

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

NEVILLE MCFARLANE, DEANNA  
COTTRELL, EDWARD HELLYER, CARRIE  
MASON-DRAFFEN, HASEEB RAJA, RONNIE  
GILL, JOHN FRONTERA, SHARIQ  
MEHFOOZ, and STEVEN PANICCIA,  
individually and on behalf of all others similarly  
situated,

Plaintiffs,

v.

ALTICE USA, INC., a New York Corporation,

Defendant.

Lead Case No: 20-CV-1297-JMF  
(consolidated with 20-CV-1410-JMF)

**DEFENDANT ALTICE USA, INC.’S RESPONSE TO PLAINTIFFS’ SUPPLEMENTAL  
MEMORANDUM IN SUPPORT OF PRELIMINARY APPROVAL OF SETTLEMENT**

On May 3, 2022, this Court ordered Plaintiffs to address whether this Court’s decision in *McFarlane v. Altice USA, Inc.*, 524 F. Supp. 3d 264, 270-73 (S.D.N.Y. 2021), ECF No. 58, at 5-9, that Plaintiffs have Article III standing, and the Second Circuit’s “largely consistent” reasoning in *McMorris v. Carlos Lopez & Assocs., LLC*, 995 F.3d 295 (2d Cir. 2021), “remain good law following the Supreme Court’s decision in *TransUnion LLC v. Ramirez*, 141 S. Ct. 2190 (2021).” ECF No. 90. Plaintiffs filed a supplemental memorandum arguing that those decisions are unaffected by *TransUnion*. See ECF No. 91. In compliance with the Court’s Order, Defendant Altice USA, Inc. (“Altice”) files this Response.

Altice has long disputed Plaintiffs’ standing. See, e.g., ECF Nos. 39, 46, 54. As Plaintiffs have noted, Altice would “continue to contest Plaintiffs’ . . . standing” absent settlement, particularly given the manner and degree of evidence required to demonstrate standing at the

successive stages of the litigation. ECF No. 88, at 15. If the Court nonetheless finds that Plaintiffs still have standing, Altice is prepared to continue to support the settlement, which it believes is fair, reasonable, and provides adequate relief for the class.

Dated: May 19, 2022

Respectfully submitted,

**AKIN GUMP STRAUSS HAUER & FELD LLP**

/s/ Stephen M. Baldini

Stephen M. Baldini

Stephanie Lindemuth

One Bryant Park

New York, NY 10036

Telephone: (212) 872-1062

Fax: (212) 872-1002

Email: sbaldini@akingump.com

slindemuth@akingump.com

Michelle A. Reed (*pro hac vice*)

Elizabeth D. Scott (*pro hac vice*)

2300 North Field Street, Suite 1800

Dallas, Texas 75201

Telephone: (214) 969-2800

Fax: (214)969-4343

Email: mreed@akingump.com

edscott@akingump.com

*Counsel for Defendant Altice USA, Inc.*

**CERTIFICATE OF SERVICE**

I hereby certify that, on May 19, 2022, a true and correct copy of this document was served via email on counsel for Plaintiffs.

/s/ Stephen M. Baldini  
Stephen M. Baldini