which was a joint request to permit the Parties to determine whether early resolution of the case was possible (ECF No. 66).

Without disclosing confidential settlement communications, it is Plaintiffs' position that Defendants are not willing to engage in meaningful settlement discussions at this time. Plaintiffs are prepared to discuss this further in a conference should the Court desire, but it is apparent that Plaintiffs must shift their efforts to filing a motion for summary judgment. Plaintiffs provided Defendants with a settlement draft in August 2022. In November 2023, Defendants finally responded to this settlement draft. Following receipt of this draft, Plaintiffs requested a settlement conference with Defendants to discuss certain pertinent issues to determine how to find common ground and to facilitate the most productive written response. As Defendants explained to the Court in October, Defendants had previously "agreed to provide Plaintiffs with more detailed information as it becomes available from the Defendants' Product and Technology Group," reasoning that this additional information would give the Parties "an opportunity to discuss additional details regarding" Defendants' statements about "forthcoming accessibility aids" (ECF No. 62). Since then, however, Defendants have repeatedly refused to provide any such information, despite Plaintiffs' requests and the apparent availability of that information given that Defendants released a new SiriusXM App on December 14, 2024. Defendants have even rebuffed Plaintiffs' attempts to schedule a call for them to provide the information and discuss its impact on settlement terms. Unfortunately, it is now clear that Defendants do not intend to engage with Plaintiffs in the manner that they had represented to Your Honor.

Plaintiffs had expended time and resources on preparing for settlement talks since the last status update to the Court and accordingly request that the summary judgment deadline be extended from January 31, 2024 to February 29, 2024. Defendants have also designated a

significant portion of the discovery record confidential. Identifying and filing the pertinent portions of the record under seal in accordance with the S.D.N.Y. rules will take additional time.

In accordance with the Court's direction that the Parties submit a joint status update on or before January 5, 2024, the Parties will provide a proposed schedule for summary judgment briefing in that update, in accordance with the Court's rules on seriatim filings. Due to the upcoming holidays and the current January 31, 2024 summary judgment deadline, however, Plaintiffs wished to move for the extension in advance of the January 5 filing.

Respectfully submitted,

/s/ Joshua Rosenthal

Joshua Rosenthal

Disability Rights Advocates

For Plaintiffs