IN THE UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF NEW YORK

AVI KOSCHITZKI, on Behalf of Himself and all Others similarly situated,)))
Plaintiff,) Civil Action No. 08 Civ. 4451 (JBW) (VVP)
v.)
APPLE INC. and AT&T MOBILITY LLC,)
Defendants.))

STIPULATION AND [PROPOSED] ORDER

WHEREAS on November 12, 2008, plaintiff Avi Koschitzki ("Plaintiff") filed the Amended Class Action Complaint (the "Complaint") in this action;

WHEREAS on November 24, 2008, defendants Apple Inc. ("Apple") and AT&T Mobility LLC ("ATTM") (collectively, "Defendants") each separately filed a motion to dismiss the Complaint; Apple filed a motion to strike Plaintiff's claim for minimum and punitive damages under the New York General Business Law; and ATTM filed a motion, pursuant to the Federal Arbitration Act, 9 U.S.C. §§ 1-16, for an order, *inter alia*, compelling Plaintiff to pursue his claims in arbitration or small claims court (collectively, the "Motions");

WHEREAS the parties believe that an extension is warranted in connection with the orderly and simultaneous briefing of the Motions, and in light of the holidays; and

WHEREAS no party has previously requested the Court to grant an extension with respect to the briefing of the Motions;

IT IS HEREBY STIPULATED AND AGREED, by and between counsel, as follows:

1. Plaintiff shall file his opposition to the Motions on or before January 8, 2009; and

2. Defendants shall file their reply to such opposition on or before January 26, 2009.

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Attorneys for Defendant Apple Inc.

IT IS SO ORDERED.

Dated: December ____, 2008

Brooklyn, New York

The Honorable Jack B. Weinstein, U.S.D.J.