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10 Attorneys for Defendants  
 11 PACIFIC BELL TELEPHONE COMPANY,  
 AT&T SERVICES, INC., and  
 12 AT&T OPERATIONS, INC.

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

17 JOY NWABUEZE, individually and on behalf of a class of similarly situated individuals,	)	Case No. CV 09-01529 SI
18 Plaintiff,	)	STIPULATION AND REQUEST FOR
19 vs.	)	ORDER REGARDING THE RE-FILING
20 AT&T INC., a Delaware corporation;	)	OF DEFENDANTS' MOTION TO
21 PACIFIC BELL TELEPHONE COMPANY	)	DISMISS
d/b/a AT&T CALIFORNIA, a California	)	Courtroom: 10
22 corporation; AT&T SERVICES, INC., a	)	Judge: Hon. Susan Illston
23 Delaware corporation; AT&T OPERATIONS,	)	First Amended Class Action Complaint
INC., a Delaware corporation; and DOES 1	)	Filed: August 13, 2009
24 through 21,	)	
Defendants.	)	

25 WHEREAS, the parties previously filed a stipulation and proposed order on September 7,  
 26 2010 (Document No. 76) to withdraw the motion to dismiss the action pursuant to Federal Rules  
 27 of Civil Procedure, Rule 12(b)(6) of Defendants Pacific Bell Telephone Company, AT&T  
 28 Services, Inc. and AT&T Operations (“Defendants”);

1           WHEREAS, on September 8, 2010, the Court entered the Order withdrawing the motion  
2 to dismiss without prejudice to re-file said motion at a later date, without further briefing or oral  
3 argument (Document No. 77);

4           WHEREAS, Defendants now seek to re-file the motion to dismiss and all supporting  
5 documentation;

6           WHEREAS, Plaintiff in response seeks to re-file her opposition and all supporting  
7 documentation;

8           WHEREAS the documents associated with Defendant's motion to dismiss and Plaintiff's  
9 opposition are as follows in the Court's docket:

- 10           • MOTION OF DEFENDANTS PACIFIC BELL TELEPHONE COMPANY, AT&T  
11 SERVICES, INC., AND AT&T OPERATIONS TO DISMISS PLAINTIFF'S FIRST  
12 AMENDED COMPLAINT [F.R.C.P. 12(B)(6)]; SUPPORTING MEMORANDUM  
13 **(Document No. 44)**;
- 14           • REQUEST FOR JUDICIAL NOTICE IN SUPPORT OF MOTION OF DEFENDANT  
15 PACIFIC BELL TELEPHONE COMPANY, AT&T SERVICES, INC., AND AT&T  
16 OPERATIONS, INC. TO DISMISS PLAINTIFF'S FIRST AMENDED CLASS  
17 ACTION COMPLAINT [F.R.C.P. 12(B)(6)]; MEMORANDUM OF POINTS AND  
18 AUTHORITIES IN SUPPORT THEREOF **(Document No. 45)**;
- 19           • EXHIBITS RE [45] REQUEST FOR JUDICIAL NOTICE **(Document No. 46)**;
- 20           • [PROPOSED] ORDER GRANTING MOTION OF DEFENDANTS PACIFIC BELL  
21 TELEPHONE COMPANY, AT&T SERVICES, INC., AND AT&T OPERATIONS,  
22 INC. TO DISMISS PLAINTIFF'S FIRST AMENDED CLASS ACTION  
23 COMPLAINT [F.R.C.P. 12(B)(6)] **(Document No. 47)**;
- 24           • PLAINTIFF'S MEMORANDUM IN OPPOSITION TO MOTION TO DISMISS  
25 PLAINTIFF'S FIRST AMENDED COMPLAINT **(Document No. 57)**;
- 26           • REPLY MEMORANDUM IN SUPPORT OF MOTION OF DEFENDANTS  
27 PACIFIC BELL TELEPHONE COMPANY, AT&T SERVICES, INC., AND AT&T  
28 OPERATIONS, INC. TO DISMISS PLAINTIFF'S FIRST AMENDED COMPLAINT

- 1 [F.R.C.P. 12(B)(6)] (**Document No. 58**);
- 2 • LETTER FROM JOHN G. JACOBS LETTER TO COURT (**Document No. 65**);
- 3 • PLAINTIFF’S REQUEST TO SUBMIT ADDITIONAL AUTHORITY IN
- 4 OPPOSITION TO DEFENDANTS’ MOTION TO DISMISS PLAINTIFF’S FIRST
- 5 AMENDED COMPLAINT (**Document No. 66**);
- 6 • DEFENDANTS’ OBJECTION TO PLAINTIFF’S REQUEST TO SUBMIT
- 7 ADDITIONAL AUTHORITY IN OPPOSITION TO DEFENDANTS’ MOTION TO
- 8 DISMISS PLAINTIFF’S FIRST AMENDED COMPLAINT [F.R.C.P. 12(B)(6)]
- 9 (**Document No. 67**); and
- 10 • Hearing Transcript of November 20, 2009 re: motion to dismiss (**Document No. 61**).

11 NOW THEREFORE, it is hereby stipulated by and between the parties, through their

12 respective counsel, that the parties request an order from the Court deeming that Defendants’

13 Motion to Dismiss and all supporting and opposing documents (as listed above) to be re-filed as

14 of the date of the Court’s Order.

15 Dated: October 14, 2010.

16 PILLSBURY WINTHROP SHAW PITTMAN LLP  
17 ROXANE A. POLIDORA  
18 DOUGLAS R. TRIBBLE  
19 CONNIE J. WOLFE

20 By /s/ Roxane A. Polidora  
21 Roxane A. Polidora  
22 Attorneys for Defendants  
23 PACIFIC BELL TELEPHONE COMPANY,  
24 AT&T SERVICES, INC., and  
25 AT&T OPERATIONS, INC.

26 Dated: October 14, 2010.

27 KELLER GROVER, LLP  
28 JEFFREY F. KELLER  
JACOBS KOLTON, CHTD.  
JOHN G. JACOBS  
BRYAN G. KOLTON  
DAVID SCHACHMAN & ASSOCIATES, P.C.  
DAVID SCHACHMAN

By /s/ John G. Jacobs  
John G. Jacobs  
Attorneys for Plaintiff  
JOY NWABUEZE

**ATTESTATION OF SIGNATURE  
(N.D. Cal. General Order 45)**

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I, Roxane A. Polidora, hereby attest that concurrence in the filing of the following document: STIPULATION AND REQUEST FOR ORDER REGARDING THE RE-FILING OF DEFENDANTS' MOTION TO DISMISS has been obtained from all of the signatories.

Dated: October 14, 2010

/s/ Roxane A. Polidora\_\_\_\_\_

1 **PURSUANT TO STIPULATION, IT IS SO ORDERED.**

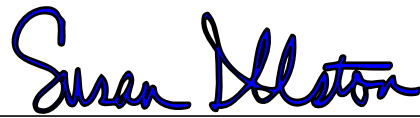
2 The motion of Defendants Pacific Bell Telephone Company, AT&T Services, Inc.  
3 and AT&T Operations to dismiss this action pursuant to Federal Rules of Civil Procedure,  
4 Rule 12(b)(6), originally filed on September 18, 2009 and heard on November 20, 2009, is  
5 hereby deemed re-filed, along with all supporting and opposing documents as listed below:

- 6 • MOTION OF DEFENDANTS PACIFIC BELL TELEPHONE COMPANY,  
7 AT&T SERVICES, INC., AND AT&T OPERATIONS TO DISMISS  
8 PLAINTIFF'S FIRST AMENDED COMPLAINT [F.R.C.P. 12(B)(6)];  
9 SUPPORTING MEMORANDUM (**Document No. 44**);
- 10 • REQUEST FOR JUDICIAL NOTICE IN SUPPORT OF MOTION OF  
11 DEFENDANT PACIFIC BELL TELEPHONE COMPANY, AT&T SERVICES,  
12 INC., AND AT&T OPERATIONS, INC. TO DISMISS PLAINTIFF'S FIRST  
13 AMENDED CLASS ACTION COMPLAINT [F.R.C.P. 12(B)(6)];  
14 MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT THEREOF  
15 (**Document No. 45**);
- 16 • EXHIBITS RE [45] REQUEST FOR JUDICIAL NOTICE (**Document No. 46**);
- 17 • [PROPOSED] ORDER GRANTING MOTION OF DEFENDANTS PACIFIC  
18 BELL TELEPHONE COMPANY, AT&T SERVICES, INC., AND AT&T  
19 OPERATIONS, INC. TO DISMISS PLAINTIFF'S FIRST AMENDED CLASS  
20 ACTION COMPLAINT [F.R.C.P. 12(B)(6)] (**Document No. 47**);
- 21 • PLAINTIFF'S MEMORANDUM IN OPPOSITION TO MOTION TO DISMISS  
22 PLAINTIFF'S FIRST AMENDED COMPLAINT (**Document No. 57**);
- 23 • REPLY MEMORANDUM IN SUPPORT OF MOTION OF DEFENDANTS  
24 PACIFIC BELL TELEPHONE COMPANY, AT&T SERVICES, INC., AND  
25 AT&T OPERATIONS, INC. TO DISMISS PLAINTIFF'S FIRST AMENDED  
26 COMPLAINT [F.R.C.P. 12(B)(6)] (**Document No. 58**);
- 27 • LETTER FROM JOHN G. JACOBS LETTER TO COURT (**Document No. 65**);

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- 1       • PLAINTIFF’S REQUEST TO SUBMIT ADDITIONAL AUTHORITY IN
- 2       OPPOSITION TO DEFENDANTS’ MOTION TO DISMISS PLAINTIFF’S
- 3       FIRST AMENDED COMPLAINT (**Document No. 66**); and
- 4       • DEFENDANTS’ OBJECTION TO PLAINTIFF’S REQUEST TO SUBMIT
- 5       ADDITIONAL AUTHORITY IN OPPOSITION TO DEFENDANTS’ MOTION
- 6       TO DISMISS PLAINTIFF’S FIRST AMENDED COMPLAINT [F.R.C.P.
- 7       12(B)(6)] (**Document No. 67**); and
- 8       • Hearing Transcript of November 20, 2009 re: motion to dismiss (**Document No.**
- 9       **61**).

10  
11 Date: \_\_\_\_\_



\_\_\_\_\_  
The Honorable Susan Illston  
United States District Judge

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**CERTIFICATE OF SERVICE**

I hereby certify that on October 14, 2010, a true and correct copy of STIPULATION AND REQUEST FOR ORDER REGARDING THE RE-FILING OF DEFENDANTS' MOTION TO DISMISS was electronically transmitted to the Clerk of the Court using the ECF System for filing and transmittal of a Notice of Electronic Filing to all ECF registrants in this case.

*/s/Kathy Stout* \_\_\_\_\_  
Kathy Stout