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16 *Attorneys for Plaintiffs and the Proposed Class*

17 **UNITED STATES DISTRICT COURT**  
 18 **NORTHERN DISTRICT OF CALIFORNIA**

19	TINA WALTER and CHRISTOPHER	)	Case No.: 09-cv-02136
20	BAYLESS, individually and on behalf of all	)	<b>STIPULATION AND [PROPOSED] CASE</b>
	others similarly situations,	)	
21	Plaintiff,	)	
	vs.	)	<b>MANAGEMENT ORDER NO. 1</b>
22	HUGHES COMMUNICATIONS, INC., a	)	
23	Delaware corporation, and HUGHES	)	
24	NETWORK SYSTEMS, LLC, a Delaware	)	
	corporation,	)	
25	Defendants.	)	The Honorable Samuel Conti

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1           WHEREAS Plaintiffs Tina Walter and Christopher Bayless, on behalf of a putative class  
2 of California subscribers to the “HughesNet” internet service filed a complaint on May 15, 2009  
3 in this Court against Hughes Communications, Inc., and Hughes Network Systems, LLC  
4 (hereafter collectively referred to as “Hughes Defendants”) for declaratory relief, violations of  
5 the Unfair Competition Law, Bus. & Prof. Code §§ 17200 *et seq.*, violations of the Consumer  
6 Legal Remedies Act, Cal. Civil Code §§ 1770 *et seq.*, and for money had and received, making  
7 allegations regarding HughesNet internet speeds, termination fees and other terms and  
8 conditions of the HughesNet service;

9           WHEREAS Plaintiff Eric Schumacher filed a complaint against the Hughes Defendants in  
10 the Superior Court of California for the County of San Diego on June 9, 2009, asserting claims on  
11 behalf of a putative class of California subscribers to the “HughesNet” internet service, for  
12 violations of of the Consumer Legal Remedies Act, Cal. Civil Code §§ 1770 *et seq.*, violations of  
13 the Unfair Competition Law, Bus. & Prof. Code §§ 17200 *et seq.*, negligent misrepresentation and  
14 omission, intentional misrepresentation and omission, fraud, and unjust enrichment, based on  
15 allegations regarding HughesNet internet speeds, termination fees and other terms and conditions  
16 of the HughesNet service;

17           WHEREAS the two actions raise many of the same or similar issues of fact and law;

18           WHEREAS the Hughes Defendants removed the *Schumacher* action to the United States  
19 District Court for the Southern District of California on June 25, 2009;

20           WHEREAS the parties to the *Schumacher* action filed a joint motion to transfer the  
21 *Schumacher* action to the Northern District of California;

22           WHEREAS on July 28, 2009, the Court in the Southern District of California granted the  
23 joint motion and issued an order transferring the *Schumacher* action to the Northern District of  
24 California;

25           WHEREAS on August 11, 2009, the *Schumacher* action was transferred to the Northern  
26 District of California, where it is now pending before Magistrate Judge James Larson (Case No.  
27 09-cv-3543);  
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1 WHEREAS the parties to the *Schumacher* and *Walter* actions filed a joint stipulation  
2 setting forth a schedule for the filing of a consolidated complaint and the Hughes Defendants'  
3 response to the consolidated complaint;

4 WHEREAS counsel for all Plaintiffs have each concluded that it is in the best interests of  
5 the respective parties and absent putative class members that the above-captioned actions be  
6 consolidated for all purposes and proceed as contemplated herein;

7 WHEREAS all served parties, through their respective counsel, have stipulated to the  
8 terms provided herein;

9 WHEREAS the existence of common questions of law and fact in the actions now  
10 pending before this Court, the interests of fair and efficient administration of the actions and the  
11 avoidance of unnecessary duplicative efforts, warrants the consolidation of the actions, and good  
12 cause appearing therefore;

13 **IT IS HEREBY STIPULATED, AGREED AND ORDERED AS FOLLOWS:**

14 **I. CONSOLIDATION OF RELATED ACTIONS**

15 1. The Court finds that *Walter v. Hughes Communications*, Case No. 09-cv-02136  
16 and *Schumacher v. Hughesnet, Inc.*, Case No. 09-CV-3543 are related actions and such cases  
17 are hereby consolidated into *Walter v. Hughes Communications*, Case No. 09-cv-02136 and are  
18 referred to herein as the Consolidated Action.

19 **II. MASTER DOCKET FILE**

20 2. The Clerk shall establish and maintain a Master Docket and Master File for this  
21 proceeding under the caption "*Walter, Bayless, and Schumacher v. Hughesnet, Inc., et al.*," Case  
22 No. 09-cv-02136. All orders, pleadings, motions, and other documents should, when filed and  
23 docketed in the Master File, be deemed filed and docketed in each individual case.

24 3. Every pleading filed in these Consolidated Actions, or in any separate action  
25 included herein, shall bear the following caption:

26 UNITED STATES DISTRICT COURT  
27 NORTHERN DISTRICT OF CALIFORNIA

28 *Walter, Bayless, and Schumacher v.*                    )  
*Hughesnet, Inc., et al*                                    ) Case No. 09-cv-02136

1  
2 4. These Consolidated Actions are subject to Electronic Case Filing (“ECF”),  
3 pursuant to General Order 45, Section VI of which requires that all documents in such a case  
4 be filed electronically. General Order 45 provides at Section VI(A) that “Each attorney of  
5 record is obligated to become an ECF User and be assigned a user ID and password for access to  
6 the system upon notification that the action is subject to ECF.” If she or he has not already  
7 done so, counsel shall register forthwith as an ECF User and be issued an ECF User ID and  
8 password. Forms and instructions can be found on the Court’s website at  
9 <https://ecf.cand.uscourts.gov>.

10 5. All counsel shall be required to register immediately for ECF filing, and ECF  
11 filing in Case No. 09-cv-02136 shall be deemed sufficient service on all parties for all documents  
12 able to be publicly filed, and that parties are excused from any duty under General Order 45, part  
13 (IX)(C)(2) to serve paper copies of any filing in these proceedings, with the exception of filings  
14 made under seal.

15 6. At the time of filing of original papers with the Clerk’s Office, the parties will  
16 submit one additional conformed copy of each document designated “Chambers Copy.”

17 **III. APPOINTMENT OF INTERIM CLASS COUNSEL**

18 7. The Court appoints Jennifer S. Rosenberg of Bramson, Plutzik, Mahler &  
19 Birkhaeuser, LLP as Liaison Counsel, responsible for the following: To maintain and distribute to  
20 the Court and all Parties an up-to-date comprehensive service list of all plaintiffs’ counsel; to  
21 receive and distribute to all plaintiffs, as appropriate, all orders, notices, and other papers from the  
22 Court; to coordinate the filing of notices, motions, oppositions, and other papers by plaintiffs so  
23 that plaintiffs can file a single set of such documents; to coordinate the streamlining of all  
24 plaintiff’s discovery propounded on defendants, including deposition notices, into single sets of  
25 discovery; and to act on behalf of all plaintiffs at pretrial conferences and hearings.

26 8. The Court appoints William M. Audet of Audet & Partners, LLP and Harris L.  
27 Pogust of Pogust, Braslow & Millrood, LLC as Lead Counsel and interim class counsel pursuant  
28 to F.R.Civ.P. 23(g)(3), responsible for the following: To brief and argue all motions for the

1 plaintiffs and file opposing briefs and argue motions in proceedings initiated by other parties  
2 (except as to matters specifically directed to individual plaintiffs and their counsel); to coordinate  
3 and communicate with defense counsel when appropriate and to consult with them on matters of  
4 common concern; to maintain time and expense records for work performed by or on behalf of the  
5 common benefit; to engage in settlement discussions, as appropriate, on behalf of all plaintiffs  
6 and/or to designate other plaintiffs' counsel to do so; and to perform all other tasks necessary to  
7 coordinate plaintiffs pretrial activities.

8 **IV. CONSOLIDATED COMPLAINT AND RESPONSIVE PLEADINGS**

9 9. Plaintiffs shall file a Consolidated Class Action Complaint on or before  
10 September 3, 2009. The Consolidated Class Action Complaint shall serve as the Operative  
11 Complaint in this action and shall supersede any other complaint previously filed in *Walter*  
12 and/or any related case.

13 10. Waiving only the defenses of insufficiency of process and insufficiency of  
14 service of process, the undersigned counsel, on behalf of Defendants, shall acknowledge service  
15 of the operative Complaint in this action. Defendants are hereby expressly relieved from  
16 answering or otherwise responding to the initial complaints or any complaint filed in any  
17 subsequent civil action that is consolidated with this action.

18 11. The initial Case Management Conference is scheduled for December 4, 2009.

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20 **IT IS SO STIPULATED AND AGREED.**

21 Dated: August 26, 2009

AUDET & PARTNERS, LLP

22 By: \_\_\_\_\_ /s/

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1 Dated: August 26, 2009

BRAMSON, PLUTZIK, MAHLER &  
BIRKHAUSER, LLP

2 By: \_\_\_\_\_ /s/

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7 Dated: August 26, 2009

POGUST, BRASLOW & MILLROOD,  
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*Attorneys for Plaintiffs and the Proposed  
Class*

13 Dated: August 26, 2009

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14 By: \_\_\_\_\_ /s/

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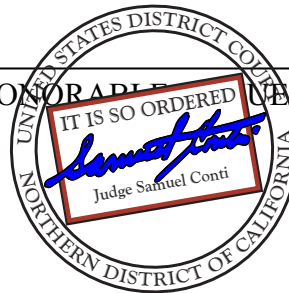
*Attorneys for Defendants Hughes  
Communications and Hughes Network  
Systems, LLC*

21 **ORDER**

22 **PURSUANT TO THE ABOVE STIPULATION, IT IS SO ORDERED.**

23 Dated: August 27, 2009

24 THE HONORABLE JUDGE SAMUEL CONTI



1 I, Joshua C. Ezrin, am the ECF User whose ID and password are being used to file this  
2 Stipulation And [Proposed] Case Management Order No. 1. I hereby attest that Jennifer  
3 Rosenberg, Harris Pogust, and Robert Hawk have concurred in this filing.  
4

5 Dated: August 26, 2009

AUDET & PARTNERS, LLP

7 By

/s/

Joshua C. Ezrin

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