

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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: AVI KOSCHITZKI, on Behalf of Himself and
: all Others Similarly Situated, : Civil Action No. 1:08-cv-04451-JBW-VVP
: Plaintiff, : **SUPPLEMENTAL DECLARATION OF**
: vs. : **ADAM GILL IN SUPPORT OF**
: APPLE INC. and AT&T MOBILITY LLC, : **DEFENDANT AT&T MOBILITY**
: **LLC'S MOTION TO COMPEL**
: Defendant. : **ARBITRATION AND DISMISS**
: **ACTION**
: :
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I, Adam Gill, declare as follows:

1. The following facts are of my own personal knowledge, and if called as a witness I could and would testify competently as to their truth.

2. In November 2008, I submitted a declaration in support of the motion to compel arbitration submitted by AT&T Mobility LLC (“ATTM”) in this action. I submit this supplemental declaration to inform this Court of information concerning purchases of cellular phones on ATTM’s web site.

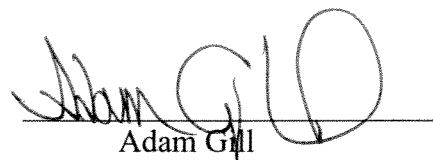
3. As I explained in my earlier declaration in this case, I am employed by AT&T Mobility LLC (“ATTM”) (formerly Cingular Wireless LLC) as Senior Area Manager of the Converged Services and Customer Experience group. I am familiar with the routine business policies and procedures by which customers may place an online order for both wireless service and cellular phones from ATTM. I am also familiar with the routine business policies and procedures concerning how such customers are presented with and accept the terms and conditions of ATTM service. In addition, I am familiar with the manner in which documents

containing ATTM's terms of service and records pertaining to customer orders are stored and may be retrieved in the regular and ordinary course of business.

4. As a matter of ATTM's routine business policies and practices, when a customer uses ATTM's web site to purchase a cellular phone and subscribe to wireless service for that phone, that customer is sent a Customer Guide enclosed within a Quick Start Guide along with the shipment containing the cellular phone. To the customer, both documents appear to be a single document entitled a Quick Start Guide.

5. I have reviewed records for plaintiff Avi Koschitzki's account. According to these records, Mr. Koschitzki was sent a Quick Start Guide and Customer Guide with the Blackberry Curve cellular phone that he ordered on ATTM's web site on December 31, 2008. Attached as Exhibits 1 and 2 are true and correct copies of the form Quick Start Guide and Customer Guide, respectively, that would have been sent to Mr. Koschitzki with his phone. Attached as Exhibit 3 is a true and correct screenshot of the record on ATTM's computer system that shows the invoice for Koschitzki's order (with some information redacted to protect Mr. Koschitzki's confidential information). The invoice lists Item ID 76287 among the order's contents, which corresponds with the numerical code appearing under the bar codes within the Quick Start Guide and Customer Guide that are attached as Exhibits 1 and 2.

I declare under penalty of perjury that the foregoing is true and correct. Executed on February 23, 2009 at Atlanta, Georgia.


Adam Gill