

SUM-100

**SUMMONS
(CITACION JUDICIAL)**

**NOTICE TO DEFENDANT:
(AVISO AL DEMANDADO):**

GOOGLE, INC., a Delaware Corporation; HTC CORP., a Delaware Corporation; and T-MOBILE USA, INC., a Delaware corporation

**YOU ARE BEING SUED BY PLAINTIFF:
(LO ESTÁ DEMANDANDO EL DEMANDANTE):**

MARY MCKINNEY, Individually and on behalf of All Others Similarly Situated

FOR COURT USE ONLY
(SOLO PARA USO DE LA CORTE)

FILED

2010 JAN 29 P 3:01

David H. Yamasaki, Clerk of the Superior Court
County of Santa Clara, California

By: D. Mendel

UCS

NOTICE! You have been sued. The court may decide against you without your being heard unless you respond within 30 days. Read the information below.

You have 30 CALENDAR DAYS after this summons and legal papers are served on you to file a written response at this court and have a copy served on the plaintiff. A letter or phone call will not protect you. Your written response must be in proper legal form if you want the court to hear your case. There may be a court form that you can use for your response. You can find these court forms and more information at the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), your county law library, or the courthouse nearest you. If you cannot pay the filing fee, ask the court clerk for a fee waiver form. If you do not file your response on time, you may lose the case by default, and your wages, money, and property may be taken without further warning from the court.

There are other legal requirements. You may want to call an attorney right away. If you do not know an attorney, you may want to call an attorney referral service. If you cannot afford an attorney, you may be eligible for free legal services from a nonprofit legal services program. You can locate these nonprofit groups at the California Legal Services Web site (www.lawhelpcalifornia.org), the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), or by contacting your local court or county bar association. NOTE: The court has a statutory lien for waived fees and costs on any settlement or arbitration award of \$10,000 or more in a civil case. The court's lien must be paid before the court will dismiss the case.

AVISO! Le han demandado. Si no responde dentro de 30 días, la corte puede decidir en su contra sin escuchar su versión. Lea la información a continuación.

Tiene 30 DÍAS DE CALENDARIO después de que le entreguen esta citación y papeles legales para presentar una respuesta por escrito en esta corte y hacer que se entregue una copia al demandante. Una carta o una llamada telefónica no lo protegen. Su respuesta por escrito tiene que estar en formato legal correcto si desea que procesen su caso en la corte. Es posible que haya un formulario que usted pueda usar para su respuesta. Puede encontrar estos formularios de la corte y más información en el Centro de Ayuda de las Cortes de California (www.sucorte.ca.gov), en la biblioteca de leyes de su condado o en la corte que le quede más cerca. Si no puede pagar la cuota de presentación, pida al secretario de la corte que le dé un formulario de exención de pago de cuotas. Si no presenta su respuesta a tiempo, puede perder el caso por incumplimiento y la corte le podrá quitar su sueldo, dinero y bienes sin más advertencia.

Hay otros requisitos legales. Es recomendable que llame a un abogado inmediatamente. Si no conoce a un abogado, puede llamar a un servicio de remisión a abogados. Si no puede pagar a un abogado, es posible que cumpla con los requisitos para obtener servicios legales gratuitos de un programa de servicios legales sin fines de lucro. Puede encontrar estos grupos sin fines de lucro en el sitio web de California Legal Services (www.lawhelpcalifornia.org), en el Centro de Ayuda de las Cortes de California (www.sucorte.ca.gov) o poniéndose en contacto con la corte o el colegio de abogados locales. AVISO: Por ley, la corte tiene derecho a reclamar las cuotas y los costos exentos por imponer un gravamen sobre cualquier recuperación de \$10,000 ó más de valor recibida mediante un acuerdo o una concesión de arbitraje en un caso de derecho civil. Tiene que pagar el gravamen de la corte antes de que la corte pueda desechar el caso.

The name and address of the court is:
(El nombre y dirección de la corte es):

Superior Court of the State of California for the County of Santa Clara
191 North First Street, San Jose, CA 95113

CASE NUMBER:
(Número del Caso)
11UCV162678

The name, address, and telephone number of plaintiff's attorney, or plaintiff without an attorney, is:

(El nombre, la dirección y el número de teléfono del abogado del demandante, o del demandante que no tiene abogado, es):
Wayne S. Kreger & Sara D. Avila; 2800 Donald Douglas Loop N., Santa Monica, CA 90405; 310-396-9600

DATE:
(Fecha)

JAN 29 2010

DAVID H. YAMASAKI
Chief Executive Officer, Clerk
(Secretaria)

Clerk, by
(Secretaria)

D. Mendel

Deputy
(Adjunto)

(For proof of service of this summons, use Proof of Service of Summons (form POS-010).)

(Para prueba de entrega de esta citación use el formulario Proof of Service of Summons, (POS-010).)



NOTICE TO THE PERSON SERVED: You are served

- as an individual defendant.
- as the person sued under the fictitious name of (specify):
- on behalf of (specify):

under: <input type="checkbox"/> CCP 416.10 (corporation)	<input type="checkbox"/> CCP 416.60 (minor)
<input type="checkbox"/> CCP 416.20 (defunct corporation)	<input type="checkbox"/> CCP 416.70 (conservatee)
<input type="checkbox"/> CCP 416.40 (association or partnership)	<input type="checkbox"/> CCP 416.90 (authorized person)
<input type="checkbox"/> other (specify):	
- by personal delivery on (date).

**SUPERIOR COURT OF CALIFORNIA, COUNTY OF SANTA CLARA
ALTERNATIVE DISPUTE RESOLUTION
INFORMATION SHEET / CIVIL DIVISION**

Many cases can be resolved to the satisfaction of all parties without the necessity of traditional litigation, which can be expensive, time consuming, and stressful. The Court finds that it is in the best interests of the parties that they participate in alternatives to traditional litigation, including arbitration, mediation, neutral evaluation, special masters and referees, and settlement conferences. Therefore, all matters shall be referred to an appropriate form of Alternative Dispute Resolution (ADR) before they are set for trial, unless there is good cause to dispense with the ADR requirement.

What is ADR?

ADR is the general term for a wide variety of dispute resolution processes that are alternatives to litigation. Types of ADR processes include mediation, arbitration, neutral evaluation, special masters and referees, and settlement conferences, among others forms.

What are the advantages of choosing ADR instead of litigation?

ADR can have a number of advantages over litigation:

- < **ADR can save time.** A dispute can be resolved in a matter of months, or even weeks, while litigation can take years.
- < **ADR can save money.** Attorney's fees, court costs, and expert fees can be reduced or avoided altogether.
- < **ADR provides more participation.** Parties have more opportunities with ADR to express their interests and concerns, instead of focusing exclusively on legal rights.
- < **ADR provides more control and flexibility.** Parties can choose the ADR process that is most likely to bring a satisfactory resolution to their dispute.
- < **ADR can reduce stress.** ADR encourages cooperation and communication, while discouraging the adversarial atmosphere of litigation. Surveys of parties who have participated in an ADR process have found much greater satisfaction than with parties who have gone through litigation.

What are the main forms of ADR offered by the Court?

- < **Mediation** is an informal, confidential process in which a neutral party (the mediator) assists the parties in understanding their own interests, the interests of the other parties, and the practical and legal realities they all face. The mediator then helps the parties to explore options and arrive at a mutually acceptable resolution of the dispute. The mediator does not decide the dispute. The parties do.
- < Mediation may be appropriate when:
 - < The parties want a non-adversary procedure
 - < The parties have a continuing business or personal relationship
 - < Communication problems are interfering with a resolution
 - < There is an emotional element involved
 - < The parties are interested in an injunction, consent decree, or other form of equitable relief

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- < **Arbitration** is a normally informal process in which the neutral (the arbitrator) decides the dispute after hearing the evidence and arguments of the parties. The parties can agree to binding or non-binding arbitration. Binding arbitration is designed to give the parties a resolution of their dispute when they cannot agree by themselves or with a mediator. If the arbitration is non-binding, any party can reject the arbitrator's decision and request a trial.

Arbitration may be appropriate when:

- < The action is for personal injury, property damage, or breach of contract
 - < Only monetary damages are sought
 - < Witness testimony, under oath, is desired
 - < An advisory opinion is sought from an experienced litigator (if a non-binding arbitration)
- < **Neutral evaluation** is an informal process in which a neutral party (the evaluator) reviews the case with counsel and gives a non-binding assessment of the strengths and weaknesses on each side and the likely outcome. The neutral can help parties to identify issues, prepare stipulations, and draft discovery plans. The parties may use the neutral's evaluation to discuss settlement.

Neutral evaluation may be appropriate when:

- < The parties are far apart in their view of the law or value of the case
 - < The case involves a technical issue in which the evaluator has expertise
 - < Case planning assistance would be helpful and would save legal fees and costs
 - < The parties are interested in an injunction, consent decree, or other form of equitable relief
- < **Special masters and referees** are neutral parties who may be appointed by the court to obtain information or to make specific fact findings that may lead to a resolution of a dispute.

Special masters and referees can be particularly effective in complex cases with a number of parties, like construction disputes.

- < **Settlement conferences** are informal processes in which the neutral (a judge or an experienced attorney) meets with the parties or their attorneys, hears the facts of the dispute, and normally suggests a resolution that the parties may accept or use as a basis for further negotiations.

Settlement conferences can be effective when the authority or expertise of the judge or experienced attorney may help the parties reach a resolution.

What kind of disputes can be resolved by ADR?

Although some disputes must go to court, almost any dispute can be resolved through ADR. This includes disputes involving business matters; civil rights; corporations; construction; consumer protection; contracts; copyrights; defamation; disabilities; discrimination; employment; environmental problems; harassment; health care; housing; insurance; intellectual property; labor; landlord/tenant; media; medical malpractice and other professional negligence; neighborhood problems; partnerships; patents; personal injury; probate; product liability; property damage; real estate; securities; and sports, among other matters.

Where can you get assistance with selecting an appropriate form of ADR and a neutral for your case, for information about ADR procedures, or for other questions about ADR?

Contact:

Santa Clara County Superior Court
ADR Administrator
408-882-2530

Santa Clara County DRPA Coordinator
408-792-2704

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address):
Wayne S. Kregar (SBN 154759)
Sara D. Avila (SBN 263213)
2800 Donald Douglas Loop North
Santa Monica, CA 90405
TELEPHONE NO: 310-396-9600 FAX NO: 310-396-9635
ATTORNEY FOR (Name): Plaintiff, Mary McKinney

FOR COURT USE ONLY
FILED
2010 JAN 29 1P 3:00
David H. Yamososki, Clerk of the Superior Court
County of Santa Clara, California
By: _____
D. Wendel

SUPERIOR COURT OF CALIFORNIA, COUNTY OF Santa Clara
STREET ADDRESS: 191 North First Street
MAILING ADDRESS: same
CITY AND ZIP CODE: San Jose, CA 95113
BRANCH NAME: Downtown Superior Court

CASE NAME:
MARY MCKINNEY v. GOOGLE, INC., et al

CIVIL CASE COVER SHEET
 Unlimited (Amount demanded exceeds \$25,000) Limited (Amount demanded is \$25,000 or less)
Complex Case Designation
 Counter Joinder
Filed with first appearance by defendant (Cal. Rules of Court, rule 3.402)

CASE NUMBER: **UCV 162678**
JUDGE:
DEPT:

Items 1-6 below must be completed (see instructions on page 2).

1. Check one box below for the case type that best describes this case:

Auto Tort <input type="checkbox"/> Auto (22) <input type="checkbox"/> Uninsured motorist (46) Other PIP/D/W/D (Personal Injury/Property Damage/Wrongful Death) Tort <input type="checkbox"/> Asbestos (04) <input type="checkbox"/> Product liability (24) <input type="checkbox"/> Medical malpractice (45) <input type="checkbox"/> Other PIP/D/W/D (23) Non-PIP/D/W/D (Other) Tort <input checked="" type="checkbox"/> Business tort/unfair business practice (07) <input type="checkbox"/> Civil rights (08) <input type="checkbox"/> Defamation (13) <input type="checkbox"/> Fraud (16) <input type="checkbox"/> Intellectual property (19) <input type="checkbox"/> Professional negligence (25) <input type="checkbox"/> Other non-PIP/D/W/D tort (35) Employment <input type="checkbox"/> Wrongful termination (36) <input type="checkbox"/> Other employment (15)	Contract <input type="checkbox"/> Breach of contract/warranty (06) <input type="checkbox"/> Rule 3.740 collections (09) <input type="checkbox"/> Other collections (09) <input type="checkbox"/> Insurance coverage (18) <input type="checkbox"/> Other contract (37) Real Property <input type="checkbox"/> Eminent domain/Inverse condemnation (14) <input type="checkbox"/> Wrongful eviction (33) <input type="checkbox"/> Other real property (26) Unlawful Detainer <input type="checkbox"/> Commercial (31) <input type="checkbox"/> Residential (32) <input type="checkbox"/> Drugs (38) Judicial Review <input type="checkbox"/> Asset forfeiture (05) <input type="checkbox"/> Petition re: arbitration award (11) <input type="checkbox"/> Writ of mandate (02) <input type="checkbox"/> Other judicial review (39)	Provisionally Complex Civil Litigation (Cal. Rules of Court, rules 3.400-3.403) <input type="checkbox"/> Antitrust/Trade regulation (03) <input type="checkbox"/> Construction defect (10) <input type="checkbox"/> Mass tort (40) <input type="checkbox"/> Securities litigation (28) <input type="checkbox"/> Environmental/Toxic tort (30) <input type="checkbox"/> Insurance coverage claims arising from the above listed provisionally complex case types (41) Enforcement of Judgment <input type="checkbox"/> Enforcement of judgment (20) Miscellaneous Civil Complaint <input type="checkbox"/> RICO (27) <input type="checkbox"/> Other complaint (not specified above) (42) Miscellaneous Civil Petition <input type="checkbox"/> Partnership and corporate governance (21) <input type="checkbox"/> Other petition (not specified above) (43)
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2. This case is is not complex under rule 3.400 of the California Rules of Court. If the case is complex, mark the factors requiring exceptional judicial management:

a. <input type="checkbox"/> Large number of separately represented parties	d. <input type="checkbox"/> Large number of witnesses
b. <input type="checkbox"/> Extensive motion practice raising difficult or novel issues that will be time-consuming to resolve	e. <input type="checkbox"/> Coordination with related actions pending in one or more courts in other counties, states, or countries, or in a federal court
c. <input checked="" type="checkbox"/> Substantial amount of documentary evidence	f. <input type="checkbox"/> Substantial postjudgment judicial supervision

3. Remedies sought (check all that apply): a. monetary b. nonmonetary; declaratory or injunctive relief c. punitive

4. Number of causes of action (specify): Ten (10)

5. This case is is not a class action suit.

6. If there are any known related cases, file and serve a notice of related case. (You may use form CM-015.)

Date: January 29, 2010
Wayne S. Kregar (TYPE OR PRINT NAME) [Signature] (SIGNATURE OF PARTY OR ATTORNEY FOR PARTY)

NOTICE

- Plaintiff must file this cover sheet with the first paper filed in the action or proceeding (except small claims cases or cases filed under the Probate Code, Family Code, or Welfare and Institutions Code). (Cal. Rules of Court, rule 3.220.) Failure to file may result in sanctions.
- File this cover sheet in addition to any cover sheet required by local court rule.
- If this case is complex under rule 3.400 et seq. of the California Rules of Court, you must serve a copy of this cover sheet on all other parties to the action or proceeding.
- Unless this is a collections case under rule 3.740 or a complex case, this cover sheet will be used for statistical purposes only.

INSTRUCTIONS ON HOW TO COMPLETE THE COVER SHEET

To Plaintiffs and Others Filing First Papers. If you are filing a first paper (for example, a complaint) in a civil case, you must complete and file, along with your first paper, the *Civil Case Cover Sheet* contained on page 1. This information will be used to compile statistics about the types and numbers of cases filed. You must complete items 1 through 6 on the sheet. In item 1, you must check one box for the case type that best describes the case. If the case fits both a general and a more specific type of case listed in item 1, check the more specific one. If the case has multiple causes of action, check the box that best indicates the primary cause of action. To assist you in completing the sheet, examples of the cases that belong under each case type in item 1 are provided below. A cover sheet must be filed only with your initial paper. Failure to file a cover sheet with the first paper filed in a civil case may subject a party, its counsel, or both to sanctions under rules 2.30 and 3.220 of the California Rules of Court.

To Parties in Rule 3.740 Collections Cases. A "collections case" under rule 3.740 is defined as an action for recovery of money owed in a sum stated to be certain that is not more than \$25,000, exclusive of interest and attorney's fees, arising from a transaction in which property, services, or money was acquired on credit. A collections case does not include an action seeking the following: (1) tort damages, (2) punitive damages, (3) recovery of real property, (4) recovery of personal property, or (5) a prejudgment writ of attachment. The identification of a case as a rule 3.740 collections case on this form means that it will be exempt from the general time-for-service requirements and case management rules, unless a defendant files a responsive pleading. A rule 3.740 collections case will be subject to the requirements for service and obtaining a judgment in rule 3.740.

To Parties in Complex Cases. In complex cases only, parties must also use the *Civil Case Cover Sheet* to designate whether the case is complex. If a plaintiff believes the case is complex under rule 3.400 of the California Rules of Court, this must be indicated by completing the appropriate boxes in items 1 and 2. If a plaintiff designates a case as complex, the cover sheet must be served with the complaint on all parties to the action. A defendant may file and serve no later than the time of its first appearance a joinder in the plaintiff's designation, a counter-designation that the case is not complex, or, if the plaintiff has made no designation, a designation that the case is complex.

CASE TYPES AND EXAMPLES

Auto Tort

- Auto (22)—Personal Injury/Property Damage/Wrongful Death
- Uninsured Motorist (46) *(if the case involves an uninsured motorist claim subject to arbitration, check this item instead of Auto)*

Other PIP/PDWD (Personal Injury/Property Damage/Wrongful Death) Tort

- Asbestos (04)
 - Asbestos Property Damage
 - Asbestos Personal Injury/Wrongful Death
- Product Liability (not asbestos or toxic/chemicals) (24)
- Medical Malpractice (45)
 - Medical Malpractice—Physicians & Surgeons
 - Other Professional Health Care Malpractice
- Other PIP/PDWD (23)
 - Premises Liability (e.g., slip and fall)
 - Intentional Bodily Injury/PDWD (e.g., assault, vandalism)
 - Intentional Infliction of Emotional Distress
 - Negligent Infliction of Emotional Distress
 - Other PIP/PDWD

Non-PIP/PDWD (Other) Tort

- Business Tort/Unfair Business Practices (07)
- Civil Rights (e.g., discrimination, false arrest) (not civil harassment) (06)
- Defamation (e.g., slander, libel) (13)
- Fraud (16)
- Intellectual Property (19)
- Professional Negligence (25)
 - Legal Malpractice
 - Other Professional Malpractice (not medical or legal)
- Other Non-PIP/PDWD Tort (35)
- Employment
 - Wrongful Termination (36)
 - Other Employment (15)

Contract

- Breach of Contract/Warranty (06)
 - Breach of Rental/Lease Contract (not unlawful detainer or wrongful eviction)
 - Contract/Warranty Breach—Seller Plaintiff (not fraud or negligence)
 - Negligent Breach of Contract/Warranty
 - Other Breach of Contract/Warranty
- Collections (e.g., money owed, open book accounts) (09)
 - Collection Case—Seller Plaintiff
 - Other Promissory Note/Collections Case
- Insurance Coverage (not provisionally complex) (18)
 - Auto Subrogation
 - Other Coverage
- Other Contract (37)
 - Contractual Fraud
 - Other Contract Dispute

Real Property

- Eminent Domain/Inverse Condemnation (14)
- Wrongful Eviction (39)
- Other Real Property (e.g., quiet title) (25)
 - Writ of Possession of Real Property
 - Mortgage Foreclosure
 - Quiet Title
 - Other Real Property (not eminent domain, landlord/tenant, or foreclosure)

Unlawful Detainer

- Commercial (31)
- Residential (32)
- Drugs (36) *(if the case involves illegal drugs, check this item; otherwise, report as Commercial or Residential)*

Judicial Review

- Asset Forfeiture (05)
- Petition Re: Arbitration Award (11)
- Writ of Mandate (02)
 - Writ—Administrative Mandamus
 - Writ—Mandamus on Limited Court Case Matter
 - Writ—Other Limited Court Case Review
- Other Judicial Review (38)
 - Review of Health Officer Order
 - Notice of Appeal—Labor Commissioner Appeals

Provisionally Complex Civil Litigation (Cal. Rules of Court Rules 3.400–3.403)

- Antitrust/Trade Regulation (03)
- Construction Defect (10)
- Claims Involving Mass Tort (40)
- Securities Litigation (28)
- Environmental/Toxic Tort (30)
- Insurance Coverage Claims (arising from provisionally complex case type listed above) (41)
- Enforcement of Judgment
 - Enforcement of Judgment (20)
 - Abstract of Judgment (Out of County)
 - Confession of Judgment (non-domestic relations)
 - State Tax Judgment
 - Administrative Agency Award (not unpaid taxes)
 - Petition/Certification of Entry of Judgment on Unpaid Taxes
 - Other Enforcement of Judgment Case

Miscellaneous Civil Complaint

- RICO (27)
- Other Complaint (not specified above) (42)
 - Declaratory Relief Only
 - Injunctive Relief Only (non-harassment)
 - Mechanics Lien
 - Other Commercial Complaint Case (non-tort/non-complex)
 - Other Civil Complaint (non-tort/non-complex)

Miscellaneous Civil Petition

- Partnership and Corporate Governance (21)
- Other Petition (not specified above) (43)
 - Civil Harassment
 - Workplace Violence
 - Elder/Dependent Adult Abuse
 - Election Contest
 - Petition for Name Change
 - Petition for Relief From Late Claim
 - Other Civil Petition

CIVIL LAWSUIT NOTICE

Superior Court of California, County of Santa Clara
191 N. First St., San Jose, CA 95113

CASE NUMBER 110CV162678

PLEASE READ THIS ENTIRE FORM

PLAINTIFF (the person suing): Within 60 days after filing the lawsuit, you must serve each Defendant with the *Complaint*, *Summons*, an *Alternative Dispute Resolution (ADR) Information Sheet*, and a copy of this *Civil Lawsuit Notice*, and you must file written proof of such service.

DEFENDANT (The person sued): You must do each of the following to protect your rights:

1. You must file a **written response** to the *Complaint*, using the proper legal form or format, in the Clerk's Office of the Court, within **30 days** of the date you were served with the *Summons* and *Complaint*;
2. You must serve by mail a copy of your written response on the Plaintiff's attorney or on the Plaintiff if Plaintiff has no attorney (to "serve by mail" means to have an adult other than yourself mail a copy); and
3. You must attend the first Case Management Conference.

**Warning: If you, as the Defendant, do not follow these instructions,
you may automatically lose this case.**

RULES AND FORMS: You must follow the California Rules of Court and the Superior Court of California, County of Santa Clara Local Civil Rules and use proper forms. You can obtain legal information, view the rules and receive forms, free of charge, from the Self-Help Center at 99 Notre Dame Avenue, San Jose (408-882-2900 x-2926), www.sccselfservice.org (Select "Civil") or from:

- State Rules and Judicial Council Forms: www.courtinfo.ca.gov/forms and www.courtinfo.ca.gov/rules
- Local Rules and Forms: <http://www.sccsuperiorcourt.org/civil/rule1toc.htm>

CASE MANAGEMENT CONFERENCE (CMC): You must meet with the other parties and discuss the case, in person or by telephone, at least 30 calendar days before the CMC. You must also fill out, file and serve a *Case Management Statement* (Judicial Council form CM-110) at least 15 calendar days before the CMC.

You or your attorney must appear at the CMC. You may ask to appear by telephone – see Local Civil Rule 8.

Your Case Management Judge is: Joseph Huber Department: 8C

The 1st CMC is scheduled for: (Completed by Clerk of Court)

Date: 6-25-10 Time: 10:00 am in Department: 8C

The next CMC is scheduled for: (Completed by party if the 1st CMC was continued or has passed)

Date: _____ Time: _____ in Department: _____

ALTERNATIVE DISPUTE RESOLUTION (ADR): If all parties have appeared and filed a completed *ADR Stipulation Form* (local form CV-5008) at least 15 days before the CMC, the Court will cancel the CMC and mail notice of an ADR Status Conference. Visit the Court's website at www.sccsuperiorcourt.org/civil/ADR/ or call the ADR Administrator (408-882-2100 x-2530) for a list of ADR providers and their qualifications, services, and fees.

WARNING: Sanctions may be imposed if you do not follow the California Rules of Court or the Local Rules of Court.

Milstein, Adelman & Kregger, LLP
2800 Donald Douglas Loop North
Santa Monica, California 90405

- 1 **MILSTEIN, ADELMAN & KREGER, LLP**
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- 2 wkreger@maklawyers.com
- 3 SARA D. AVILA, State Bar No. 263213
savila@maklawyers.com
2800 Donald Douglas Loop North
- 4 Santa Monica, California 90405
Telephone (310) 396-9600
- 5 Facsimile (310) 396-9635

- 6 **WHATLEY DRAKE & KALLAS, LLC**
Joe R. Whatley, Jr. (*pro hac vice* pending, NY Bar No. 4406088)
- 7 jwhatley@wdklaw.com
- 8 Edith M. Kallas (*pro hac vice* pending, NY Bar No. 2200434)
ekallas@wdklaw.com
- 9 Patrick J. Sheehan (*pro hac vice* pending, NY Bar No. 3016060)
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- 12 **THE LAW OFFICE OF HOWARD RUBINSTEIN**
Howard Rubinstein (*pro hac vice* pending, FL Bar No. 104108)
- 13 howardr@pdq.net
914 Waters Avenue, Suite 20
- 14 Aspen, Colorado 81611
Tel: (832) 715-2788

- 15 **SMITH & VANTURE, LLP**
16 Brian W. Smith (*pro hac vice* pending, FL Bar No. 470510)
bws@smithvanture.com
17 1615 Forum Place, Suite 4C
West Palm Beach, Florida 33401
18 Tel: (800) 443-4529
19 Fax: (561) 688-0630

Attorneys for Plaintiff

**SUPERIOR COURT IN THE STATE OF CALIFORNIA
FOR THE COUNTY OF SANTA CLARA**

MARY MCKINNEY, Individually and on
behalf of All Others Similarly Situated,

Plaintiff,

v.

GOOGLE, INC., a Delaware Corporation;
HTC CORP., a Delaware Corporation; and
T-MOBILE USA, INC., a Delaware
Corporation,

Defendants.

Case No. 11DCV162678

CLASS ACTION

**DECLARATION OF WAYNE S. KREGER
REGARDING VENUE [CAL. CIVIL CODE §
1780(d)]**

FILED

2010 JAN 29 1P 3:21

David H. Yamazaki, Clerk of the Superior Court
County of Santa Clara, California

By _____

Wendel
UCS

BY FAX

DECLARATION REGARDING VENUE

Milstein, Adelman & Kreger LLP
2800 Donald Douglas Loop North
Santa Monica, California 90405

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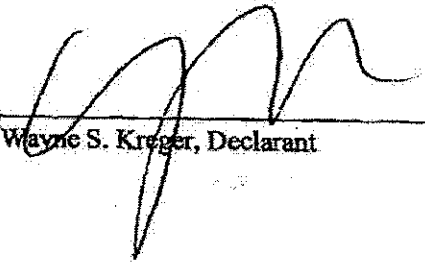
DECLARATION OF WAYNE S. KREGER

I, Wayne S. Kreger, do hereby declare and state as follows:

1. I am an attorney at the Law Offices of Milstein, Adelman & Kreger LLP, counsel of record for Plaintiff Mary McKinney and am licensed to practice before all courts in the State of California and United States District Court, Central District of California. I have personal knowledge of all of the facts stated herein, and if called to testify as a witness, I could and would competently testify to them.

2. This Court is proper for trial of this action because Defendants GOOGLE, INC., HTC CORP., and T-MOBILE USA, INC. are doing business in Santa Clara County, California.

I declare and state under the penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed on January 29, 2010 at Santa Monica, California.



Wayne S. Kreger, Declarant

E-FILED

Feb 3, 2010 9:40 AM

David H. Yamasaki
Chief Executive Officer/Clerk
Superior Court of CA, County of Santa Clara
Case #1-10-CV-162678 Filing #G-20425
By R. Walker, Deputy

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SUPERIOR COURT OF CALIFORNIA
COUNTY OF SANTA CLARA

MARY MCKINNEY, individually and on
behalf of all others similarly situated,

Plaintiff,

vs.

GOOGLE, INC., a Delaware corporation; HTC
CORP., a Delaware corporation; and T-
MOBILE USA, INC., a Delaware corporation,

Defendants.

Case No.: 1-10-CV-162678

**ORDER DEEMING CASE
COMPLEX**

Complaint Filed: January 29, 2010

**Judge: Hon. Joseph H. Huber
Dept: 8C**

WHEREAS, the Complaint was filed by Plaintiff MARY MCKINNEY ("Plaintiff") in
the Santa Clara County Superior Court on January 29, 2010;

WHEREAS, Plaintiff filed a Civil Case Cover Sheet deeming the matter provisionally
complex on January 29, 2010;

WHEREAS, the Civil Lawsuit Notice was issued by the Court on January 29, 2010,
assigning the matter to Department 8C (Complex Civil Litigation), the Honorable Joseph H.
Huber presiding, pending a ruling on the complexity issue;

1 IT IS HEREBY ORDERED that:

2 The Court determines that the above-referenced case is **COMPLEX** within the meaning
3 of California Rules of Court 3.400. The matter remains assigned, for all purposes, including
4 discovery and trial, to Department 8C (Complex Civil Litigation), the Honorable Joseph H.
5 Huber presiding.

6 The Case Management Conference remains set for June 25, 2010 at 10:00 a.m. in
7 Department 8C.

8 The parties are directed to the Electronic Filing and Service Standing Order and to the
9 Guidelines for the Complex Civil Litigation Department, copies of which may be downloaded
10 from www.scefiling.org.

11 All parties are hereinafter ordered to submit to the Court's E-Filing website digital
12 copies of all documents that were previously manually filed prior to the entry of this Order.

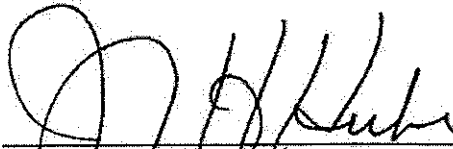
13 Pursuant to California Rules of Court, Rule 3.254, the creation and maintenance of the
14 Master Service List shall be under the auspices of (1) Plaintiff Mary McKinney, as the first-
15 named party in the Complaint, and (2) the first-named party in each Cross-Complaint, if any.

16 The Complex Case Fee is due from all parties immediately [Government Code Sections
17 70616(a), 70616(b)].

18 Plaintiff shall serve a copy of this Order on all the parties in this matter forthwith.

19 SO ORDERED.

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21 Dated: 2-3-10

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Honorable Joseph H. Huber
Judge of the Superior Court

FOR COURT USE ONLY
E-FILED

Mar 11, 2010 10:24 AM
David H. Yamasaki
Chief Executive Officer/Clerk
Superior Court of CA, County of Santa Clara
Case #1-10-CV-162678 Filing #G-21015
By R. Walker, Deputy

ATTORNEY OR PARTY WITHOUT ATTORNEY (name and Address)
WAYNE S. KREGER, SBN 154759
SARA D. AVILA, SBN 263213
MILSTEIN, ADELMAN & KREGER, LLP
2800 DONALD DOUGLAS LOOP NORTH
SANTA MONICA, CALIFORNIA 90405

TELEPHONE NO.: (310) 396-9600 FAX NO. (Optional):
E-MAIL ADDRESS (Optional):
ATTORNEY FOR (Name): PLAINTIFF

SUPERIOR COURT OF CALIFORNIA, COUNTY OF SANTA CLARA
STREET ADDRESS: 191 N. FIRST STREET
MAILING ADDRESS:
CITY AND ZIP CODE: SAN JOSE, CA 95113
BRANCH NAME:

PLAINTIFF/PETITIONER: MARY MCKINNEY, ET AL.

DEFENDANT/RESPONDENT: GOOGLE, INC., ET AL.

CASE NUMBER: **110CV162678**

Ref. No. or File No.: 720012

PROOF OF SERVICE OF SUMMONS

(Separate proof of service is required for each party served.)

1. At the time of service I was at least 18 years of age and not a party to this action.
2. I served copies of:
 - a. Summons
 - b. Complaint
 - c. Alternative Dispute Resolution (ADR) package
 - d. Civil Case Cover Sheet (served in complex cases only)
 - e. cross-complaint
 - f. other (specify documents): CIVIL LAWSUIT NOTICE; DECLARATION OF WAYNE S. KREGER REGARDING VENUE; ORDER DEEMING CASE COMPLEX
3.
 - a. Party served: (specify name of party as shown on documents served):
GOOGLE, INC., a Delaware Corporation
 - b. Person served (other than the party in item 3a) served on behalf of an entity or as an authorized agent (and not a person under item 5b on whom substituted service was made)(specify name and relationship to the party named in item 3a):
BECKY DEGEORGE, CLERK FOR CSC LAWYERS, INC. (REGISTERED AGENT FOR SERVICE)
4. Address where the party was served: 2730 GATEWAY OAKS DRIVE, SUITE 100
SACRAMENTO, CALIFORNIA
5. I served the party (check proper box)
 - a. **by personal service.** I personally delivered the documents listed in item 2 to the party or person authorized to receive service of process for the party (1) on (date): FEBRUARY 18, 2010 (2) at: (time) 3:05 P.M.
 - b. **by substituted service.** On (date): _____ at: (time) _____ I left the documents listed in item 2 with or in the presence of (name and title or relationship to the person indicated in item 3b):
 - (1) **(business)** a person at least 18 years of age apparently in charge at the office or usual place of business of the person to be served. I informed him or her of the general nature of the papers.
 - (2) **(home)** a competent member of the household (at least 18 years of age) at the dwelling house or usual place of abode of the party. I informed him or her of the general nature of the papers.
 - (3) **(physical address unknown)** a person at least 18 years of age apparently in charge at the usual mailing address of the person to be served, other than a United States Postal Service post office box. I informed him or her of the general nature of the papers.
 - (4) I thereafter mailed (by first-class, postage prepaid) copies of the documents to the person to be served at the place where the copies were left (Code Civ. Proc., § 415.20). I mailed the documents on (date): _____ (city): _____ or a declaration of mailing is attached.
 - (5) I attach a **declaration of diligence** stating actions taken first to attempt personal service.

PLANTIFF/PETITIONER: MARY MCKINNEY, ET AL.	CASE NUMBER:
DEFENDANT/RESPONDENT: GOOGLE, INC., ET AL.	110CV162678

5. c. by mail and acknowledgment of receipt of service. I mailed the documents listed in item 2 to the party, to the address shown in item 4, by first-class mail, postage prepaid,

(1) (date):

(1) (city):

(3) with two copies of the *Notice and Acknowledgment of Receipt* (form 982(a)(4)) and a postage-paid return envelope addressed to me. (*Attach completed Notice and Acknowledgment of Receipt (form 982(a)(4)).*) (Code Civ. Proc., § 415.30.)

(4) to an address outside California with return receipt requested. (Code Civ. Proc., § 415.40.)

d. by other means (specify means of service and authorizing code section):

Additional page describing service is attached.

6. The "Notice to the Person Served" (on the summons) was completed as follows:

a. as an individual defendant

b. as the person sued under the fictitious name of (specify):

c. on behalf of (specify): GOOGLE, INC., a Delaware Corporation

under the following Code of Civil Procedure section:

416.10 (corporation)

415.95 (business organization, form unknown)

416.20 (defunct corporation)

416.60 (minor)

416.30 (joint stock company/association)

416.70 (ward or conservatee)

416.40 (association or partnership)

416.90 (authorized person)

416.50 (public entity)

415.46 (occupant)

other:

7. Person who served papers

a. Name: JEFF KING

b. Address: 800 W. 1ST STREET, SUITE 200-B
LOS ANGELES, CALIFORNIA 90071

c. Telephone number: (213) 346-1000

d. The fee for service was: \$

e. I am:

(1) not a registered California process server.

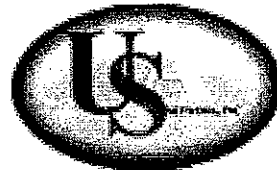
(2) exempt from registration under Business and Professions Code section 22350(b).

(3) registered California process server:

(i) owner Employee independent contractor.

(ii) Registration No.: 2006-60

(iii) County: SACRAMENTO



8. I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

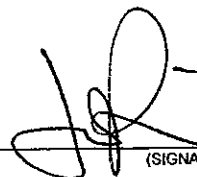
Or

9. I am a California sheriff or marshal and I certify that the foregoing is true and correct.

Date: FEBRUARY 22, 2010

JEFF KING

(NAME OF PERSON WHO SERVED PAPERS/SHERIFF OR MARSHALL)



(SIGNATURE)

E-FILED
FOR COURT USE ONLY

Mar 11, 2010 10:24 AM
David H. Yamasaki
Chief Executive Officer/Clerk
Superior Court of CA, County of Santa Clara
Case #1-10-CV-162678 Filing #G-21015
By R. Walker, Deputy

ATTORNEY OR PARTY WITHOUT ATTORNEY (name and Address)
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SARA D. AVILA, SBN 263213
MILSTEIN, ADELMAN & KREGER, LLP
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SANTA MONICA, CALIFORNIA 90405

TELEPHONE NO.: (310) 396-9600 FAX NO. (Optional):
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STREET ADDRESS: 191 N. FIRST STREET
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BRANCH NAME:

PLAINTIFF/PETITIONER: MARY MCKINNEY, ET AL.

DEFENDANT/RESPONDENT: GOOGLE, INC., ET AL.

CASE NUMBER: **110CV162678**

PROOF OF SERVICE OF SUMMONS

Ref. No. or File No.: **720013**

(Separate proof of service is required for each party served.)

1. At the time of service I was at least 18 years of age and not a party to this action.
2. I served copies of:
 - a. Summons
 - b. Complaint
 - c. Alternative Dispute Resolution (ADR) package
 - d. Civil Case Cover Sheet (served in complex cases only)
 - e. cross-complaint
 - f. other (specify documents): CIVIL LAWSUIT NOTICE; DECLARATION OF WAYNE S. KREGER REGARDING VENUE; ORDER DEEMING CASE COMPLEX

3.
 - a. Party served: (specify name of party as shown on documents served):
T-MOBILE USA, INC., a Delaware Corporation
 - b. Person served (other than the party in item 3a) served on behalf of an entity or as an authorized agent (and not a person under item 5b on whom substituted service was made)(specify name and relationship to the party named in item 3a):
BECKY DEGEORGE, CLERK FOR CSC LAWYERS, INC. (REGISTERED AGENT FOR SERVICE)
4. Address where the party was served: 2730 GATEWAY OAKS DRIVE, SUITE 100
SACRAMENTO, CALIFORNIA

5. I served the party (check proper box)
 - a. **by personal service.** I personally delivered the documents listed in item 2 to the party or person authorized to receive service of process for the party (1) on (date): FEBRUARY 18, 2010 (2) at (time) 3:05 P.M.
 - b. **by substituted service.** On (date): _____ at (time) _____ I left the documents listed in item 2 with or in the presence of (name and title or relationship to the person indicated in item 3b):
 - (1) **(business)** a person at least 18 years of age apparently in charge at the office or usual place of business of the person to be served. I informed him or her of the general nature of the papers.
 - (2) **(home)** a competent member of the household (at least 18 years of age) at the dwelling house or usual place of abode of the party. I informed him or her of the general nature of the papers.
 - (3) **(physical address unknown)** a person at least 18 years of age apparently in charge at the usual mailing address of the person to be served, other than a United States Postal Service post office box. I informed him or her of the general nature of the papers.
 - (4) I thereafter mailed (by first-class, postage prepaid) copies of the documents to the person to be served at the place where the copies were left (Code Civ. Proc., § 415.20). I mailed the documents on (date): _____ (city): _____ or a declaration of mailing is attached.
 - (5) I attach a **declaration of diligence** stating actions taken first to attempt personal service.

Mar 11, 2010 10:24 AM

David H. Yamasaki

Chief Executive Officer/Clerk

Superior Court of CA, County of Santa Clara

Case #1-10-CV-162678 Filing #G-21015

By R. Walker, Deputy

ATTORNEY OR PARTY WITHOUT ATTORNEY (name and Address) WAYNE S. KREGER, SBN 154759 SARA D. AVILA, SBN 263213 MILSTEIN, ADELMAN & KREGER, LLP 2800 DONALD DOUGLAS LOOP NORTH SANTA MONICA, CALIFORNIA 90405 TELEPHONE NO.: (310) 396-9600 FAX NO. (Optional): E-MAIL ADDRESS (Optional): ATTORNEY FOR (Name): PLAINTIFF	
SUPERIOR COURT OF CALIFORNIA, COUNTY OF SANTA CLARA STREET ADDRESS: 191 N. FIRST STREET MAILING ADDRESS: CITY AND ZIP CODE: SAN JOSE, CA 95113 BRANCH NAME:	
PLAINTIFF/PETITIONER: MARY MCKINNEY, ET AL. DEFENDANT/RESPONDENT: GOOGLE, INC., ET AL.	CASE NUMBER: 110CV162678
PROOF OF SERVICE OF SUMMONS	Ref. No. or File No.: 721388

(Separate proof of service is required for each party served.)

- At the time of service I was at least 18 years of age and not a party to this action.
- I served copies of:
 - Summons
 - Complaint
 - Alternative Dispute Resolution (ADR) package
 - Civil Case Cover Sheet (served in complex cases only)
 - cross-complaint
 - other (specify documents): CIVIL LAWSUIT NOTICE; DECLARATION OF WAYNE S. KREGER REGARDING VENUE; ORDER DEEMING CASE COMPLEX
- Party served: (specify name of party as shown on documents served):
HTC CORPORATION, a Delaware Corporation
 - Person served (other than the party in item 3a) served on behalf of an entity or as an authorized agent (and not a person under item 5b on whom substituted service was made)(specify name and relationship to the party named in item 3a):
NADIA RABBAT, SECRETARY/AUTHORIZED AGENT FOR SERVICE
- Address where the party was served: 360 ST. ANDREWS LN.
HALF MOON BAY, CA 94019
- I served the party (check proper box)
 - by personal service. I personally delivered the documents listed in item 2 to the party or person authorized to receive service of process for the party (1) on (date): MARCH 7, 2010 (2) at (time) 10:20 AM
 - by substituted service. On (date): at (time) . I left the documents listed in item 2 with or in the presence of (name and title or relationship to the person indicated in item 3b):
 - (business) a person at least 18 years of age apparently in charge at the office or usual place of business of the person to be served. I informed him or her of the general nature of the papers.
 - (home) a competent member of the household (at least 18 years of age) at the dwelling house or usual place of abode of the party. I informed him or her of the general nature of the papers.
 - (physical address unknown) a person at least 18 years of age apparently in charge at the usual mailing address of the person to be served, other than a United States Postal Service post office box. I informed him or her of the general nature of the papers.
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PLANTIFF/PETITIONER: MARY MCKINNEY, ET AL.

CASE NUMBER:

DEFENDANT/RESPONDENT: GOOGLE, INC., ET AL.

110CV162678

5. c. by mail and acknowledgment of receipt of service. I mailed the documents listed in item 2 to the party, to the address shown in item 4, by first-class mail, postage prepaid,

- (1) (date): _____ (1) (city): _____
 (3) with two copies of the Notice and Acknowledgment of Receipt (form 982(a)(4)) and a postage-paid return envelope addressed to me. (Attach completed Notice and Acknowledgment of Receipt (form 982(a)(4).) (Code Civ. Proc., § 415.30.)
 (4) to an address outside California with return receipt requested. (Code Civ. Proc., § 415.40.)

- d. by other means (specify means of service and authorizing code section):

Additional page describing service is attached.

6. The "Notice to the Person Served" (on the summons) was completed as follows:

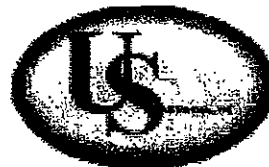
- a. as an individual defendant
 b. as the person sued under the fictitious name of (specify):
 c. on behalf of (specify): HTC CORPORATION, a Delaware Corporation

under the following Code of Civil Procedure section:

- | | |
|---|---|
| <input checked="" type="checkbox"/> 416.10 (corporation) | <input type="checkbox"/> 415.95 (business organization, form unknown) |
| <input type="checkbox"/> 416.20 (defunct corporation) | <input type="checkbox"/> 416.60 (minor) |
| <input type="checkbox"/> 416.30 (joint stock company/association) | <input type="checkbox"/> 416.70 (ward or conservatee) |
| <input type="checkbox"/> 416.40 (association or partnership) | <input type="checkbox"/> 416.90 (authorized person) |
| <input type="checkbox"/> 416.50 (public entity) | <input type="checkbox"/> 415.46 (occupant) |
| | <input type="checkbox"/> other: |

7. Person who served papers

- a. Name: ANDREW MCGREGOR
 b. Address: 800 W. 1ST STREET, SUITE 200-B
 LOS ANGELES, CALIFORNIA 90071
 c. Telephone number: (213) 346-1000
 d. The fee for service was: \$



- e. I am:

- (1) not a registered California process server.
 (2) exempt from registration under Business and Professions Code section 22350(b).
 (3) registered California process server:
 (i) owner Employee independent contractor.
 (ii) Registration No.: 411
 (iii) County: SAN MATEO

8. I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Or

9. I am a California sheriff or marshal and I certify that the foregoing is true and correct.

Date: MARCH 8, 2010

ANDREW MCGREGOR

(NAME OF PERSON WHO SERVED PAPERS/SHERIFF OR MARSHALL)

Andrew McGregor
 (SIGNATURE)