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7   IN THE UNITED STATES DISTRICT COURT
8   FOR THE NORTHERN DISTRICT OF CALIFORNIA
9   SAN JOSE DIVISION
10   Mary McKinney,   NO. C 10-01177 JW
                                              /   NO. C 10-03897 HRL
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     Nathan Nabors,   **ORDER GRANTING MOTION TO**
12   **RELATE CASES; SETTING CASE**
                    Plaintiffs,   **MANAGEMENT CONFERENCE**
13   v.
14   Google, Inc., et al.,
15   Defendants.
                                              /
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         Presently before the Court is Plaintiff Nathan Nabors' Unopposed Administrative Motion to
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     Consider Whether Cases Should be Related. (hereafter, "Motion," CV 10-01177 JW, Docket Item
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     No. 58.) Plaintiff seeks the Court's determination as to whether <u>Nathan Nabors v. Google, Inc.</u>,
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     Case No. 10-cv-03897-HRL ("Second Action"), should be related to <u>Mary McKinney v. Google,</u>
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     <u>Inc., et al.</u>, Case No. 10-cv-01177-JW ("First Action"). Plaintiff contends that both cases share
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     common Defendants, an overlapping class of Plaintiffs, concern the same questions of law, and the
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     same facts regarding an alleged connectivity defect of the Google Phone and Defendants' lack of
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     customer support to assist Google Phone customers in resolving this defect. (Motion at 2.)
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         Civil Local Rule 3-12(a) provides:
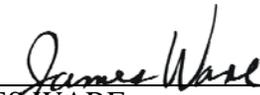25
     An action is related to another action when:
26   (1) The action concerns substantially the same parties, property, transaction or event; and
     (2) It appears likely that there will be an unduly burdensome duplication of labor and
27   expense or conflicting results if the cases are conducted before different judges.
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1   Here, the Court finds the two actions involve an overlapping class of Plaintiffs that

2   purchased the Google Phone, the same allegedly misleading statements regarding the Google Phone,

3   and the same response by Defendants in dealing with customer complaints.[1] Plaintiffs allege in both

4   cases that Defendants' Google Phone does not properly maintain connectivity with T-Mobile's 3G

5   wireless network. (See id.) Both cases allege similar causes of action, and thus involve the same

6   issues of law relating to breach of warranty and violations of the Federal Communications Act. (Id.)

7   The Court also finds that the two actions pose a substantial risk of inconsistent judgments. In light

8   of the substantial similarity of parties and events, the Court finds that there is a risk of "an unduly

9   burdensome duplication of labor and expense or conflicting results if the cases are conducted before

10   different judges." Thus, the Court finds that the cases are related within the meaning of Rule 3-

11   12(a).

12   Accordingly, the Clerk of Court shall immediately relate Nathan Nabors v. Google, Inc.,

13   Case No. 10-cv-03897-HRL to Mary McKinney v. Google, Inc., et al., Case No. 10-cv-01177-JW.

14   The parties in both cases shall appear for a Case Management Conference on **October 25,**

15   **2010 at 10 a.m.** On or before **October 15, 2010**, the parties shall file a Joint Case Management

16   Statement. The Statement shall address whether the cases should be consolidated and if so, a

17   schedule for nomination of Lead Plaintiff and Lead Counsel.

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19   Dated: October 8, 2010   _____

20   JAMES WARE
                                                                            United States District Judge
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27   [1] (Compare Class Action Complaint, 10-cv-03897, Docket Item No. 1 with Class Action
     Complaint, 10-cv-01177-JW, Docket Item No. 2.)

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United States District Court
For the Northern District of California