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UNITED STATES COURT OF APPEALS  
21400 UNITED STATES COURTHOUSE  
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PHILADELPHIA, PA 19106-1790  
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January 20, 2022

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RE: Elizabeth Panzarella, et al v. Navient Solutions Inc  
Case Number: 20-2371  
District Court Case Number: 2-18-cv-03735

Dear Counsel,

The United States Court of Appeals for the Third Circuit hereby invites supplemental briefing from Plaintiffs-Appellants and Defendant-Appellee. *Facebook, Inc. v. Duguid*, 141 S. Ct. 1163 (2021), may be dispositive. The Plaintiffs-Appellants and Defendant-Appellee are directed to respond to the following inquiries:

- a. Whether “equipment” qualifies as an automatic telephone dialing system (“ATDS”) under the Telephone Consumer Protection Act of 1991, 47 U.S.C. § 227, *et seq.* (“TCPA”) as long as it has the mere “*capacity—(A) to store or produce telephone numbers to be called, using a random or sequential number generator; and (B) to dial such numbers,*” 47 U.S.C. § 227(a)(1) (emphasis added), or whether, in light of *Facebook, Inc. v. Duguid*, 141 S. Ct. 1163 (2021), it must *actually generate* random or sequential numbers and dial such numbers to qualify as an ATDS.
- b. Assuming that the equipment that Defendant-Appellee used to contact the Plaintiffs-Appellants includes the SQL server, and such equipment may qualify as an ATDS based on its “capacity” rather than its actual use, whether the record contains evidence that the Defendant-Appellee’s equipment lacked the present capacity “to store or produce telephone numbers to be called, using a random or sequential number generator,” 47 U.S.C. § 227(a)(1).

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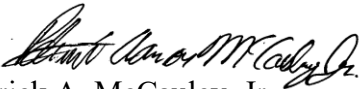
Such letter briefs, not to exceed seven single-spaced pages, shall be filed by 4:00 PM on January 27, 2022.

When filing in CM/ECF, please select the **Motions, Responses & Replies** category and use the **Response** event. Hard copies are not necessary.

Very truly yours,



PATRICIA S. DODSZUWEIT  
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By:   
Patrick A. McCauley, Jr.,

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