

NOTICE OF APPEAL  
and  
SEQUENCE OF EVENTS  
in  
SYRINGA NETWORKS, LLC

v.

IDAHO DEPARTMENT OF ADMINISTRATION;

J. MICHAEL “MIKE” GWARTNEY,

in his personal and official capacity as

Director and Chief Information Officer

of the Idaho Department of Administration;

JACK G. “GREG” ZICKAU,

in his personal and official capacity as

Chief Technology Officer and Administrator of the Office of the Chief Information

Officer; EDUCATION NETWORKS OF AMERICA, Inc., a Delaware

corporation; and,

QWEST COMMUNICATIONS COMPANY, LLC,

a Delaware limited liability company.

# **SYRINGA APPEALS DISMISSAL**

Syringa Networks, LLC filed a Notice of Appeal from the dismissal of its lawsuit concerning the Idaho Education Network Monday yesterday, April 18.

The District Court has not yet addressed the substance of Syringa Network's lawsuit because of an incorrect conclusion that it was required to file an administrative appeal within a prescribed time frame.

Syringa Networks' lawsuit claimed that the Department of Administration unlawfully awarded telecommunications services for the Idaho Education Network exclusively to Qwest in violation of Idaho statutes that require most public contracts to be made to the lowest responsible bidder and that prohibit splitting state projects into multiple contracts where a single contractor is qualified to do the work.

The District Court ruled that Syringa Networks couldn't pursue its case against the Department of Administration because it didn't protest or file an appeal when the Department announced it would award contracts for the Idaho Education Network to Qwest and to ENA, as a general contractor for educational services with Syringa Networks providing telecommunications services in support to ENA.

Syringa Networks contends, in its Notice of Appeal, that the Department unlawfully split the project and issued amended contracts that assigned all telecommunications services to Qwest and only educational services to ENA, that the technicality of an appeal was not required, and that the lawfulness of the Idaho Education Network contracts should still be examined.

Syringa Networks also asserts, in its Notice of Appeal, that the court refused to consider all the evidence that was presented and erroneously concluded there was no enforceable contract between Syringa Networks and ENA.

## **APPEAL SUMMARY**

- On April 18, 2011, Syringa Networks, LLC filed a Notice of Appeal with the Idaho Supreme Court appealing the lower court's dismissal of its case against the Idaho Department of Administration and other defendants.
- Among other issues, Syringa Networks' Notice of Appeal asks the Idaho Supreme Court to consider, if in fact, it was legally required to exhaust all administrative remedies prior to filing its complaint against the Department.

### **TIMELINE OF EVENTS**

- On January 12, 2009, Syringa and ENA, jointly as the IEN Alliance, submitted a response to the Idaho Department of Administration's Idaho Education Network request for proposals. The Department also received proposals from other vendors such as Qwest and Verizon.
- On January 20, 2009, the Department notified vendors that an independent evaluation team reviewed the proposals and determined that IEN Alliance's proposal was the best and also the least expensive. Despite these findings, the Department announced that it would contract with ENA and Qwest. Under Idaho law, bidders had five days to appeal the Department's decision.
- On February 26, 2009, well after the five-day appeal deadline had passed, the Department issued amended purchase orders to ENA and Qwest, which parceled out all of the telecommunication installation of the Idaho Education Network solely to Qwest, depriving Syringa Networks of any involvement in the IEN.

### **THE APPEAL**

- Syringa Networks filed its complaint against the Department and other defendants on December 15, 2009.
- On July 23, 2010, the district court issued a Substitute Memorandum Decision and Order dismissing Counts II and III of Syringa Networks' complaint for declaratory relief because it concluded Syringa Networks failed to exhaust all administrative remedies before filing its lawsuit.
- On February 9, 2011, the district court granted the defendants' motions for summary judgment on the remainder of the claims and dismissed Syringa Networks' case in its entirety.
- Syringa Networks' April 18, 2011 Notice of Appeal asks the Idaho Supreme Court to consider a number of issues including:
  - Whether the district court erred by ruling that Syringa Networks' failure to file an administrative appeal from the January 20, 2009 IEN award to Qwest and ENA nullified Syringa Networks' right to challenge the legality of contract changes which were issued well after the time to appeal the award had expired.
  - Whether the district court erred by ruling that the February 26, 2009 contract amendments issued to Qwest and ENA were an "award" subject to mandatory administrative appeal and that Syringa Networks' failure to file such an appeal after the amendments were issued legally prohibited it from seeking declaratory judgment.
  - Whether the district court erred by dismissing Syringa Networks' claims for tortious interference with contract because the contract between Syringa Networks and ENA forming the IEN Alliance was an unenforceable "agreement to agree" and not an enforceable contract.