

Case No. S273802

In the
Supreme Court
of the
State of California

ANGELICA RAMIREZ,
Plaintiff and Respondent,

v.

CHARTER COMMUNICATIONS, INC.,
Defendant and Appellant.

REVIEW OF A DECISION FROM THE CALIFORNIA COURT OF APPEAL
SECOND APPELLATE DISTRICT, DIVISION FOUR, CASE NO. B309408

**DEFENDANT AND APPELLANT’S REQUEST TO TAKE
JUDICIAL NOTICE IN SUPPORT OF OPENING BRIEF
ON THE MERITS; MEMORANDUM OF POINTS AND AUTHORITIES
IN SUPPORT THEREOF; [PROPOSED] ORDER**

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REQUEST FOR JUDICIAL NOTICE

Defendant and Appellant Charter Communications, Inc. (“Appellant”) respectfully requests that this Court take judicial notice of the following California Court of Appeal, Superior Court and United States District Court decisions and relevant pages of Charter’s Form 10-Ks from 2018 through 2022 pursuant to California Evidence Code Sections 451, 452, and 459, California Rules of Court 8.520 and 8.252, and the Securities Exchange Act of 1934, and for the reasons set forth in the attached memorandum of points and authorities:

- (1) Relevant pages of Charter’s Form 10-K (2022): Annual Report for the fiscal year ending December 31, 2021, re Charter Communications, Inc.
- (2) Relevant pages of Charter’s Form 10-K (2021): Annual Report for the fiscal year ending December 31, 2020, re Charter Communications, Inc.
- (3) Relevant pages of Charter’s Form 10-K (2020): Annual Report for the fiscal year ending December 31, 2019, re Charter Communications, Inc.
- (4) Relevant pages of Charter’s Form 10-K (2019): Annual Report for the fiscal year ending December 31, 2018, re Charter Communications, Inc.
- (5) Relevant pages of Charter’s Form 10-K (2018): Annual Report for the fiscal year ending December 31, 2017, re Charter Communications, Inc.

- (6) *Kamelah Muhammad v. Charter Communications, Inc.*,
21-cv-0614-CV-W-FJG (U.S. Dist. Ct., W.D. Missouri),
January 6, 2022
- (7) *Fisscha Gezu v. Charter Communications*,
No. 21-10198, 17 F.4th 547 (5th Cir., November 2, 2021)
- (8) *Devanan Maharaj v. Charter Communications, Inc.*,
20-cv-00064 BAS-LL, 2021 WL 5014352 (U.S. Dist. Ct.,
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- (9) *Lionel Harper v. Charter Communications, LLC*,
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- (10) *Peter W. Anderson, Jr. v. Charter Communications, Inc.,
et al.*, No. 20-5894, 860 Fed.Appx 374 (6th Cir., June 11,
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- (11) *Michael Gennarelli v. Charter Communications, Inc., et
al.*, 2:19-cv-09635-JLS-ADS, 2021 WL 4826612 (U.S.
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- (12) *Daniel D. Young v. Charter Communications, Inc.*,
6:20-cv-989-WWB-GJK (U.S. Dist. Ct., Middle District of
Florida, Orlando Division), March 10, 2021
- (13) *Charter Communications, Inc. v. Karin Garfin*,
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S.D. New York), February 23, 2021
- (14) *Fisscha Gezu v. Charter Communications*,
3:20-cv-01476-G (BT), 2021 WL 410000 (U.S. Dist. Ct.,
N.D. Texas, Dallas Division), February 5, 2021

- (15) *Fisscha Gezu v. Charter Communications*,
3:20-cv-01476-G-BT, 2021 WL 419741 (U.S. Dist. Ct.,
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- (16) *Michael Gonzales, et al. v. Charter Communications, LLC*, 2:20-cv-08299-SB (ASx), 497 F.Supp.3d 844 (U.S. Dist. Ct., C.D. California), October 26, 2020
- (17) *Peter W. Anderson, Jr. v. Charter Communications, Inc., et al.*, 3:20-cv-5-CRS, 2020 WL 3977664 (U.S. Dist. Ct., Western District of Kentucky, at Louisville), July 13, 2020
- (18) *Scott P. Collins v. Charter Communications, LLC*, 1:19 CV 2774 (U.S. Dist. Ct., N.D. of Ohio, Eastern Division), June 18, 2020
- (19) *Mark Lasser v. Charter Communications, Inc.*, 19-cv-02045-RM-MEH, 2020 WL 1527333 (U.S. Dist. Ct., D. Colorado), March 31, 2020
- (20) *Vanessa Hughes v. Charter Communications, Inc.*, C/A No. 3:19-01703-SAL, 2020 WL 1025687 (U.S. Dist. Ct., D. South Carolina, Columbia Division), March 2, 2020
- (21) *Mark Lasser v. Charter Communications, Inc.*, 19-cv-02045-RM-MEH, 2020 WL 2314985 (U.S. Dist. Ct., D. Colorado), February 10, 2020
- (22) *Lionel Harper v. Charter Communications, LLC*, 2:19-cv-01749 WBS DMC, 2019 WL 6918280 (U.S. Dist. Ct., E.D. California), December 19, 2019

- (23) *Vanessa Hughes v. Charter Communications, Inc.*,
C/A No. 3:19-1703-JFA-SVH, 2019 WL 8918750 (U.S.
Dist. Ct., D. South Carolina, Columbia Division),
October 24, 2019
- (24) *Dylan Krohn v. Spectrum Gulf Coast, LLC*,
3:18-cv-2722-S, 2019 WL 4572833 (U.S. Dist. Ct., N.D.
Texas, Dallas Division), September 19, 2019
- (25) *Andrew J. Prizler v. Charter Communications, LLC*,
3:18-cv-1724-L-MSB, 2019 WL 2269974 (U.S. Dist. Ct.,
S.D. California), May 28, 2019
- (26) *Candace Osborne v. Charter Communications, Inc.*,
4:18CV1801 HEA, 2019 WL 2161575 (U.S. Dist. Ct.,
E.D. Missouri), May 17, 2019
- (27) *Daryl L. Moorman v. Charter Communications, Inc.*,
18-cv-820-wmc, 2019 WL 1930116 (U.S. Dist. Ct., W.D.
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- (28) *Martin Castorena v. Charter Communications, LLC*,
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- (29) *Michael Scarpitti v. Charter Communications, Inc.*,
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- (30) *Arnulfo Esquivel v. Charter Communications, LLC*,
CV 18-7304-GW (MRWx), 2018 WL 10806904 (U.S. Dist.
Ct., C.D. California), December 6, 2018
- (31) *Claudia Bravo et al. v. Charter Communications, LLC et al.*
(California Court of Appeal, Second District, Division

- Four, case no. B303179), March 23, 2021
- (32) *Sergio Witrago v. Charter Communications, LLC, et al.*
(Los Angeles Superior Court case no. 21STCV44796),
re Defendant's Motion to Compel Arbitration and
Dismiss or Stay Action, August 23, 2022
- (33) *Ziren Coelho v. Charter Communications, LLC, et al.*
(Los Angeles Superior Court case no. 21STCV12694),
Order re Motion to Compel Arbitration and Stay Action,
August 2, 2022
- (34) *Eric Brown v. Thomas Rutledge, et al.*
(Los Angeles Superior Court case no. 21TRCV00314),
Ruling granting Charter Communications, LLC's Motion
to Compel Arbitration, June 13, 2022
- (35) *Angela Sestrich v. Charter Communications, Inc., et al.*
(Los Angeles Superior Court case no. 21STCV33717), re
Ruling on Motion to Compel Arbitration, March 17, 2022
- (36) *Albaro Ibarra v. Charter Communications Holding
Company, LLC, et al.* Los Angeles Superior Court case
no. 21STCV36249) re Court Order on Motion to Compel
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- (37) *Jessica Carranza v. Charter Communications, LLC, et
al.* (Los Angeles Superior Court case no. 21STCV08223),
re Hearing on Motion to Compel Arbitration; Case
Management Conference, September 15, 2021
- (38) *Victor Becerra v. Charter Communications, Inc., et al.*
(Los Angeles Superior Court case no. 21STCV14283),

re Ruling on Motion to Compel Arbitration, September 9, 2021

- (39) *Joseph Tribby v. Charter Communications, LLC*
(Orange County Superior Court case no. 30-2021-01181057-CU-WTCJC), re Hearing on Motion to Compel Arbitration, July 1, 2021
- (40) *Michael Patterson v. Charter Communications, Inc.*
(Los Angeles Superior Court case no. 20STCV14987), re Hearing on Motion to Compel Arbitration; Case Management Conference, October 20, 2020
- (41) *Makeda Christmas v. Charter Communications, LLC, et al.* (Los Angeles Superior Court case no. 19STCV45265), re Case Management Conference; Hearing on Motion to Compel Arbitration, August 12, 2020
- (42) *Michelle Booker v. Charter Communications, LLC., a Delaware Limited Liability Company*, (Los Angeles Superior Court case no. 20STCV07680), re Ruling on Submitted Matter, July 17, 2020
- (43) *Stacy Dukes v. Charter Communications, LLC, et al.*
(Los Angeles Superior Court case no. 19STCV30853), re Hearing on Motion to Compel Arbitration; Case Management Conference, January 16, 2020
- (44) *Lucila Martinez v. Spectrum Formally Time Warner Cable* (Los Angeles Superior Court case no. 19CHCV00275), re Hearing on Motion to Compel Arbitration, November 25, 2019

(45) *Angelo Bray, et al. v. Charter Communications, Inc., et al.* (Los Angeles Superior Court case no. BC721229),
Ruling re Defendants' Motion to Compel Arbitration,
March 14, 2019

Dated: September 13, 2022 **HILL, FARRER & BURRILL
LLP**

By: /s/ James A. Bowles

James A. Bowles

Casey L. Morris

Elissa L. Gysi

Attorneys for Defendant-

Appellant CHARTER

COMMUNICATIONS, INC.

MEMORANDUM OF POINTS AND AUTHORITIES

Defendant and Appellant Charter Communications, Inc. (“Appellant”) respectfully requests that this Court take judicial notice of Exhibits 1-45 as set forth in the accompanying Request for Judicial Notice, which is attached hereto. Pursuant to California Evidence Code Section 459, this Court must take judicial notice of any matter specified in California Evidence Code Section 451 and may take judicial notice of any matter specified in California Evidence Code Section 452.

It is appropriate for this Court to take judicial notice of the forty (40) California Court of Appeal, superior court, and United States District Court decisions attached hereto because these decisions constitute “decisional . . . law . . . of this state and of the United States” pursuant to California Evidence Code § 451(a) or are “records of . . . any court of this state or . . . any court of record of the United States” pursuant to California Evidence Code § 452(a) and (d). *Dep’t of Health Care Servs. v. Office of Admin. Hearings* (2016) 6 Cal. App. 5th 120, 142 n.15 (taking judicial notice of unpublished Ninth Circuit decision); *Larson v. City & Cty. of San Francisco* (2011) 192 Cal. App. 4th 1263, 1296 n. 12 (taking judicial notice of four pleadings filed in other cases); *People v. Yokely* (2010) 183 Cal. App. 4th 1264, 1267 (taking judicial notice of district court’s findings).

These decisions are directly relevant to the issues on review by this Court because the courts in those cases either (1) compelled arbitration based on the precise Arbitration Agreement that is at issue in this case (“Arbitration Agreement”);

or (2) reversed the trial court's denial of a motion to compel arbitration based on this Arbitration Agreement. Several of these decisions expressly held that this Arbitration Agreement is not unconscionable and/or severed allegedly unconscionable provisions while still enforcing the remainder of the Agreement, which are the very issues on review by this Court.

Appellant is not requesting that the Court consider the validity of these opinions, or the truth of the facts asserted therein. Instead, Appellant requests judicial notice as to the existence of these decisions in Charter's favor, to establish that there is a pattern of numerous courts compelling arbitration based on this Arbitration Agreement. Given that several courts have compelled arbitration based on Charter's Arbitration Agreement and found the Arbitration Agreement to be valid and enforceable, Charter could not have had an illegal intent in drafting and implementing the Arbitration Agreement.

It is also proper for this Court to take judicial notice of Exhibits 1-5, the relevant pages of Charter's 10-K filings from 2018-2022 pursuant to the Securities and Exchange Act of 1934 and California Evidence Code Section 452(h) as the 10-K filings consist of "[f]acts and propositions that are not reasonably subject to dispute and are capable of immediate and accurate determination by resort to sources of reasonably indisputable accuracy." The 10-K filings demonstrate that Charter is a large, national company, which conducts business in numerous states. During the 2017-2022 time period, Charter has employed over 90,000 employees in most of the United States. Given the vast

number of employees across different jurisdictions, Charter implemented a uniform arbitration agreement rather than state-specific arbitration agreements.

In the trial court below, Appellant previously requested judicial notice of Exhibits 28, 30, 41, 42, 44, and 45. The trial court did not specify whether it took judicial notice of these decisions in its opinion. Exhibits 6-16 and 31-40 are decisions that post-date the October 20, 2020, filing of the motion to compel arbitration in this case. Exhibits 6-15 and 31-39 are decisions that post-date the November 25, 2020, ruling from the trial court that is the subject of this Court's review.

This Court may take judicial notice of matters that were not before the trial court. *Doers v. Golden Gate Bridge etc. Dist.* (1979) 23 Cal. 3d 180, 184 n. 1 (“[A] reviewing court may take judicial notice of matters not before the trial court, including records of another court.”); *Haworth v. Sup.Ct. (Ossakow)* (2010) 50 Cal. 4th 372, 379 n. 2; *Brosterhous v. State Bar of Calif.* (1995) 12 Cal. 4th 315, 325 (reviewing court may take judicial notice of matters not presented to the trial court in exceptional circumstances). This Court may also take judicial notice of the decisions that Appellant requested the trial court to take judicial notice of even though the trial court did not do so. *Rogers v. Cady* (1894) 104 Cal. 288, 290 (“the failure or refusal of a trial court to take such notice does not prevent the appellate court from giving proper effect thereto.”); *Sebago, Inc. v. City of Alameda* (1989) 211 Cal. App. 3d 1372, 1380 (“An appellate court may take judicial notice of any matter of which a trial court may take judicial

notice (Evid. Code, § 459, subd. (a)), and the trial court’s refusal to take judicial notice does not preclude the appellate court from doing so.”) (citations omitted).

For the foregoing reasons, Appellant respectfully requests that the Court take judicial notice of the forty California Court of Appeal, superior court, and United States District Court decisions and the relevant pages of Charter’s 2018-2022 Form 10-Ks, true and correct copies of which are attached hereto as **Exhibits 1-45**.

Dated: September 13, 2022 **HILL, FARRER & BURRILL
LLP**

By: /s/ James A. Bowles

James A. Bowles

Casey L. Morris

Elissa L. Gysi

Attorneys for Defendant-

Appellant CHARTER

COMMUNICATIONS, INC.

No. S273802

**IN THE SUPREME COURT OF THE
STATE OF CALIFORNIA**

Angelica Ramirez,

Plaintiff and Respondent,

v.

Charter Communications, Inc.,

Defendant and Appellant.

Court of Appeal of the State of California, Second
Appellate District, Division Four, Case No. B309408

Superior Court of the State of California, County of
Los Angeles, Honorable David J. Cowan, Case No.
20STCV25987

**[PROPOSED] ORDER
GRANTING DEFENDANT/APPELLANT'S
REQUEST FOR JUDICIAL NOTICE**

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[Proposed] Order

GOOD CAUSE APPEARING, Appellant Charter Communications, Inc.'s ("Appellant's") Request for Judicial Notice is granted [in its entirety]/[in part].

The Court takes judicial notice of the following decisions:

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- (8) *Devanan Maharaj v. Charter Communications, Inc.*, 20-cv-00064 BAS-LL, 2021 WL 5014352 (U.S. Dist. Ct.,

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- (9) *Lionel Harper v. Charter Communications, LLC*,
2:19-cv-00902 WBS DMC, 2021 WL 4784417 (U.S. Dist.
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- (11) *Michael Gennarelli v. Charter Communications, Inc.,
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- (33) *Ziren Coelho v. Charter Communications, LLC, et al.*
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- (43) *Stacy Dukes v. Charter Communications, LLC, et al.* (Los Angeles Superior Court case no. 19STCV30853), re Hearing on Motion to Compel Arbitration; Case Management Conference, January 16, 2020
- (44) *Lucila Martinez v. Spectrum Formally Time Warner Cable* (Los Angeles Superior Court case no. 19CHCV00275), re Hearing on Motion to Compel Arbitration, November 25, 2019
- (45) *Angelo Bray, et al. v. Charter Communications, Inc., et al.* (Los Angeles Superior Court case no. BC721229), Ruling re Defendants' Motion to Compel Arbitration, March 14, 2019

It is so ordered.

Dated: _____

California Supreme Court Justice

State of California)
County of Los Angeles)
)

Proof of Service by:
US Postal Service
Federal Express

I, Stephen Moore, declare that I am not a party to the action, am over 18 years of age and my business address is: 626 Wilshire Blvd., Suite 820, Los Angeles, California 90017; ca@counselpress.com

On 9/13/2022 declarant served the within: Appellant's Request to Take Judicial Notice in Support of Opening Brief on the Merits; Exhibits upon:

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Signature: /s/ Stephen Moore, Senior Appellate Paralegal, Counsel Press Inc.; ca@counselpress.com

STATE OF CALIFORNIA
Supreme Court of California

PROOF OF SERVICE

STATE OF CALIFORNIA
Supreme Court of California

Case Name: **RAMIREZ v. CHARTER COMMUNICATIONS**

Case Number: **S273802**

Lower Court Case Number: **B309408**

1. At the time of service I was at least 18 years of age and not a party to this legal action.
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3. I served by email a copy of the following document(s) indicated below:

Title(s) of papers e-served:

Filing Type	Document Title
BRIEF	Opening Brief on the Merits
REQUEST FOR JUDICIAL NOTICE	Appellant's Request for Judicial Notice
ADDITIONAL DOCUMENTS	Exhibits to Appellant's Request for Judicial Notice Volume 1 of 2
ADDITIONAL DOCUMENTS	Exhibits to Appellant's Request for Judicial Notice Volume 2 of 2

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I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

9/13/2022

Date

/s/James A. Bowles

Signature

Bowles, James A. (89383)

Last Name, First Name (PNum)

Hill, Farrer & Burrill, LLP

Law Firm
