

**ORIGINAL**

**NO. 2001-32094**

**JOE SHIELDS,**

**Plaintiff,**

**v.**

**KENNITH DALE HENSLEY, et al.**

**Defendants.**

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**IN THE DISTRICT COURT OF**

**HARRIS COUNTY, TEXAS**

**280TH JUDICIAL DISTRICT**

02 JAN -7 PM 1:14  
HARRIS COUNTY, TEXAS  
DISTRICT COURT  
FILED  
CLERK

**ECHOSTAR SATELLITE CORPORATION'S  
ANSWER AND AFFIRMATIVE DEFENSES**

ASSESSED  
ENTERED  
VERIFIED  
6245808

EchoStar Satellite Corporation ("EchoStar") files this Answer and Affirmative Defenses and  
in support states:

**GENERAL DENIAL**

Pursuant to Rule 92 of the Texas Rules of Civil Procedure, EchoStar files this General Denial in response to Plaintiff's Petition, and respectfully requests that Plaintiff be required to prove his charges, assertions and allegations by a preponderance of the credible evidence as is required by the Laws of the State of Texas.

**AFFIRMATIVE DEFENSES**

Pursuant to Rule 94 of the Texas Rules of Civil Procedure, EchoStar alleges the following affirmative defenses:

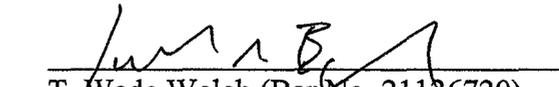
1. Plaintiff has suffered no injury.
2. Plaintiff's allegations regarding the use of telemarketing devices challenge the lawful exercise of commercial speech and are outside the scope of the consumer protection laws.
3. EchoStar has established and implemented, with due care, reasonable practices and procedures to effectively prevent telephone solicitations in violation of the regulations prescribed

under 47 U.S.C. § 227 and other rules and regulations.

4. The statutory damages under 47 U.S.C. § 227 and Tex. Bus. & Comm. Code. § 35.47 violate the due process clause of both the Texas and Federal Constitution because the mandatory damage award is grossly disproportionate to the injury incurred.

Respectfully submitted this 7 day of January, 2002.

**T. WADE WELCH & ASSOCIATES**

  
\_\_\_\_\_  
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**ATTORNEY'S FOR DEFENDANT  
EHOSTAR SATELLITE CORPORATION**

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a true and correct copy of this document was served upon the following parties in accordance with the Texas Rules of Civil Procedure, on this the 7 day of January 2002.

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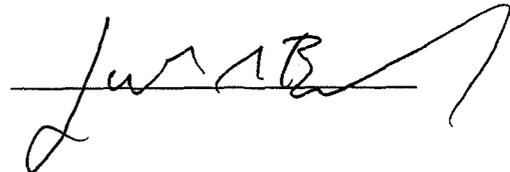
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**Counsel for Defendants Star-Sat of  
Houston, Inc. and All American Alarms,  
Inc.**

**Counsel for Defendants DISH TV, Inc. and  
New Age Security & Satellite, Inc.**

A handwritten signature in black ink, appearing to read "Juanita Barner", is written over a horizontal line. The signature is stylized and cursive.