

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

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

**CIVIL ACTION**

**MDL NO: 2116**

)  
**THIS DOCUMENT RELATES TO ALL** )  
**CASES** )

**SECTION “J”  
JUDGE BARBIER**

)  
**MAGISTRATE JUDGE  
WILKINSON**

**MOTION OF ATTM FOR LEAVE TO FILE A REPLY IN SUPPORT OF  
OBJECTIONS TO EXEMPLAR COMPLAINT**

Defendant AT&T Mobility LLC (“ATTM”) respectfully moves this Court for an order granting leave to file a reply to Plaintiffs’ Response to Defendants’ Objection to Exemplar Complaint (“Pls.’ Response”) (D.E. 58). In their response, plaintiffs elaborate for the first time on the effect of the proposed “exemplar complaint” and their “ideas on how the litigation should proceed.” *See* Pls.’ Motion for Leave to File Response to Defs.’ Objections to Exemplar Complaint (D.E. 56) at 1. Plaintiffs essentially propose to jettison the Case Management Order this Court entered nearly four months ago, abandon for an unspecified period of time the complaints filed in the 22 other underlying actions, and proceed solely on the “exemplar complaint,” with threshold motions to dismiss and compel arbitration, discovery and class

certification proceedings focused only on the “exemplar complaint.” In doing so, plaintiffs blithely acknowledge that ATTM’s due process rights “may have to be asserted at a later time.” Pls.’ Response at 16.

Because proceeding as plaintiffs propose would be a complete departure from the Federal Rules of Civil Procedure and well-established MDL procedure, would be prejudicial to ATTM, would violate its due process rights, and would delay the proceedings and waste the Court’s and the parties’ resources, ATTM respectfully submits that it should be given the opportunity to respond to plaintiffs’ proposal, as set forth in the attached proposed Reply of ATTM in Support of Objections to Exemplar Complaint.

A proposed order is attached.

Dated: May 11, 2010

Respectfully submitted,

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Attorneys for Defendant AT&T Mobility LLC

**CERTIFICATE OF SERVICE**

I hereby certify that on the 11th day of May, 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/ Tracy A. Roman  
Tracy A. Roman