

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

IN RE: APPLE iPhone 3G AND 3GS "MMS" MARKETING AND SALES PRACTICES LITIGATION	CIVIL ACTION
THIS DOCUMENT RELATES TO: ALL CASES	MDL NO: 2116
	SECTION "J" JUDGE BARBIER
	MAGISTRATE JUDGE WILKINSON

PROPOSED REVISED SCHEDULING ORDER

Pursuant to the Court's November 3, 2010 Minute Order (Dkt. No. 193), plaintiffs and defendant AT&T Mobility LLC ("ATTM") set forth below their respective proposals for a revised scheduling order.

Plaintiffs' Proposed Schedule

Plaintiffs agree that ATTM should have a time period after the *Concepcion* decision to refile, amend, or dismiss their Motions to Compel Arbitration. Plaintiffs and ATTM have met and conferred on numerous occasions regarding the requested discovery and the discovery issues are ripe for decision by the Court at this time. Should the decision on *Concepcion* have an effect on the discovery requested by the Plaintiffs, the parties can address said effects in the meet and confer within 30 days of the *Concepcion* decision and/or in supplemental briefs.

Plaintiffs do not agree with ATTM’s requested schedule which would further delay a decision on the pending Motions to Compel Arbitration and Motions to Dismiss.

United States Supreme Court issues decision in <i>AT&T Mobility v. Concepcion</i>	[DATE]
Deadline for defendants to refile or file Motions to Compel Arbitration, Discovery Motions, and Motions to Dismiss, as appropriate, with regard to all outstanding complaints	20 days after <i>Concepcion</i> decision
Deadline for parties to meet and confer regarding arbitration discovery	30 days after <i>Concepcion</i> decision
Deadline for PSC to supplemental briefing on Motions to Compel Arbitration and on Discovery Motions in light of <i>Concepcion</i> decision	40 days after <i>Concepcion</i> decision
Deadline for defendants to file responsive briefing on Motions to Compel Arbitration and on Discovery Motions in light of <i>Concepcion</i> decision	15 days after plaintiffs’ memorandum

ATTM’s Proposed Schedule

ATTM’s position is that the revised schedule should address, and put on the same track, all of the pending complaints, including the complaints for which no schedule has been established yet for ATTM to file its responsive pleadings, including *Tran v. Apple, Inc. and AT&T, LLC*, No. 2:09-cv-07605, *Molina v. Apple, Inc. and AT&T, LLC*, No. 2:09-cv-07606, *West v. Apple, Inc. and AT&T, LLC*, No. 2:10-cv-01739, *Fernandez v. Apple, Inc. and AT&T, LLC*, No. 2 :10-cv-3236, and *Wortman v. Apple, Inc. and AT&T, LLC*, No. 2:10-cv-04109. ATTM’s proposed schedule below, unlike plaintiffs’ proposed schedule, addresses all of the pending complaints. There is also an additional case pending, *Carr v. Apple, Inc. and AT&T,*

LLC, No. 2:09-cv-07612, which the plaintiffs have represented they intend to dismiss. The goal of multidistrict litigation proceedings is to allow for resolution of threshold issues, such as those in the motions to compel arbitration and the motions to dismiss, for an entire group of cases.

ATTM requests the Court establish a schedule that addresses all pending cases.

With respect to arbitration discovery, ATTM believes that the *Concepcion* decision will likely impact arbitration discovery and the discovery disputes framed in the discovery motions currently pending before the Court. The schedule proposed by ATTM provides an orderly process for the parties to meet and confer on arbitration discovery, then if the parties are unable to resolve any discovery disputes, to file updated memoranda framing the issues to be decided by the Court.

United States Supreme Court issues decision in <i>AT&T Mobility v. Concepcion</i>	[DATE]
Deadline for defendants to refile or file Motions to Compel Arbitration and Motions to Dismiss, as appropriate, with regard to all outstanding complaints	28 days after <i>Concepcion</i> decision
Deadline for parties to meet and confer regarding arbitration discovery	42 days after <i>Concepcion</i> decision
If parties are unable to completely resolve issues on arbitration discovery, plaintiffs shall file with the Court a memorandum addressing remaining issues	Within 14 days of meet and confer
Deadline for defendants to file responses to plaintiffs' memorandum addressing outstanding discovery issues	10 days after plaintiffs' memorandum
Deadline for plaintiffs to file oppositions to motions to compel arbitration and to dismiss complaints	14 days after meet and confer if issues resolved in meet and confer, or 14 days after arbitration discovery issues completely resolved by Court

Deadline for defendants to file replies	21 days after filing of plaintiffs' opposition
---	--

Dated: November 5, 2010

Respectfully submitted,

/s/ Scott R. Bickford
Scott R. Bickford
MARTZELL & BICKFORD
338 Lafayette Street
New Orleans, LA 70130
Telephone: (504) 581-9065
Facsimile: (504) 581-7636
Email: usdcedla@mbfirm.com

Plaintiffs' Liaison Counsel

/s/ Kathleen Taylor Sooy
Kathleen Taylor Sooy
Tracy A. Roman
CROWELL & MORING LLP
1001 Pennsylvania Avenue, N.W.
Washington, D.C. 20004
Telephone: (202) 624-2651
Facsimile: (202) 628-5116
Email: ksooy@crowell.com
troman@crowell.com

Archis A. Parasharami
Evan M. Tager
MAYER BROWN LLP
1999 K Street, N.W.
Washington, D.C. 20006-1101
Telephone: (202) 263-3000
Facsimile: (202) 263-3300
Email: aparasharami@mayerbrown.com
etager@mayerbrown.com

Gary P. Russo
JONES, WALKER, WAECHTER, POITEVENT,
CARRER, DENEGRE LLP
600 Jefferson Street, Suite 1600
Lafayette, Louisiana 70501

Telephone: (337) 262-9000
Facsimile: (337) 262-9001
Email: grusso@joneswalker.com

Attorneys for Defendant AT&T Mobility LLC

CERTIFICATE OF SERVICE

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

/s/ Kathleen Taylor Sooy
Kathleen Taylor Sooy