



Among the grounds for ATTM's motion is that the Federal Communications Act ("FCA") expressly preempts plaintiff's claims, which are all brought under state law. Plaintiff's claims are a challenge to the sufficiency of ATTM's wireless network and the fairness of ATTM's rates for wireless service. The FCA reserves issues of network capacity and wireless rates for federal regulation and control, and bars state law claims in these areas.

This motion is based upon the accompanying memorandum, the Declaration of Caroline Mahone-Gonzalez, dated August 10, 2010, the declarations filed by ATTM in support of its contemporaneously filed Motion to Compel Arbitration Pursuant to the Federal Arbitration Act, the pleadings on file in this action, the prior Orders of this Court in this action, and upon such other matters presented to the Court at the time of the hearing.

ATTM respectfully requests that the Court enter the attached [Proposed] Order granting ATTM's motion to dismiss.

Dated: August 10, 2010

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