UNITED STATES COURT OF APPEALS
FOR THE SECOND CIRCUIT

<u>SUMMARY ORDER</u>

RULINGS BY SUMMARY ORDER DO NOT HAVE PRECEDENTIAL EFFECT. CITATION TO A SUMMARY ORDER FILED ON OR AFTER JANUARY 1, 2007, IS PERMITTED AND IS GOVERNED BY FEDERAL RULE OF APPELLATE PROCEDURE 32.1 AND THIS COURT'S LOCAL RULE 32.1.1. WHEN CITING A SUMMARY ORDER IN A DOCUMENT FILED WITH THIS COURT, A PARTY MUST CITE EITHER THE FEDERAL APPENDIX OR AN ELECTRONIC DATABASE (WITH THE NOTATION "SUMMARY ORDER"). A PARTY CITING A SUMMARY ORDER MUST SERVE A COPY OF IT ON ANY PARTY NOT REPRESENTED BY COUNSEL.

At a stated term of the United States Court of Appeals for the Second Circuit, held at the Thurgood Marshall United States Courthouse, 40 Foley Square, in the City of New York, on the 7th day of April, two thousand seventeen.

PRESENT: JON O. NEWMAN,
    DENNIS JACOBS,
       <u>Circuit Judges</u>,
    LEWIS A. KAPLAN,[*]
       <u>District Judge</u>,

- -X
MICHAEL SIMMONS,
   <u>Plaintiff-Appellant</u>,

   -v.-   16-1405

CHARTER COMMUNICATIONS, INC.,
   <u>Defendant-Appellee</u>.[**]
- -X

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[*] Judge Lewis A. Kaplan, of the United States District Court for the Southern District of New York, sitting by designation.

[**] The Clerk of Court is respectfully directed to amend the official caption to conform to the above.

FOR APPELLANT: J. AARON LAWSON (with Ryan D. Andrews and Roger Perlstadt on the brief), Edelson PC, Chicago, IL.

FOR APPELLEE: RAGAN NARESH (with Jeffrey S. Powell and Kathleen A. Brogan on the brief), Kirkland & Ellis LLP, Washington, DC.

Appeal from a judgment of the United States District Court for the District of Connecticut (Underhill, <u>J.</u>).

UPON DUE CONSIDERATION, IT IS HEREBY ORDERED, ADJUDGED AND DECREED that the judgment of the district court be **AFFIRMED.**

Michael Simmons appeals from a final judgment entered in favor of defendant Charter Communications, Inc. in the United States District Court for the District of Connecticut (Underhill, <u>J.</u>). We assume the parties' familiarity with the underlying facts, the procedural history, and the issues presented for review.

We affirm for substantially the reasons stated in Judge Underhill's thorough opinion.

Accordingly we hereby **AFFIRM** the judgment of the district court.

FOR THE COURT:
CATHERINE O'HAGAN WOLFE, CLERK