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March 28, 2019

VIA ELECTRONIC FILING

Ms. Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

Re: *In re Best Doctor's Inc.'s Petition for Declaratory Ruling*, CG Docket Nos. 02-278 & 05-338 – Notice of Ex Parte Presentation

Dear Ms. Dortch:

On March 26, 2017, Joseph R. Palmore and Bryan J. Leitch, Morrison & Foerster LLP, on behalf of Enclarity, Inc. ("Enclarity"), and David G. Thomas and undersigned counsel, Greenberg Taurig, LLP, on behalf of Best Doctors, Inc. ("Best Doctors"), met with Zenji Nakazawa, Public Safety and Consumer Protection Advisor to Chairman Pai.

During the meeting, we discussed the Petition for Declaratory Ruling filed by Best Doctors on December 14, 2018 ("Petition"). In the Petition, Best Doctors requested the Commission to clarify that a faxed request to verify contact information and operational status of a medical practice for inclusion in a database of practicing physicians when the request does not state the commercial availability or quality of property, goods or services is not an advertisement under the Telephone Consumer Protection Act ("TCPA"). We discussed Best Doctors' business, the content of the fax at issue, the purpose for sending to fax, and the status of litigation before the United States District Court for the District of Massachusetts (*Kenneth A. Thomas MD, LLC v. Best Doctors, Inc.*, No. 1:18-cv-10957-DPW, Am. Compl. (D. Mass. Oct. 31, 2018)). In addition, we explained that the TCPA supports Best Doctors' position that only the content of a fax is relevant to determining whether the fax is an advertisement subject to the TCPA. Finally, we discussed the proliferation of TCPA cases concerning faxes and the need for the Commission to provide courts with clear guidance regarding the applicability of the TCPA to faxed communications. During the meeting we showed Mr. Nakazawa a copy of the fax that was attached to the Petition. A copy of the fax is enclosed with this letter.

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Pursuant to Section 1.1206(b) of the Commission's rules, this letter is being filed electronically. If there are questions, please communicate directly with undersigned counsel for Best Doctors.

Sincerely,

A handwritten signature in cursive script, appearing to read "Debra McGuire Mercer".

Debra McGuire Mercer

Enclosure

cc: Zenji Nakazawa

Enclosure



Fax

Attention of: Dr. Kenneth A. Thomas	Fax No: 203-377-6497
From: Tommysina Bryant (return fax: 866-904-0913)	Date: 5/16/2017
Ref: Review your Best Doctors inclusion data	Pages (including cover): 1

Dear Dr. Thomas,

Best Doctors® is preparing to notify the clinicians selected for the newest Best Doctors database. Physicians are included based on the result of our extensive, confidential peer-review process. As you may know, we accept no fees from doctors in exchange for a listing in our database. Physicians not currently seeing patients, even though selected by their peers to be a Best Doctor, will not be included in our Best Doctors in America List.

One step in this process is to verify and update your clinical address and to confirm that you are currently seeing patients to insure the accuracy of your information and to facilitate delivery of your formal inclusion letter this summer.

Please review the information below and either confirm its accuracy or indicate required corrections or additions. In particular, please let us know if the clinical address below is incomplete, or if it is not the address where you see patients.

To help us meet our deadline, please respond within 7 days of your receipt of this request.

CLINICAL ADDRESS** Dr. Kenneth A. Thomas 305 Boston Ave, Ste 205 Stratford, CT 06614	MAILING ADDRESS (if different)
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Appointment Phone: 203-377-7670 **Administrative Fax:** 203-377-6497
Email address:

Thank you for taking the time to update this information. If you have any questions or concerns, please do not hesitate to contact me at the number or email listed below. You will find some helpful information about us at <http://bestdoctors.com/for-physicians>.

Sincerely,

Tommysina Bryant
Best Doctors, Inc. | Polling and Research Division
5230 Woodside Executive Court
Aiken, SC 29803
ph: 800-675-1199 x3201 | fax: 866-904-0913
research@bestdoctors.com

147420

CURRENTLY SEEING PATIENTS? <input type="checkbox"/> YES <input type="checkbox"/> NO
If YES, are you accepting NEW patients?
<input type="checkbox"/> Yes, all patients <input type="checkbox"/> Yes, referral required
<input type="checkbox"/> Not accepting new patients
If NOT currently seeing patients, what is the reason?
<input type="checkbox"/> Administrative only <input type="checkbox"/> Research only <input type="checkbox"/> Retired
<input type="checkbox"/> Other (explain:)

**The information you provide at this time will be used by Best Doctors to determine your eligibility for inclusion in the Best Doctors in America list. If you are not accepted for inclusion, Best Doctors will not use or disclose the information you provide any further. If you are accepted as a Best Doctor and included in the Best Doctors in America list, we may use and disclose your information as follows: Best Doctors will use, and may disclose to subcontractors, your contact information only for purposes of administering our programs and services. Best Doctors may list your name, clinical address and affiliation, and specialty in local and regional magazines and newspapers as recognition of your inclusion in the Best Doctors in America® List. Prior to any publication, we will notify you and provide you with the ability to opt out of your inclusion in such publication. We may disclose your name, clinical address, and specialty to our members as part of our Find a Best Doctor™ service in which members request names of Best Doctors who treat their specific condition and who are in their geographic location. Finally, we may reach out to you from time to time to invite you to participate in other Best Doctors programs such as our virtual medical review service called InterConsultation®.

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