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5	Attorneys for Defendant		
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8	UNITED STATES DISTRICT COURT		
9	EASTERN DISTRICT OF CALIFORNIA		
10	GENERAL CHARLES E. "CHUCK")	Case No. 2:07-cv-02517 FCD GGH	
11	YEAGER (RET.),	STIPULATION AND ORDER TO STAY	
12	Plaintiff,	PROCEEDINGS AND CONTINUE TRIAL DATE PENDING MOTION FOR	
13	V.)	CERTIFICATE OF APPEALABILITY UNDER 28 U.S.C. § 1292(b)	
14	AT&T MOBILITY, LLC; and DOES 1) through 200, inclusive,)		
15) Defendants.	The Honorable Frank C. Damrell, Jr.	
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17			
18)		
19	RECITALS		
20	Whereas Defendant AT&T Mobility, LLC ("Defendant") filed a motion for		
21	summary judgment on October 2, 2009;		
22	Whereas the Court issued an order denying the Defendant's motion for summary		
23	judgment on December 7, 2009;		
24	Whereas Defendant believes that the Court's order involves several controlling		
25	questions of law as to which there is a substantial ground for difference of opinion, and that an		
26	immediate appeal from the order may materially advance the ultimate termination of the		
27	litigation;		
28	///		
		1 GS AND CONTINUE TRIAL DATE PENDING MOTION ABILITY UNDER 28 U.S.C. § 1292(b)	

1	Whereas Defendant therefore intends to file a motion for certification of			
2	interlocutory appeal pursuant to 28 U.S.C. § 1292(b);			
3	Whereas Defendant understands that March 21, 2010 is the earliest available date			
4	for the Court to hear oral argument on that motion;			
5	Whereas, under the Court's Amended Status (Pretrial Scheduling) Order dated			
6	April 22, 2009, the parties are now obligated to begin preparing for trial, including by preparing			
7	a joint pre-trial statement to be filed on January 15, 2010;			
8	Whereas the trial is currently set for March 30, 2010;			
9	Whereas trial preparation by the parties and the Court could become wasted effort			
10	if the Court were to grant certification, and if the Ninth Circuit Court of Appeals were to			
11	subsequently accept the interlocutory appeal;			
12	Whereas the parties wish to avoid any potentially unnecessary expenditure of			
13	time and resources by their counsel and by the Court in preparing for trial;			
14	STIPULATION			
15	The parties, by and through their counsel, stipulate and agree as follows:			
16	1. This district court action shall be STAYED pending the briefing, argument, and			
17	this Court's ruling on Defendant's motion for certification of interlocutory appeal, pursuant to 28			
18	U.S.C. § 1292(b);			
19	2. In the event that the Court grants Defendant's motion for certification and the			
20	Ninth Circuit exercises its discretion to hear the appeal, this action is STAYED until the appeal			
21	is fully resolved.			
22	3. The current trial date of March 30, 2010 shall be VACATED; and			
23	4. The trial date, and all other attendant pre-trial deadlines, shall be re-scheduled at			
24	such time as Defendant's motion for certification and any subsequent interlocutory appeal are			
25	fully resolved.			
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	STIPULATION AND ORDER TO STAY PROCEEDINGS AND CONTINUE TRIAL DATE PENDING MOTION FOR CERTIFICATE OF APPEALABILITY UNDER 28 U.S.C. § 1292(b)			

1	Dated: December 24, 2009	DE LA PENA & MCDONALD LLP	
2			
3		By: <u>/s/ Charles J. Murray</u> Charles J. Murray	
4		Attorneys for Plaintiff Chuck Yeager	
5			
6	Dated: December 24, 2009	MENNEMEIER, GLASSMAN & STROUD LLP	
7		By: /s/ Andrew W. Stroud	
8		By: <u>/s/ Andrew W. Stroud</u> Andrew W. Stroud Attorneys for Defendant AT&T Mobility, LLC	
9		- • • • •	
10	IT IS SO ORDERED.		
11		I a D	
12	Dated: December 28, 2009	/ Many C mm	
13		FRANK C. DAMRELL, JR. UNITED STATES DISTRICT JUDGE	
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	291.01.PLE.MSJ.aws dec.wpd STIPULATION AND ORDER TO STAY	3 Y PROCEEDINGS AND CONTINUE TRIAL DATE PENDING MOTION	
	FOR CERTIFICATE OF APPEALABILITY UNDER 28 U.S.C. § 1292(b)		