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10 UNITED STATES DISTRICT COURT
 11 NORTHERN DISTRICT OF CALIFORNIA
 12 SAN FRANCISCO DIVISION

15 TASH HEPTING, et al.,
 16 Plaintiffs,
 17 v.
 18 AT&T CORP., et al.
 19 Defendants.

Case No. C-06-0672-VRW

**OPPOSITION OF PLAINTIFFS TOM
 CAMPBELL, ET AL. AND DENNIS P.
 RIORDAN, ET AL. TO AT&T CORP.'S
 ADMINISTRATIVE MOTION TO
 CONSIDER WHETHER CASES SHOULD
 BE RELATED**

20
 21 TOM CAMPBELL, et al.,
 22 Plaintiffs,
 23 v.
 24 AT&T COMMUNICATIONS OF
 25 CALIFORNIA, et al,
 26 Defendants.

Case No. 06-3596 VRW

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 28 OPPOSITION OF PLAINTIFFS TOM CAMPBELL, ET AL. AND DENNIS RIORDAN, ET AL. TO AT&T CORP.'S
 ADMINISTRATIVE MOTION TO CONSIDER WHETHER CASES SHOULD BE RELATED

Case No. C-06-0672-VRW

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OPPOSITION OF PLAINTIFFS TOM CAMPBELL, ET AL. AND DENNIS RIORDAN, ET AL. TO AT&T CORP.'S
ADMINISTRATIVE MOTION TO CONSIDER WHETHER CASES SHOULD BE RELATED

1 Plaintiffs Tom Campbell, *et al.* and Dennis Riordan, *et al.*, submit this memorandum in
2 opposition to the motion of AT&T Corp. suggesting that *Campbell, et al. v. AT&T Communications of*
3 *California, et al.*, case no. C-06-3596 VRW (“*Campbell*”) should be related to *Hepting, et al. v. AT&T*
4 *Corp., et al.*, case no. C-06-00672 VRW (“*Hepting*”). As discussed in plaintiffs’ own related case
5 motion concerning *Campbell* and *Riordan et al. v. Verizon Communications, Inc.*, case no. C-06-3574
6 JSW (“*Riordan*”),¹ while *Campbell* and *Riordan* have much in common that justifies their being treated
7 as related, they have little in common with *Hepting*.

9 Even the defendants in *Riordan* and *Campbell* concede that these two companion cases should be
10 heard by the same judge. *See, e.g.*, Opposition of AT&T Defendants to the *Riordan-Campbell* related
11 case motion at 2 (“Nonetheless, the *Campbell* and *Riordan* cases are related to *Hepting* because they
12 involve substantially the same parties and events.”); Defendant Verizon’s Response to the *Riordan-*
13 *Campbell* related case motion at 2, (“Defendant Verizon Communications Inc. . . . agrees that
14 coordinated treatment of these cases would be appropriate but believes that if *Riordan* and *Campbell* are
15 ‘related’ under Local Rule 3-12, two other cases . . . *Hepting* . . . and *Roe, et al. v. AT&T Corp., et al.*,
16 No. C-06-03467—are also related.”). Plaintiffs differ with defendants AT&T and Verizon, however,
17 about whether *Riordan* and *Campbell* should be related to *Hepting* and *Roe*. In fact the two sets of cases
18 are very different and little will be gained in terms of judicial economy in having all four cases before
19 the same judge.
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22 First, and foremost, the legal questions the Court will be called upon to resolve in the two sets of
23 cases are quite different. *Hepting* and *Roe* are both nationwide class action suits for damages, in
24

25 ¹ AT&T’s Motion mistakenly refers to *Riordan* as “*Debonis*,” but it is intending to refer to the same
26 action, C-06-3574 JSW. *Riordan* has been reassigned to Judge White after a declination to proceed
before a United States Magistrate Judge as it was initially assigned.

1 addition to seeking equitable relief. *Riordan* and *Campbell* are not class action lawsuits, so none of the
2 class issues that must be resolved in *Hepting* and *Roe* will be at issue in *Riordan* and *Campbell*. Nor
3 will any of the damages issues be relevant in *Riordan* and *Campbell* because plaintiffs in *Riordan* and
4 *Campbell* seek only equitable relief.

5
6 More importantly, the gravamen of the *Hepting* and *Roe* complaints is the claim that defendants
7 have violated federal law. In *Hepting*, six of the seven claims for relief are based on federal law. The
8 sole state law claim asserted in *Hepting* is a claim under California Business & Professions Code section
9 17200 *et seq.* That is the sole state law claim in *Roe*, as well. *Riordan* and *Campbell*, on the other hand,
10 assert no federal claims, nor do they assert a section 17200 claim. Rather, the two claims for relief in
11 *Riordan* and *Campbell* are based on (i) the privacy provision of Article I, section 1 of the California
12 Constitution and (ii) Public Utilities Code section 2891, which prohibits telephone companies from
13 providing customer calling records to third parties unless it has the customer's consent or unless it is
14 required to provide the records pursuant to legal process.

15
16 Because *Riordan* and *Campbell* are quintessentially state law cases, the first substantive issue the
17 district court must confront is its lack of subject matter jurisdiction over these two cases. Nothing that
18 has gone before in *Hepting* will result in any judicial economies in resolving that issue. Moreover,
19 resolution of that threshold issue will most likely result in a remand of the cases to state court, thus
20 ending the need for further involvement by any judge of this court. Thus the most expeditious and
21 efficient way to manage *Riordan* and *Campbell* is to have them heard by the judge assigned to *Riordan*,
22 the lower numbered of the two cases, and to keep them free of the complications and entanglements of
23 *Hepting* and *Roe*.

