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 14

15 UNITED STATES DISTRICT COURT  
 16 NORTHERN DISTRICT OF CALIFORNIA  
 17 SAN FRANCISCO DIVISION

18  
 19 In re:  
 20 NATIONAL SECURITY AGENCY  
 TELECOMMUNICATIONS RECORDS  
 21 LITIGATION  
 22  
 23 This Document Relates To:  
 24 *Campbell, et al. v. AT&T Communications of*  
*California, et al.*, No. C-06-3596-VRW  
 25

MDL Dkt. No. 06-1791-VRW

**DEFENDANTS' STATEMENT OF  
 RECENT DECISIONS IN SUPPORT OF  
 DEFENDANTS' OPPOSITION TO  
 PLAINTIFFS' MOTION FOR REMAND**

Date: December 21, 2006  
 Time: 2:00 p.m.  
 Courtroom: 6, 17th Floor  
 Judge: Hon. Vaughn R. Walker

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1 Pursuant to Civil Local Rule 7-3(d), Defendants AT&T Communications of  
2 California, AT&T Corp. and AT&T Inc.<sup>1</sup> submit Defendants' Statement of Recent  
3 Decisions in Support of Defendants' Opposition to Plaintiffs' Motion for Remand.  
4 Attached hereto are copies of the following:

5 1. Tr. of Proceedings, *Clayton v. AT&T Commc'ns of the Southwest, Inc.*, No.  
6 06-4177-CV-C-NKL (W.D. Mo. Oct. 13, 2006), at 40 (attached as Exhibit 1) ("I am going  
7 to deny the motion for remand. I'm going to deny it on the grounds that the court has  
8 subject matter jurisdiction under the Grab[le] Doctrine. I think Grab[le] is an extremely  
9 narrow case. And it would be unusual for there to be a federal question under the Grab[le]  
10 Doctrine, but I think that this does -- this claim necessarily raises a federal issue that's  
11 actually disputed in substantial -- and, indeed, not only does it not upset the delicate balance  
12 between federal and state forums, but, in fact, this is quintessentially something that needs  
13 to be resolved in the federal court."). This decision, in which remand was denied in another  
14 case related to the alleged NSA programs, relates to the argument at pages 13-23 of  
15 Defendants' Opposition to Plaintiffs' Motion for Remand ("Opposition") (No. 23) that  
16 removal was proper under *Grable & Sons Metal Prods., Inc. v. Darue Eng'g & Mfg.*, 125 S.  
17 Ct. 2363 (2005).

18 2. *Quon v. Arch Wireless Operating Co.*, 445 F. Supp. 2d 1116, 1138 (C.D.  
19 Cal. Aug. 15, 2006) (attached as Exhibit 2) ("Congress' command in enacting [18 U.S.C.  
20 §] 2708 is clear: Only those remedies outlined in the SCA [Stored Communications Act]  
21 are the ones, save for constitutional violations, that a party may seek for conduct prohibited  
22 by the SCA. The SCA thus displaces state law claims for conduct that is touched upon by  
23 the statute, such as in divulging stored electronic communications to third parties."). This  
24 case relates to the argument at pages 6-7 of Defendants' Opposition that removal is proper  
25 under the doctrine of complete preemption.

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27 <sup>1</sup> Defendant AT&T Inc. is not a proper party to this action and intends to move to dismiss  
28 on personal jurisdiction grounds.

1 Dated: December 4, 2006

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