

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

**FILED**  
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U.S. DISTRICT COURT E.D.N.Y.

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\_\_\_\_\_)  
 AVI KOSCHITZKI, on Behalf of Himself )  
 and all Others Similarly Situated, )  
 )  
 Plaintiff, )  
 )  
 v. )  
 )  
 APPLE INC. and AT&T MOBILITY LLC, )  
 )  
 Defendants. )  
 \_\_\_\_\_)

Civil Action No. 1:08-CV-04451-JBW-VVP

STIPULATION AND ORDER

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 (in which ATTM joined); 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 on January 8, 2009, plaintiff Avi Koschitzki ("Koschitzki") filed oppositions to the Motions;

WHEREAS, on January 8, 2009, Koschitzki also filed a motion to strike the Declaration of Richard A. Nagareda, which ATTM had submitted in support of its motion to compel arbitration;

WHEREAS, on January 26, 2009, ATTM filed its opposition to Koschitzki's motion to strike;

WHEREAS, the parties agree that ATTM's reply to its motion to compel arbitration and Koschitzki's reply to its motion to strike the declaration of Richard Nagareda shall be extended from February 17, 2009 to February 24, 2009.

WHEREAS this is the parties' second request for a short extension of time in connection with the briefing of Koschitzki's motion to strike, and the parties' third request for a short extension of time in connection with the briefing of ATTM's motion to compel arbitration;

IT IS HEREBY STIPULATED AND AGREED, by and between counsel for the parties, that the time for ATTM to file its reply to its motion to compel arbitration and the time for Koschitzki to file his reply to the motion to strike the declaration of Richard Nagareda is hereby extended from February 17, 2009 to February 24, 2009.

Dated: February 13, 2009

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and

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IT IS SO ORDERED.

Dated: 2/17, 2009  
Brooklyn, New York

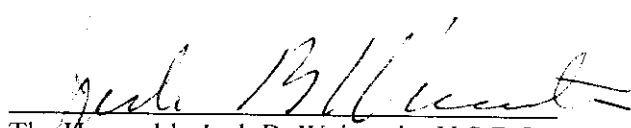
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The Honorable Jack B. Weinstein, U.S.D.J.