

**UNITED STATES DISTRICT COURT
FOR THE
DISTRICT OF MAINE**

ACA CONNECTS – AMERICA’S
COMMUNICATIONS ASSOCIATION, *et al.*,

Plaintiffs,

v.

AARON M. FREY, in his Official Capacity as
the Attorney General of the State of Maine,

Defendant.

CIVIL ACTION NO.: 1:20-cv-00055-LEW

**DEFENDANT’S PARTIAL CROSS-MOTION
FOR JUDGMENT ON THE PLEADINGS**

Defendant Aaron M. Frey, under Rule 12(c) of the Federal Rules of Civil Procedure, cross moves for partial judgment on the pleadings. Specifically, Defendant moves for judgment on Plaintiffs’ Third, Fourth, and Fifth Claims because Maine’s Privacy Law is not preempted by federal law.

A motion for judgment on the pleadings is evaluated under substantially the same standard as that which governs a motion to dismiss. Specifically, the Court should grant the motion “if the uncontested and properly considered facts conclusively establish the movant’s entitlement to a favorable judgment.” *Aponte-Torres v. Univ. of P.R.*, 445 F.3d 50, 54-55 (1st Cir. 2006).

Defendant incorporates by reference the arguments set forth in his Opposition to Plaintiffs’ Motion for Judgment on the Pleadings (*see* ECF No. 28). Those arguments demonstrate not only why judgment should not be granted to Plaintiffs on their preemption claims, but also why judgment should be granted to Defendant on those same claims.

Defendant accordingly respectfully requests that the Court enter judgment for Defendant on Plaintiffs' Third, Fourth, and Fifth Claims.

DATED: May 27, 2020

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on this, the 27th day of May, 2020, I electronically filed the above document with the Clerk of Court using the CM/ECF system, which will send notification of such filing to each of the following:

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