

1 PILLSBURY WINTHROP SHAW PITTMAN LLP
BRUCE A. ERICSON #76342
2 DAVID L. ANDERSON #149604
JACOB R. SORENSEN #209134
3 MARC H. AXELBAUM #209855
DANIEL J. RICHERT #232208
4 50 Fremont Street
Post Office Box 7880
5 San Francisco, CA 94120-7880
Telephone: (415) 983-1000
6 Facsimile: (415) 983-1200

7 SIDLEY AUSTIN LLP
DAVID W. CARPENTER (admitted *pro hac vice*)
8 BRADFORD A. BERENSON (admitted *pro hac vice*)
DAVID L. LAWSON (admitted *pro hac vice*)
9 EDWARD R. McNICHOLAS (admitted *pro hac vice*)
1501 K Street, N.W.
10 Washington, D.C. 20005
Telephone: (202) 736-8010
11 Facsimile: (202) 736-8711

12 Attorneys for Defendants

13 UNITED STATES DISTRICT COURT
14 NORTHERN DISTRICT OF CALIFORNIA
15 SAN FRANCISCO DIVISION

16
17 TASH HEPTING, et al.,
18 Plaintiffs,
19 vs.
20 AT&T CORP., et al.,
21 Defendants.
22
23 TOM CAMPBELL, et al.,
24 Plaintiffs,
25 vs.
26 AT&T COMMUNICATIONS OF
CALIFORNIA, et al,
27 Defendants.
28

No. C-06-0672-VRW

**NOTICE OF REASSIGNMENT IN
CONNECTION WITH
ADMINISTRATIVE MOTION OF
DEFENDANT AT&T CORP. TO
CONSIDER WHETHER CASES
SHOULD BE RELATED**

[N.D. Cal. Civ. L.R. 3-12, 7-11]

No. C-06-3596-VRW

1 Yesterday, defendant **AT&T CORP.** (“AT&T”) filed an Administrative Motion to
2 Consider Whether Cases Should Be Related (“AT&T’s Motion to Relate”) (Dkt. 208).
3 That motion, made pursuant to Civil Local Rules 3-12 and 7-11, asks the Court to relate
4 *Campbell, et al. v. AT&T Communications of California, et al.*, No. C-06-3596-VRW, to
5 this case (*Hepting*).

6 AT&T’s Motion to Relate made reference to a third case: *Riordan, et al. v. Verizon*
7 *Communications, Inc.*, No. C-06-3574-JSW, removed on June 5, 2006.¹ The motion noted
8 that plaintiffs’ counsel in *Campbell* (who also are plaintiffs’ counsel in *Riordan*) had filed
9 an administrative motion to consider whether *Campbell* should be related to *Riordan*. It
10 also stated that *Riordan* was pending before Magistrate Judge Laporte. *Riordan* Dkt. 3.
11 Plaintiffs, however, had declined to proceed before a magistrate judge. *Riordan* Dkt. 6.
12 Today, the Clerk issued a notice indicating that *Riordan* has been reassigned to the
13 Hon. Jeffrey S. White. *Riordan* Dkt. 9. Hence this notice of reassignment.

14 The reassignment of *Riordan* does not change the analysis set forth in AT&T’s
15 Motion to Relate. By their Motion to Relate, the *Campbell* plaintiffs seek to have their case
16 heard by a different court than the one presiding over *Campbell*, namely, this Court. For
17 the reasons stated in AT&T’s Motion to Relate, their proposal makes no sense. The most
18 sensible course of action – indeed, the one dictated by Civil Local Rule 3-12 – would be to
19 relate the *Campbell* case to the *Hepting* case, and have both proceed before this Court,
20 which is the most familiar with the legal issues and facts presented in both actions. (For the
21 same reason, it may also be prudent to relate *Riordan* itself to *Hepting* or *Campbell*.
22 Because AT&T and its affiliates are not defendants in *Riordan*, AT&T takes no position on
23 the matter.)

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26 ¹ Dkt. 208 referred to that case as *DeBonis, et al. v. Verizon Communications, Inc., et al.*,
27 because DeBonis was the first name on the version of the complaint posted on the website
28 of plaintiffs’ counsel. We have since learned that the version of the complaint plaintiffs
filed manually with the Clerk lists Dennis Riordan as the first named plaintiff. Hence we
now refer to the case as *Riordan*.

1 One other development merits mention. Late today plaintiffs' counsel in *Hepting*
2 filed an administrative motion seeking to have the Electronic Frontier Foundation ("EFF")
3 designated "interim class counsel" (*see* Fed. R. Civ. P. 23(g)(2)(A)). *Hepting* Dkts. 213-15.
4 This motion (to which AT&T will respond in due course) would, if granted, give EFF
5 power to control the positions taken by plaintiffs in *Hepting* and in *Roe* and also in all other
6 "actions later instituted in, removed to, or transferred to this Court that involve the same or
7 substantially similar issues of law and fact" Proposed Order, *Hepting* Dkt. 215, at
8 1:16-18. EFF is somewhat circumspect about whether it should take control of *Campbell*
9 and *Riordan*, deeming that question "premature" (*see Hepting* Dkt. 213, at 4 n.2), but EFF
10 argues that *Campbell* and *Riordan* "center around the factual allegations first revealed
11 publicly in the *USA Today* article," which EFF describes as "focus[ing] on the second of the
12 two factual components of the *Hepting* case . . ." (*id.* at 2:1-3, 4:8-11). Whatever else
13 might be said about EFF's arguments, they certainly support the notion that *Campbell* and
14 *Riordan* should be related to *Hepting* and *Roe*.

15 Dated: June 13, 2006.

16 PILLSBURY WINTHROP SHAW PITTMAN LLP
17 BRUCE A. ERICSON
18 DAVID L. ANDERSON
19 JACOB R. SORENSEN
20 MARC H. AXELBAUM
21 DANIEL J. RICHERT
22 50 Fremont Street
23 Post Office Box 7880
24 San Francisco, CA 94120-7880

21 SIDLEY AUSTIN LLP
22 DAVID W. CARPENTER
23 BRADFORD A. BERENSON
24 DAVID L. LAWSON
25 EDWARD R. McNICHOLAS
26 1501 K Street, N.W.
27 Washington, D.C. 20005

25 By /s/ Bruce A. Ericson
26 Bruce A. Ericson

26 Attorneys for Defendants
27 AT&T CORP. and AT&T INC.

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