

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF LOUISIANA**

**IN RE: APPLE IPHONE 3G AND 3GS
“MMS” MARKETING AND SALES
PRACTICES LITIGATION**

**THIS DOCUMENT RELATES TO:
ALL CASES**

CIVIL ACTION

MDL No. 2116

**SECTION “J”
JUDGE BARBIER**

MAGISTRATE JUDGE WILKINSON

**MOTION TO STAY PLAINTIFFS’ CLAIMS
AGAINST DEFENDANT, APPLE INC.**

NOW INTO COURT, through undersigned counsel, comes defendant, Apple Inc. (“Apple”), who respectfully moves this Court to stay the portion of the case that relates to Plaintiffs’ claims against Apple for the reasons set forth more fully in the attached Memorandum in Support. A stay of Plaintiffs’ claims against Apple is appropriate in light of the recent status conference during which Plaintiffs and Defendant, AT&T Mobility LLC (“ATTM”), agreed to stay the ATTM portion of the case based on the pendency of *AT&T Mobility LLC v. Vincent Concepcion, et ux.*, No. 09-893, before the United States Supreme Court. Apple avers that there is no rational basis to continue on the current briefing schedule as to Apple only because Apple and ATTM’s motions to dismiss are predicated on virtually identical grounds and ATTM’s

argument based on FCA preemption is potentially dispositive, thus underscoring the impropriety of hearing Apple's motions before ATTM's motions. Counsel for ATTM has been contacted and has advised that ATTM has no objection to the instant motion. Counsel for the Plaintiffs' Steering Committee (PSC) has been contacted and has advised that the PSC objects to the instant motion.

WHEREFORE, defendant, Apple Inc., respectfully requests that this Court grant its Motion to Stay Plaintiffs' claims against Apple in light of *AT&T Mobility LLC v. Vincent Concepcion, et ux.*

Respectfully submitted,

/s/ Quentin F. Urquhart

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Counsel for Apple Inc.

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing pleading has been electronically filed on November 5, 2010, with the Clerk of Court by using the CM/ECF system which will send a notice of electronic filing.

/s/ Quentin F. Urquhart