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11 UNITED STATES DISTRICT COURT
 12
 13 NORTHERN DISTRICT OF CALIFORNIA

14 TASH HEPTING, GREGORY HICKS,)	No. C-06-00672-VRW
CAROLYN JEWEL and ERIK KNUTZEN, on)	
Behalf of Themselves and All Others Similarly)	<u>CLASS ACTION</u>
15 Situated,)	
)	[PROPOSED] CASE MANAGEMENT
16 Plaintiffs,)	ORDER NUMBER 1
)	
17 vs.)	
)	
18 AT&T CORP., et al.)	
)	
19 Defendants.)	
)	

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1 WHEREAS, the related actions *Hepting, et al. v. AT&T Corp., et al.*, Case No. C-06-00672-
2 VRW (filed January 31, 2006) and *Roe, et al. v. AT&T Corp., et al.*, Case No. C-06-03467-VRW
3 (filed May 30, 2006) (collectively, “Actions”) are pending before this Court;

4 WHEREAS, it is anticipated that additional related actions may be transferred to, removed
5 to, or filed in this Court; and

6 WHEREAS, the existence of common questions of law and fact in the Actions now pending
7 before this Court, the interests of fair and efficient administration of the Actions, and the avoidance
8 of unnecessary duplicative efforts warrants the coordination of the Actions, the appointment of
9 interim class counsel, and good cause appearing therefor;

10 IT IS HEREBY ORDERED AS FOLLOWS:

11 **I. COORDINATION AND TREATMENT OF SUBSEQUENT ACTIONS**

12 1. The Court finds that *Hepting, et al. v. AT&T Corp., et al.*, Case No. C-06-00672-
13 VRW and *Roe, et al. v. AT&T Corp., et al.*, Case No. C-06-03467-VRW (referred to herein as the
14 “Coordinated Action”) are related actions and such cases are hereby coordinated for pretrial
15 purposes to prevent duplication and conflicts.

16 2. The terms of this Order shall apply to actions later instituted in, removed to, or
17 transferred to this Court that involve the same or substantially similar issues of law and fact, subject
18 to the following procedures:

19 (a) When such a case is filed in, removed to, or transferred to this Court, the
20 Clerk of the Court shall:

21 (i) place a copy of this Order in the separate file for such action;
22 (ii) provide a copy of this Order by mail or electronically pursuant to the
23 local rules to counsel for plaintiff(s) in the newly filed or transferred action and to any defendant(s)
24 in the newly filed or transferred action; and

25 (iii) make an appropriate entry on the docket for the Coordinated Action.

26 (b) Each new case that arises out of the subject matter of the Coordinated Action
27 which is filed in this Court or transferred to this Court, shall be coordinated with the Coordinated
28 Action and this Order shall apply thereto, unless a party in such newly-filed or transferred action

1 objects to coordination, as provided for herein, or to any provision of this Order, within ten days
2 after the date upon which a copy of this Order is served on counsel for such party, by filing an
3 application for relief and this Court deems it appropriate to grant such application.

4 3. Counsel shall call to the attention of the Court and the Clerk the filing or transfer of
5 any case which might properly be coordinated with the Coordinated Action. Mailing or other
6 delivery of a copy of this Order by defendants' counsel or plaintiffs' Interim Class Counsel (*see* II.,
7 below), as appropriate, to the counsel in any newly filed or transferred actions shall constitute valid
8 notice thereof for purposes of establishing its applicability to such action in accordance herewith.

9 **II. RESPONSIBILITIES OF PLAINTIFFS' INTERIM CLASS COUNSEL**

10 1. Under Federal Rule of Civil Procedure 23(g)(2), Interim Class Counsel, shall be the
11 Electronic Frontier Foundation. Interim Class Counsel, acting on behalf of plaintiffs, shall have the
12 following duties:

13 (a) To coordinate all proceedings, including preparing, structuring, and presenting
14 pretrial and other management-related orders;

15 (b) To encourage full cooperation and efficiency among all counsel;

16 (c) To create any necessary committees, appoint committee chairs, and otherwise
17 delegate responsibilities for specific tasks in a manner to assure that pretrial and trial preparation is
18 conducted effectively, efficiently, and economically;

19 (d) To delegate work responsibilities and monitor the activities of counsel to
20 assure that schedules are met and unnecessary expenditures of time and expense are avoided;

21 (e) To act as or designate spokespersons at all court conferences;

22 (f) To call meetings of themselves and/or other counsel as appropriate or
23 necessary from time to time;

24 (g) To initiate and conduct settlement negotiations with counsel for the
25 defendant(s);

26 (h) To determine plaintiffs' position on all matters arising during this litigation
27 (after such consultation with other counsel as they deem appropriate) and present such position
28 orally and/or in writing to the Court and opposing parties;

- 1 (i) To consult with and employ experts, as necessary;
2 (j) To initiate, coordinate, and conduct discovery;
3 (k) To represent plaintiffs at trial and on any appeal of this matter;
4 (l) To negotiate and execute agreements with local counsel or other cooperating
5 attorneys;
6 (m) To enter into stipulations with opposing counsel as necessary for the conduct
7 of the litigation; and
8 (n) To perform such other duties as are necessary in connection with the
9 prosecution of this litigation.

10 2. Interim Class Counsel shall be the contact between plaintiffs' counsel and defendants'
11 counsel as well as the spokespersons for plaintiffs' counsel, unless otherwise agreed to between the
12 parties. All agreements reached with the Interim Class Counsel shall be binding on all other
13 plaintiffs' counsel in the Coordinated Action.

14 3. No motion or request for discovery shall be served or filed by plaintiffs, or other
15 pretrial proceedings initiated by plaintiffs, except by or with the authorization of Interim Class
16 Counsel.

17 4. The responsibilities set forth in this section applies to all plaintiffs' counsel in the
18 Coordinated Action, including any action subsequently governed by this Order.

19 5. No communications among plaintiffs' counsel shall be taken as a waiver of any
20 privilege or protection to which they would otherwise be entitled.

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1 **III. MODIFICATION OF THIS ORDER**

2 This Order may be modified, supplemented, or superseded by order of the Court upon motion
3 of any party for good cause shown.

4 * * *

5 **ORDER**

6 IT IS SO ORDERED.

7 DATED: _____

8 THE HONORABLE VAUGHN R. WALKER
9 UNITED STATES DISTRICT JUDGE

10 DATED: June 14, 2006

11 ELECTRONIC FRONTIER FOUNDATION
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14 KURT OPSAHL
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19 /s/
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Attorneys for Plaintiffs

1 CERTIFICATE OF SERVICE

2 I hereby certify that on June 14, 2006, I electronically filed the foregoing with the Clerk of
3 the Court using the CM/ECF system which will send notification of such filing to the e-mail
4 addresses denoted on the attached Electronic Mail Notice List, and I hereby certify that I have
5 mailed the foregoing document or paper via the United States Postal Service to the non-CM/ECF
6 participants indicated on the attached Manual Notice List.

7 /s/
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13 I, Shana E. Scarlett, am the ECF User whose ID and password are being used to file this
14 [PROPOSED] CASE MANAGEMENT ORDER NUMBER 1. In compliance with General Order
15 45, X.B., I hereby attest that Cindy A. Cohn has concurred in this filing.

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