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11 [ADDITIONAL PARTIES AND COUNSEL  
12 LISTED ON SIGNATURE PAGES]

13 **UNITED STATES DISTRICT COURT**  
 14 **NORTHERN DISTRICT OF CALIFORNIA**  
 15 **SAN FRANCISCO DIVISION**

15 DAN VALENTINE, *et al.*,

16 Plaintiffs,

17 vs.

18 NEBUAD, INC., *et al.*

19 Defendants.

Case No. C08 05113 TEH (EMC)

**STIPULATION REGARDING TIME  
 FOR FILING REPLIES AND  
 [PROPOSED] ORDER EXTENDING  
 TIME FOR FILING REPLIES ON  
 DEFENDANTS' PENDING MOTIONS**

Complaint Filed: November 10, 2008  
 Trial Date: None Set

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Pursuant to Local Rule 6-1, Plaintiffs, Defendants Bresnan Communications, Cable One, CenturyTel, Embarq, Knology, and WOW! (collectively, the “ISP Defendants”), and Defendant NebuAd hereby stipulate and agree as follows:

1. This putative class action complaint proceeding was filed on November 10, 2008. On December 22, 2008 Defendant NebuAd filed a motion to dismiss. (DE # 4) On January 30, ISP Defendants each filed Motions to Dismiss (DE ## 40, 44, 51, 52) and Defendant Bresnan filed a Motion to Compel Arbitration. (DE # 42)

2. Hearings on these motions were originally noticed for March 9. On February 13 Plaintiffs filed their Motion for Jurisdictional Discovery (DE # 64) which was noticed for hearing on March 23. Plaintiffs thereafter filed oppositions to Defendant NebuAd’s and the ISP Defendants’ motions, referencing their Motion for Jurisdictional Discovery (DE ## 65, 66 and 67)

3. The Court then stayed the Defendants’ motions (DE # 70) and on February 20 referred the Plaintiffs’ Motion for Jurisdictional Discovery to Magistrate Judge Edward Chen. (DE #71) Judge Chen rescheduled the hearing on Plaintiffs’ Motion for Jurisdictional Discovery to March 25. (DE #72)

4. After hearing, and by Order dated March 26, 2009 (DE # 90), Judge Chen ruled that Plaintiffs could take jurisdictional discovery of Defendant NebuAd informally, which was to be completed within thirty (30) days of the Order. (DE # 90, ¶ 1) Judge Chen also directed Plaintiffs to file their oppositions to the motions to dismiss within forty-five (45) days of the Order and that the ISP Defendants file their replies 14 days thereafter. (DE # 90, ¶ 4)

5. Plaintiffs filed their consolidated Opposition to the ISP Defendants’ Motions to Dismiss, and Declaration of Alan Himmelfarb in redacted form on May 8, 2009. (DE # #110, 111)

1 Plaintiffs served the unredacted version on May 11, 2009, and filed the unredacted version under seal  
2 on May 12, 2009. (DE # 120) Because Bresnan sought to keep the briefing schedule on its motion to  
3 compel arbitration the same as the motions to dismiss, Plaintiffs filed their opposition to Bresnan's  
4 motion to compel arbitration on May 8, 2009 (DE # 109). Thereafter, Defendant NebuAd filed a  
5 Notice of Assignment for the Benefit of Creditors (DE # 118), a Motion to Stay proceedings (DE  
6 # 122), and NebuAd's counsel filed a motion to withdraw as attorney. (DE # 121) The Court, per  
7 Magistrate Chen, also scheduled a conference call for May 19, 2009 (DE # 119) on issues raised by  
8 Plaintiffs' letter of May 17, 2009 (DE # 117) with respect to NebuAd's Notice of Assignment and  
9 further discovery of NebuAd.  
10

11 6. On the existing schedule, the ISP Defendants replies would be due May 22,  
12 2009. In order to consider the impact of Defendant NebuAd's filings, the ISP Defendants asked for  
13 and Plaintiffs agreed to a short extension of time to file their replies in support of the pending motions.  
14 This was raised during the telephone conference. The motions have not yet been noticed for hearing.  
15

16 7. Accordingly, the Parties hereby stipulate that the time for the ISP Defendants  
17 to file their replies in support of the motions to dismiss is extended to May 28, 2009.  
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DAVIS WRIGHT TREMAINE LLP

19 Dated: May 21, 2009 By:                   /s/                    
20 Alan Himmelfarb  
21 KAMBEREDELSON LLC  
22 Attorneys for Plaintiffs

23 Dated: May 21, 2009 By:                   /s/                    
24 John D. Seiver  
25 DAVIS WRIGHT TREMAINE LLP  
26 Attorneys for Defendant  
27 BRESNAN COMMUNICATIONS

28 Dated: May 21, 2009 By:                   /s/                    
Simon J. Frankel  
COVINGTON & BURLING LLP  
Attorneys for Defendant  
CABLE ONE

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Dated: May 21, 2009 By: \_\_\_\_\_ /s/ \_\_\_\_\_  
David A. Handzo  
JENNER & BLOCK, LLP  
Attorneys for Defendants  
CENTURY TEL and EMBARQ

Dated: May 21, 2009 By: \_\_\_\_\_ /s/ \_\_\_\_\_  
Troy Sauro  
PERKINS COIE LLP  
Attorneys for Defendants  
KNOLOGY and WOW!

Dated: May 21, 2009 By: \_\_\_\_\_ /s/ \_\_\_\_\_  
Thomas E. Gilbertsen  
KELLEY DRYE & WARREN LLP  
Attorney for Defendant NebuAd, Inc.

**[PROPOSED] ORDER**

Pursuant to the above stipulation, IT IS SO ORDERED.



Dated: May 26, 2009

\_\_\_\_\_  
The Hon. Edward M. Chen  
United States Magistrate Judge