UNITED STATES DISTRICT COURT 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 Defendant.)))

NOTICE OF AT&T MOBILITY LLC FOR WITHDRAWAL OF MOTION TO DISMISS

PLEASE TAKE NOTICE THAT defendant AT&T Mobility LLC ("ATTM") withdraws its Motion to Dismiss Plaintiffs' Amended Class Action Complaint and to Strike Prayer for Relief pursuant to Federal Rules of Civil Procedure 12(b)(6) and 12(f), and supporting memorandum of law, which were filed on November 24, 2008 (Dkts. 24, 25), without prejudice to its right to refile this Motion.

On March 5, 2009, defendants ATTM and Apple Inc. filed separate motions, pursuant to 28 U.S.C. § 1407, with the United States Judicial Panel for Multidistrict Litigation ("JPML") for transfer of this action and similar actions pending in other federal district courts. On March 11, 2009, this Court held a status conference and ruled that the parties may withdraw pending motions in this action without prejudice to the right to refile them in this action or in any consolidated action ordered by the MDL Panel in this District or any other judicial district. ATTM's withdrawal of its pending Motion is not a waiver of its right to respond to Plaintiff's

Amended Class Action Complaint. ATTM will comply with applicable deadlines set by the Court for renewing its motions in this action.

Dated: March 13, 2009

Respectfully submitted,

/s/ Kathleen Taylor Sooy
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Counsel for Defendant AT&T Mobility LLC

CERTIFICATE OF SERVICE

I hereby certify that on March 13, 2008 I electronically filed the foregoing Notice of

AT&T Mobility LLC for Withdrawal of Motion to Dismiss with the Clerk of Court using the

ECF system, which will send notification of such filing to all Parties of record.

Dated: March 13, 2009 /s/ Kathleen Taylor Sooy

Kathleen Taylor Sooy