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

16 ZOLTAN STIENER and YNEZ STIENER,
 Plaintiffs,
 17 v.
 18 APPLE COMPUTER, INC., AT&T MOBILITY,
 19 LLC, and DOES 1 through 50, inclusive,
 20 Defendants.

Case No.: C 07-04486 SBA
 DEFENDANT AT&T MOBILITY LLC'S
 ADMINISTRATIVE MOTION TO STAY
 PROCEEDINGS PENDING RESOLUTION
 OF ITS MOTION FOR STAY PENDING
 APPEAL
 Date: March 24, 2008
 Honorable Sandra B. Armstrong

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 22 Pursuant to Civil Local Rules 6-1, 6-3, and 7-11, Defendant AT&T Mobility LLC
 23 ("ATTM") hereby moves this Court for an administrative stay of all proceedings related to
 24 ATTM until the Court has resolved ATTM's motion for a stay pending its appeal to the Ninth
 25 Circuit of the denial of ATTM's motion to compel arbitration. In particular, ATTM's stay
 26 request includes its obligations under the Court's scheduling order, discovery obligations, the
 27 Case Management Conference currently scheduled for April 24, 2008, and the April 22, 2008
 28 deadline to answer or otherwise respond to plaintiffs' complaint. A brief administrative stay is

1 necessary for the same reasons that led this Court to grant a prior administrative stay pending
2 resolution of the motion to compel arbitration (*see* Docket No. 41): The plaintiffs will suffer no
3 prejudice from a brief delay, while ATTM will suffer irreparable harm if forced to proceed with
4 litigation of this case while the Court considers whether to grant ATTM's motion for a stay
5 pending appeal.¹

6 An interim stay is necessary in light of several rapidly approaching deadlines that would
7 require ATTM to participate in discovery and case management-related matters notwithstanding
8 the pendency of its appeal. Indeed, under the Court's order denying ATTM's motion to compel
9 arbitration, the parties must hold a Rule 26(f) discovery conference by March 27, 2008 and must
10 submit a Joint Case Management Statement by April 3, 2008. Yet under the 35-day notice
11 requirement of Civil Local Rule 7-2(a), ATTM's motion for a stay pending appeal cannot be
12 heard until after these deadlines have passed. Thus, without a brief administrative stay, the
13 parties will be forced to expend time and resources conferring about and formulating a discovery
14 plan that would be rendered obsolete were this Court to grant a stay pending appeal and would be
15 rendered moot were the Ninth Circuit to resolve the appeal in ATTM's favor. Neither the parties
16 nor the Court would benefit from that potential waste of time and effort.

17 The administrative stay that ATTM requests would be limited in duration. In its motion
18 for a stay pending appeal (filed concurrently with this motion), ATTM has sought to notice a
19 hearing for April 29, 2008, which ATTM understands is the Court's earliest available hearing
20 date consistent with Local Rule 7-2(a). To further reduce the length of the requested interim stay,
21 ATTM would be amenable to expediting the briefing schedule for its stay motion and advancing
22 the hearing date.

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26 ¹ On March 18, 2008, counsel for ATTM conferred with plaintiffs' counsel, requesting that
27 plaintiffs agree to an interim stay of proceedings against ATTM pending this Court's resolution
28 of ATTM's motion for a stay pending appeal. Plaintiffs were unwilling to agree to the requested
interim stay. *See* Declaration of Rena Chng ¶ 3.

1 For the foregoing reasons, this Court should issue an administrative stay of all
2 proceedings related to ATTM until the Court has resolved ATTM's motion for a stay pending
3 appeal.
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7 DATED: March 24, 2008

MAYER BROWN LLP

8 By: /s/ Donald M. Falk
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