

United States District Court
For the Northern District of California

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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

DAVID MORGENSTEIN,

Plaintiff(s),

v.

AT&T MOBILITY,

Defendant(s).

No. C-09-03173 SBA (JCS)

**NOTICE OF REFERENCE, TIME
AND PLACE OF HEARING; ORDER
TO MEET AND CONFER AND
FILE JOINT LETTER**

TO ALL PARTIES AND COUNSEL OF RECORD:

The above matter has been referred to Magistrate Judge Joseph C. Spero for all discovery matters.

The hearing on Plaintiff's Motion to Compel Deposition of AT&T Mobility, LLC, (the "Motion") has been set for **January 15, 2010, at 9:30 a.m.**, in Courtroom A, 15th Floor, Federal Building, 450 Golden Gate Avenue, San Francisco, California

In addition, it appears that counsel have not made adequate efforts resolve this matter without the need for Court intervention. Accordingly, **IT IS HEREBY ORDERED** that not later than **January 12, 2010**, lead trial counsel for Plaintiff(s) and lead trial counsel for Defendant(s) shall meet and confer **in person** regarding the subject matter of the Motion(s) in an effort to resolve the matter(s), and provide a detailed Joint Letter to the Court of the lead trial counsels' meet-and-confer session. This Joint Letter shall include a description of every issue in dispute and, with respect to each such issue, a detailed summary of each party's final substantive position and its final proposed compromise on each issue. There will be no further briefing on the Motion.

LAW AND MOTION HEARING PROCEDURES

Civil law and motion is heard on Friday mornings, at 9:30 a.m., in Courtroom A, 15th Floor,

1 United States District Court, 450 Golden Gate Avenue, San Francisco, California 94102.

2 In the event a **future discovery dispute** arises, IT IS HEREBY ORDERED that before filing
3 any discovery motion before this Court, the parties must comply with the following:

- 4 1. Lead trial counsel for both parties must meet and confer *in person* regarding the
5 matter(s) at issue. This meeting shall occur after other efforts to resolve the dispute,
6 such as telephone, e-mail, teleconference, or correspondence, have been unsuccessful.
7 Once those efforts have proved unsuccessful, any party may demand a meeting of
8 lead trial counsel to resolve a discovery matter. Such a meeting shall occur within ten
9 (10) calendar days of the demand. The locations of the meetings shall alternate. The
10 first meeting shall be at a location selected by counsel for Plaintiff(s). If there are any
11 future disputes, the next such meeting shall be held at a location to be determined by
12 counsel for Defendant(s), etc.
- 13 2. Within five (5) calendar days of the in-person meeting between lead trial counsel
14 referred to above, the parties shall jointly file a detailed letter with the Court, which
15 will include the matters that remain in dispute, a detailed substantive description of
16 each side's position on each such issue, and a description of each side's proposed
17 compromise on each such issue.
- 18 3. After the Court has received the joint letter, the Court will determine what future
19 proceedings, if any, are necessary.

20 In the event that the parties continue to be unable to resolve the matters regarding the timing
21 and scope of discovery, the Court will consider what future actions are necessary. These actions
22 may include the following: (1) sanctions against a party failing to cooperate in the discovery process
23 and meet and confer in good faith, as required by this Order, the Federal Rules of Civil Procedure,
24 and the Local Rules of this Court; and/or (2) requiring the Chief Executive Officers of each party to
25 attend the in-person, meet-and-confer sessions described above. The Court is not entering either of
26 these matters as an Order of the Court at this time, and fully expects counsel to meet their
27 obligations under this Order and under the Local Rules.

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1 A party or counsel has a continuing duty to supplement the initial disclosure when required
2 under Fed. R. Civ. P. 26(e)(1).

3 Law and motion matters may be submitted without argument upon stipulation of the parties
4 and notification of the Court no later than 4:30 p.m. the day before the hearing. Pursuant to Civil L.
5 R. 7-7(e), filed motions may be withdrawn without leave of the Court, within seven (7) days of the
6 date for service of the opposition. Thereafter, leave of the Court must be sought.

7 All filings of documents relating to motions referred to the undersigned shall list the civil
8 case number and the district court judge's initials followed by the designation "(JCS)".

9 **ELECTRONIC FILING AND COURTESY COPIES**

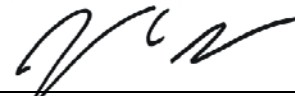
10 Please refer to Civil L. R. 5-4 and General Order No. 45 for the Northern District of
11 California for information relating to electronic filing procedures and requirements. All documents
12 shall be filed in compliance with the Civil Local Rules. Documents not filed in compliance with
13 those rules will not be considered by the Court.

14 **BEFORE NOON ON THE NEXT BUSINESS DAY FOLLOWING THE ELECTRONIC**
15 **FILING, THE PARTIES ARE REQUIRED TO LODGE DIRECTLY WITH CHAMBERS ONE**
16 **CONFORMED, PAPER COPY OF EACH DOCUMENT, WHICH IS TO BE DESIGNATED**
17 **"JCS'S CHAMBERS' COPY."**

18 The failure of counsel or a party to abide by this Order may result in sanctions pursuant to
19 Fed. R. Civ. P. 16(f).

20 **IT IS SO ORDERED.**

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22 Dated: January 5, 2010

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26 JOSEPH C. SPERO
27 United States Magistrate Judge
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