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June 21, 2012

Via U.S. Mail, Email and Electronic Filing

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

**RE: Objection to Acknowledgments of Confidentiality filed by Sorenson counsel
CG Docket Nos. 10-51 and 03-123**

Dear Ms. Dortch:

CSDVRS, LLC (d/b/a ZVRS, “ZVRS”) was served on June 18, 2012 a copy of a letter to you dated June 14, 2012 with the Acknowledgments of Confidentiality of Christopher Wright, John Nakahata, Charles Breckinridge, Peter McElligott, Ashley Mills, Yana Vierboom (collectively “Sorenson counsel”) enclosed. It is not clear from Sorenson counsel’s letter whether they filed the Acknowledgments as part of seeking access to highly confidential documents and information as provided in paragraph 7 of the *Second Protective Order*.¹ Regardless, ZVRS timely files its objection to the Acknowledgments filed by Sorenson counsel on the basis that Sorenson counsel are consistently and unquestionably engaged in Competitive Decision-Making working with and on behalf of Sorenson Communications, Inc., which disqualifies them from accessing through the Commission the confidential material of competing providers. ZVRS has submitted to the Commission documents stamped highly confidential,² thus has a vested interest in its objection to Sorenson counsel’s attempt to seek access to such material.

¹ *Structure and Practices of the Video Relay Service Program and Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*, Second Protective Order, CG Docket Nos. 10-51 and 03-123 (rel. May 31, 2012). We note that item 9 of Appendix A of the Order uniquely names Sorenson, which raises a question about the formulation of the listed items without the involvement of Sorenson’s competitors.

² *Structure and Practices of the Video Relay Service Program and Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*, , CSDVRS’ Ex Parte Notice, CG Docket Nos. 10-51 and 03-123 (June 8, 2012).

Sorenson counsel is omnipresent in Sorenson's dealings with the Commission, the industry and TRS stakeholders. For the past 2 years, Sorenson counsel has near exclusively filed all of Sorenson's communications to the Commission. Sorenson counsel amply demonstrates in Sorenson's Commission filings that they are fully intertwined in wide-ranging aspects of Sorenson's VRS operations.³ Sorenson counsel frequently presents to Commission personnel without the presence of Sorenson employees tactical points and information intended to create a competitive advantage for Sorenson's business.⁴ This has particularly been the case in response to the Commission's VRS reform undertakings, Sorenson counsel has been the guiding force in proposing and pressing on the Commission initiatives which would virtually exclusively benefit Sorenson competitively, such as reverse auctions, competitive bidding, the adoption of the per-user compensation methodology, the elimination of the tiered rate, discouraging the development of equipment standards and transitioning to off-the-shelf equipment and opposing the portability of VRS provided CPEs.⁵

Sorenson counsel's activities regularly go beyond providing Sorenson advice and representation regarding regulatory matters and demonstrate their intrinsic involvement in the conduction of a garden variety of Sorenson's business, for example, Sorenson counsel's participation in VRS stakeholder meetings,⁶ filing annual reports on behalf of Sorenson,⁷ supporting conditions to enable the refinancing of Sorenson's corporate debt,⁸ arguing with other Providers about the nature of Sorenson's operations,⁹ questioning the business tactics of other

³ See e.g., *Structure and Practices of the Video Relay Service Program and Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*, Comments of Sorenson Communications, Inc., CG Docket Nos. 10-51 and 03-123 ("Sorenson Comments") (March 9, 2012).

⁴ See e.g., *Structure and Practices of the Video Relay Service Program and Telecommunications Relay Services*, Sorenson' Ex Parte Notice, CG Docket Nos. 10-51 (December 2, 2010).

⁵ See e.g., Sorenson Comments.

⁶ *Structure and Practices of the Video Relay Service Program and Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*, , Letter of Sorenson Communications, Inc. CG Docket Nos. 10-51 and 03-123 (February 15, 2012).

⁷ *Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities and E911 Requirements for IP-Enabled Service Providers*, Sorenson's Minimum Standards Waiver Report, CG Docket No. 03-123 and WC Docket No. 05-196 (April 12, 2012).

⁸ *Structure and Practices of the Video Relay Service Program and Telecommunications Relay Services*, Sorenson' Ex Parte Notice, CG Docket Nos. 10-51 (May 10, 2012).

⁹ *Structure and Practices of the Video Relay Service Program*, Letter of Sorenson Communications, Inc. CG Docket Nos. 10-51 (March 11, 2011).

Providers,¹⁰ debating the interoperability of Sorenson's nTouch products,¹¹ and defending Sorenson's conduct related to customer port requests.¹²

It is significant that Sorenson does not appear to have in-house counsel, at least for its legal matters related to the Commission and TRS. This gap clearly indicates that Sorenson completely relies on Sorenson counsel to have an active role in participating in Sorenson's decision-making to ensure that Sorenson's legal and regulatory activities carry out Sorenson's business objectives. It is also significant that the type and extent of Commission communications of the in-house counsel of VRS Providers such as myself are indistinguishable from those of Sorenson's counsel which means that Sorenson counsel's involvement in the company's business including competitive decision-making is also indistinguishable from the nature of in-house counsel's involvement in their company's affairs. Indeed, Sorenson counsel has had frequent peer to peer communications with Provider in-house counsel and other Provider personnel about non-legal non-regulatory business operations issues such as the handling of our respective customers' VRS equipment.

ZVRS is firmly committed to supporting the Commission in creating an environment which accomplishes the objectives provided in the *Second Protective Order*. However, the breadth and regularity Sorenson counsel is engaged in Sorenson's business unquestionably makes them de facto members of Sorenson's "brain trust" in terms of competitive decision-making. The extent and level of involvement Sorenson counsel has in Sorenson's business far exceed the typical work and reasonable expectations of corporate outside counsel. Given the intrinsic involvement Sorenson counsel has with Sorenson's corporate strategies through regulatory matters, there is absolutely no question that allowing Sorenson counsel access to the confidential information of other Providers will directly influence how they work Sorenson's decision-making to its competitive advantage. The Commission must show equity and fairness to entities in a highly competitive market by denying Sorenson counsel access to the confidential information of Sorenson's competitors. At minimum, sufficient cause has been raised to at least stay the grant of any access by Sorenson's counsel until further investigation is made into the role and extent Sorenson counsel plays in Sorenson's business.

We stand ready to assist the Commission in any way.

¹⁰ *Structure and Practices of the Video Relay Service Program and Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*, Sorenson Ex Parte, CG Docket Nos. 10-51 and 03-123 (March 23, 2012).

¹¹ *Structure and Practices of the Video Relay Service Program and Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*, Sorenson Ex Parte Letter, CG Docket Nos. 10-51 and 03-123 (December 20, 2011).

¹² *Structure and Practices of the Video Relay Service Program and Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*, Sorenson Ex Parte Letter, CG Docket Nos. 10-51 and 03-123 (December 16, 2011).

Sincerely,

/s/

Jeff Rosen
General Counsel

cc: Gregory Hlibok, Chief, FCC Disability Rights Office
Christopher Wright
John Nakahata
Charles Breckinridge
Peter McElligott
Ashley Mills
Yana Vierboom