

1 SIDLEY AUSTIN LLP
David W. Carpenter*
2 Bradford A. Berenson*
David L. Lawson*
3 Edward R. McNicholas*
Eric A. Shumsky #206164
4 1501 K Street, N.W.
Washington, DC 20005
5 Tel: (202) 736-8000
Fax: (202) 736-8711
6 bberenson@sidley.com

BRUCE I. AFRAN, Esq.
10 Braeburn Drive
Princeton, NJ 08540
Telephone: (609) 924-2075

MAYER LAW GROUP, LLC
Carl J. Mayer
66 Witherspoon Street, Suite 414
Princeton, NJ 08542
Telephone: (609) 921-8025
Facsimile: (609) 921-6964

7 PILLSBURY WINTHROP SHAW PITTMAN LLP
Bruce A. Ericson #76342
8 Jacob R. Sorensen #209134
Marc H. Axelbaum #209855
9 50 Fremont Street
Post Office Box 7880
10 San Francisco, CA 94120
Tel.: (415) 983-1000
11 Fax: (415) 983-1200
bruce.ericson@pillsburylaw.com

THE LAW OFFICES OF STEVEN E.
SCHWARZ, ESQ., LLC
Steven E. Schwarz, Esq.
2461 W. Foster Ave., #1W
Chicago, IL 60625
Telephone: (773) 837-6134
Facsimile: (773) 837-6134
Attorneys for the Plaintiffs

12 Attorneys for Specially Appearing Defendants
AT&T Inc. and BellSouth Corporation

* admitted pro hac vice

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

16 In re:

17 NATIONAL SECURITY AGENCY
18 TELECOMMUNICATIONS RECORDS
LITIGATION

MDL Dkt. No. 06-1791-VRW

**JOINT STIPULATION REGARDING
AT&T INC. & BELLSOUTH CORP.'S
MOTION TO DISMISS FOR LACK OF
PERSONAL JURISDICTION;
~~PROPOSED~~ ORDER**

Date: June 3, 2009
Time: 10:30 a.m.
Courtroom: 6, 17th Floor
Judge: Hon. Vaughn R. Walker

23 This Document Relates To:

24 *McMurray v. Verizon Communications, Inc., et*
25 *al.*, No. 09-cv-0131-VRW

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

RECITALS

A. AT&T Defendants have filed two motions to dismiss plaintiffs’ Complaint (Dkt. 1), both of which currently are pending.

B. On March 16, 2009, telecommunication carrier defendants, including AT&T Inc. and BellSouth Corporation, moved to dismiss the plaintiffs’ Complaint for failure to state a claim upon which relief can be granted. *See* Mot. to Dismiss under Fed. R. Civ. P. 12(b)(6) (Dkt. 588). That same day, Specially Appearing Defendants AT&T Inc. and BellSouth Corporation moved to dismiss the plaintiffs’ Complaint for lack of personal jurisdiction. *See* Mot. to Dismiss Under Fed. R. Civ. P. 12(b)(2) (Dkt. 584).

C. Both motions are currently scheduled to be heard on June 3, 2009. This stipulation concerns the latter motion, Docket Item No. 584.

D. On May 7, 2009, plaintiffs filed a “Response to AT&T Inc. and BellSouth Corporations’ Motion to Dismiss for Lack of Jurisdiction” (Dkt. 613). In it, they principally argued that, just as this Court “administratively terminated” without prejudice other motions to dismiss for lack of personal jurisdiction that previously were filed in this MDL (Dkt. 379), the Court should take similar action here.

STIPULATION

Plaintiffs and Specially Appearing Defendants hereby stipulate as follows:

A. In order to promote the efficient handling of this matter, the parties have agreed they do not object to the Court taking the pending motion to dismiss for lack of personal jurisdiction (Dkt. 584) off of the Court’s argument calendar and deferring a decision on it.

B. The parties further agree that by reaching this agreement AT&T Inc. and BellSouth Corporation have not waived their personal jurisdiction objections, that any delay in deciding the personal jurisdiction motion as a result of this agreement shall not be asserted or held to prejudice those objections, and that by reaching this agreement no party has waived any argument presented in the briefing in connection with the pending motion

1 to dismiss for lack of personal jurisdiction. In addition, because of the filing of this stipula-
2 tion AT&T Inc. and BellSouth Corporation have not filed their reply brief in support of
3 their motion to dismiss, and the parties agree that AT&T Inc. and BellSouth Corporation
4 retain their right to do so when the motion is restored to this Court’s argument calendar.

5 D. The parties further agree that by reaching this agreement, plaintiffs have not
6 waived whatever rights to amend their complaints to add additional or substitute parties in
7 the future that they otherwise would have, and that delay in deciding the personal jurisdic-
8 tional motion as a result of this agreement shall not be asserted or held to prejudice any
9 such amendments.

10 E. The parties undertake that, if any party subsequently concludes that it is no
11 longer appropriate to defer resolution of the motion to dismiss, that party will promptly no-
12 tify the other parties and then the Court.

13 Respectfully submitted,

14 Dated: May 13, 2009

15 SIDLEY AUSTIN LLP
16 David W. Carpenter (pro hac vice)
17 Bradford A. Berenson (pro hac vice)
18 David L. Lawson (pro hac vice)
19 Edward R. McNicholas (pro hac vice)
20 Eric A. Shumsky #206164
21 1501 K Street, N.W.
22 Washington, DC 20005
23 Tel: (202) 736-8010
24 Fax: (202) 736-8711
25 bberenson@sidley.com

26 By: /s/ Bradford A. Berenson
27 Bradford A. Berenson

28 PILLSBURY WINTHROP SHAW
PITTMAN LLP
Bruce A. Ericson #76342
Jacob R. Sorensen #209134
Marc H. Axelbaum #209855
50 Fremont Street
Post Office Box 7880
San Francisco, CA 94120
Tel.: (415) 983-1000
Fax: (415) 983-1200
bruce.ericson@pillsburylaw.com

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

Attorneys for Specially Appearing Defendants
AT&T Inc. and BellSouth Corporation

THE LAW OFFICES OF STEVEN E.
SCHWARZ, ESQ., LLC
Steven E. Schwarz, Esq.
2461 W. Foster Ave., #1W
Chicago, IL 60625
Telephone: (773) 837-6134
Facsimile: (773) 837-6134
By: /s/ Steven E. Schwarz
Steven E. Schwarz

BRUCE I. AFRAN, Esq.
10 Braeburn Drive
Princeton, NJ 08540
Telephone: (609) 924-2075

MAYER LAW GROUP, LLC
Carl J. Mayer
66 Witherspoon Street, Suite 414
Princeton, NJ 08542
Telephone: (609) 921-8025
Facsimile: (609) 921-6964

Attorneys for the Plaintiffs

DECLARATION PURSUANT TO GENERAL ORDER 45, § X.B

I, Marc H. Axelbaum, hereby declare pursuant to General Order 45, § X.B, that I have obtained the concurrence in the filing of this document from the signatories listed above.

I declare under penalty of perjury that the foregoing declaration is true and correct.

Executed on May 13, 2009, at San Francisco, California.

By: /s/ Marc H. Axelbaum
Marc H. Axelbaum

Attorney for Specially Appearing De-
fendants AT&T Inc. and BellSouth
Corporation

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

PROPOSED ORDER

Pursuant to the foregoing Stipulation, and good cause appearing, the Court
ORDERS the following:

A. The motion of Specially Appearing Defendants AT&T Inc. and BellSouth Corporation to dismiss for lack of personal jurisdiction (Dkt. 584) is hereby taken off of the Court’s June 3, 2009 argument calendar.

B. If any party subsequently concludes that it is no longer appropriate to defer resolution of the motion to dismiss, that party will promptly notify the other parties and then the Court.

C. By reaching the foregoing Stipulation:

(1) Specially Appearing Defendants AT&T Inc. and BellSouth Corporation have not waived their personal jurisdiction objections;

(2) any delay in deciding the personal jurisdiction motion as a result of the foregoing Stipulation shall not be asserted or held to prejudice those objections;

(3) no party has waived any argument presented in the briefing in connection with the pending motion;

(4) Specially Appearing Defendants AT&T Inc. and BellSouth Corporation retain their right to file a reply brief in support of the motion if and when it is restored to this Court’s argument calendar;

(5) Plaintiffs have not waived whatever rights to amend their complaints to add additional or substitute parties in the future that they otherwise would have; and

//
//
//
//
//
//
//

1 (6) any delay in deciding the personal jurisdiction motion as a result of the
2 foregoing Stipulation shall not be asserted or held to prejudice any such amend-
3 ments.

4 **PURSUANT TO STIPULATION, IT IS SO ORDERED.**

5 Dated: May 15, 2009.

6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

Hon. Vaughn R. Walker
United States District Court

