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Attorneys for Defendant AT&T Mobility, LLC

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

PATRICK HENDRICKS, on behalf of himself
and all others similarly situated,

Plaintiff,

v.

AT&T MOBILITY, LLC,

Defendant.

Case No. CV 11-00409-CRB

**MOTION FOR ADMINISTRATIVE
RELIEF:**

**REQUEST FOR ADJUSTMENT OF
HEARING DATE**

Judge: Hon. Charles R. Breyer

1 Defendant AT&T Mobility LLC (“ATTM”) moves for administrative relief to request a
2 combined hearing date for four cases, including this one, that involve overlapping counsel and
3 legal issues relating to ATTM’s arbitration agreement. Concurrent with the filing of this motion,
4 ATTM is filing similar motions for administrative relief in *AT&T Mobility LLC v. Bernardi et*
5 *al.*, No. 3:11-cv-03992-CRB (N.D. Cal.) (related to *Schroeder*); *Schroeder et al. v. AT&T*
6 *Mobility LLC*, No. 3:11-cv-04412-CRB (N.D. Cal.) (related to *Bernardi*); and *Blau et al. v.*
7 *AT&T Mobility LLC*, No. 3:11-cv-00541-CRB (N.D. Cal.).

8 As the table on page 3 indicates, this Court is scheduled to hear a motion to compel
9 arbitration in this case on September 23, along with a motion to compel arbitration and two
10 motions to dismiss in *Blau* on that same date. The Court is also scheduled to hear argument on a
11 request to compel arbitration in *Schroeder* on October 14, the same day the Court is scheduled to
12 hear a motion to dismiss and to compel arbitration in *Bernardi*. Also, in *Bernardi*, the Court is
13 scheduled to hear a motion for a preliminary injunction on October 21.

14 ATTM respectfully requests that all four hearings take place on **October 21**. This case is
15 a putative class action filed by the same counsel who brought the arbitrations at issue in *Bernardi*
16 and *Schroeder*; *Blau* is another putative class action (brought by different counsel) that the Court
17 previously scheduled to be argued at the same time as this case because both matters involve the
18 core question whether the agreement to arbitrate disputes on an individual basis in ATTM’s
19 wireless service agreement with its customers is enforceable after the Supreme Court’s decision
20 in *AT&T Mobility LLC v. Concepcion*, 131 S. Ct. 1740 (2011).

21 Although ATTM believes that *Bernardi* and *Schroeder* should have no bearing on the
22 *Hendricks* and *Blau* motions, the plaintiff in this case has contended that ATTM’s opposition to
23 arbitration in *Bernardi*, *Schroeder*—and the more than 900 other arbitration claims involving the
24 ATTM/T-Mobile merger, all of which have been brought by Hendricks’ counsel—establishes
25 that Hendricks would not be able to vindicate his claims in arbitration, which he asserts is a
26 ground for refusing to enforce his arbitration agreement. See Pl.’s Memo. of Law in Opp. to
27 AT&T Mobility LLC’s Mot. to Compel Arbitration, at 1, 6-7, 10-11, 14-17, *Hendricks, supra*
28 (Aug. 8, 2011) (Dkt. No. 3). And the plaintiffs in *Blau* have incorporated those arguments in

1 their opposition to ATTM's motion to compel arbitration. See Opp. to Defs.' Am. Mot. to
2 Compel Arbitration, at 18-20, *Blau*, *supra* (Aug. 23, 2011) (Dkt. No. 44).

3 Given the degree of overlapping issues—and the fact that this case, *Bernardi*, and
4 *Schroeder* all involve the same counsel (on both sides)—ATTM believes that it would be more
5 efficient for the Court and the parties to hear argument together rather than to have two or more
6 separate hearings.

7 ATTM recognizes that the earliest date on which all six motions could be heard together
8 consistent with the Local Rules is October 14, but respectfully requests that the Court schedule
9 the motions for hearing on October 21 because Andrew Pincus, who is ATTM's lead counsel for
10 the motions in this action, *Schroeder*, and *Hendricks*, has a conflicting obligation on October 14,
11 and ATTM's lead counsel in *Blau*, Steven Rice, also has a conflict on October 14. See Decl. of
12 Kevin Ranlett ¶¶ 6-7. By contrast, Scott Bursor, counsel for the defendants in *Bernardi* and the
13 plaintiffs in *Schroeder* and *Hendricks* has not indicated that he has any conflicting obligations on
14 October 21. See Ranlett Decl. ¶¶ 3-4. Counsel for the plaintiffs in *Blau* has not responded to
15 counsel for ATTM's request for a stipulation to move the hearings to October 21. *Id.* ¶ 5. Of
16 course, if the Court would prefer to proceed on October 14, counsel for ATTM are prepared to
17 cancel the competing obligations.

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Current Schedule and ATTM's Proposed Schedule

Case	AT&T Lead Counsel	Lead Opposing Counsel	Current Motion: Current Hearing Date (Docket No. for Hearing Date)	Requested Hearing Dates
<i>AT&T Mobility LLC v. Bernardi et al.</i> No. 3:11-cv-03992- CRB (N.D. Cal.)	Mayer Brown LLP	Bursor & Fisher, P.A.	Preliminary Injunction: Oct. 21 (Docket No. 20) Compel Arbitration: Oct. 14 (Docket No. 17)	Oct. 21 Oct. 21
<i>Hendricks v. AT&T Mobility LLC</i> No. 3:11-cv-00409- CRB (N.D. Cal.)	Mayer Brown LLP	Bursor & Fisher, P.A.	Compel Arbitration: Sept. 23 (Docket No. 35)	Oct. 21
<i>Schroeder et al. v. AT&T Mobility LLC</i> No. 3:11-cv-04412- CRB	Mayer Brown LLP	Bursor & Fisher, P.A.	Ex Parte Request for TRO: Oct. 14 (Docket No. 9)	Oct. 21
<i>Blau et al. v. AT&T Mobility LLC</i> No. 3:11-cv-00541- CRB	Mayer Brown LLP Crowell & Moring LLP	Lenza H. McElrath III	Compel Arbitration: Sept. 23 (Docket No. 40) Motions to Dismiss: Sept. 23 (Docket No. 40)	Oct. 21 Oct. 21

CONCLUSION

The Court should schedule the hearings on all six motions in the four cases identified above for October 21, 2011, at 10 a.m. In the alternative, it should schedule the hearings on all six motions for any other date that is convenient for the Court.

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1 Date: September 14, 2011

MAYER BROWN LLP

2 By: /s Donald M. Falk

3 Donald M. Falk

4 DONALD M. FALK

5 Attorneys for AT&T Mobility LLC