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

15 ZOLTAN STIENER and YNEZ STIENER,
 16
 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
 [PROPOSED] ORDER

21
 22 Before the Court is defendant AT&T Mobility LLC’s (“ATTM”) administrative motion to
 23 stay its obligations under the scheduling order currently in effect, pending resolution of ATTM’s
 24 motion to stay these proceedings during the appeal of this Court’s denial of ATTM’s motion to
 25 compel arbitration. For the reasons that follow, the administrative stay motion is GRANTED.

26 **Background**

27 In June 2007, plaintiffs Zoltan and Ynez Stiener purchased two iPhones. In August 2007,
 28 the Stieners filed this putative class action against Apple Computer, Inc (“Apple”) and ATTM.

1 See Docket No. 1. They allege that defendants violated California consumer-protection statutes
2 and a variety of common-law doctrines by “failing to inform a nationwide group of initial
3 purchasers of the iPhone cellular telephone that fees of over \$100 would be required to replace
4 the iPhone battery and maintain service while the battery was being replaced.” Docket No. 1
5 (Compl. ¶ 1). The plaintiffs maintain that Apple and ATTM failed to disclose adequately the
6 details of the iPhone battery-replacement program, thus violating California’s Unfair Competition
7 Law, CAL. BUS. & PROF. CODE §§ 17200 *et seq.* (Compl. ¶¶ 58-59) and breaching an implied
8 warranty of merchantability, CAL. COMM. CODE § 2314 (Compl. ¶¶ 49-52). Plaintiffs also allege
9 breach of contract (Compl. ¶¶ 45-48) and fraudulent concealment (Compl. ¶¶ 53-57). They seek
10 to represent a class consisting of “all individuals or entities who at any time from June 29, 2007 to
11 the date of judgment in this action bought and implemented the iPhone and sustained damages as
12 a result.” Compl. ¶ 32.

13 To use their iPhones with defendant ATTM’s wireless service, the Stieners were required
14 to activate them online and agree to the Terms of Service, which contain an arbitration provision.

15 On November 21, 2007, ATTM filed a motion to compel arbitration and dismiss the
16 plaintiffs’ claims pursuant to the Federal Arbitration Act (“FAA”), 9 U.S.C. §§ 1-16. Docket No.
17 38. On March 12, 2008, this Court denied the motion. Docket No. 59. On March 17, 2008,
18 ATTM filed a notice of appeal from the denial of that motion. Docket No. 60. ATTM also
19 moved to stay these proceedings pending the outcome of the appeal, and now requests an
20 administrative stay until this Court has resolved the latter motion.

21 Analysis

22 ATTM’s motion for an administrative stay is well-taken. The plaintiffs will suffer no
23 prejudice from a brief delay, while ATTM will suffer irreparable harm if forced to proceed with
24 litigation of this case before the Court has resolved its motion for a stay pending appeal.
25 Accordingly, in the interests of conserving the resources of the parties, a short stay of the parties’
26 scheduling obligations and of discovery pending the determination of the motion for stay pending
27 appeal is prudent.

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Conclusion

ATTM's motion for an administrative stay is GRANTED. The pretrial obligations imposed by the Court's March 12, 2008 order, Docket No. 59, are STAYED pending the resolution of ATTM's motion for stay pending appeal.

IT IS SO ORDERED.

Date

Saundra Brown Armstrong
United States District Judge