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

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|----|----------------------------|----------------------------------|
| 17 | | MDL Dkt. No. 06-1791-VRW |
| 18 | In re: | STIPULATION TO STAY CASES |
| 19 | NATIONAL SECURITY AGENCY | AGAINST CINGULAR |
| 20 | TELECOMMUNICATIONS RECORDS | |
| | LITIGATION | |
| 21 | This Document Relates To: | [Civil L.R. 6-2, 7-1(5), 7-12] |
| 22 | 06-5452-VRW | Courtroom: 6, 17th Floor |
| 23 | 06-6222-VRW | Judge: Hon. Vaughn R. Walker |
| 24 | 06-6224-VRW | |
| | 06-6253-VRW | |
| 25 | 06-6254-VRW | |
| | 06-6570-VRW | |
| | 07-0464-VRW | |

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RECITALS

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2 A. On January 31, 2006, *Hepting, et al. v. AT&T Corp., et al.*, Case No. 06-672-
3 VRW, was filed in this District. The *Hepting* complaint alleges, *inter alia*, that certain
4 AT&T entities have cooperated with the National Security Agency (“NSA”) in connection
5 with a terrorist surveillance program.

6 B. On May 11, 2006, *USA Today* published an article entitled “NSA has
7 massive database of Americans’ phone calls,” which alleges that AT&T, Verizon and
8 BellSouth have provided customer call records to the NSA. Following the publication of
9 this article, dozens of lawsuits were filed in various fora across the United States against a
10 number of telecommunications entities. Among the named parties in these lawsuits were
11 the following entities: Cingular Wireless LLC (now known as AT&T Mobility LLC), New
12 Cingular Wireless Services, Inc., and Cingular Wireless Corporation (now known as AT&T
13 Mobility Corporation) (collectively, the “Cingular Entities”).

14 C. On July 20, 2006, this Court entered an order in *Hepting* denying motions to
15 dismiss filed by the United States of America and AT&T Corp. (the “*Hepting* Ruling”).
16 This Court certified the *Hepting* Ruling for immediate appeal pursuant to 28 U.S.C.
17 § 1292(b). Both the United States and AT&T Corp. petitioned the Ninth Circuit for
18 permission to appeal the *Hepting* Ruling, and the *Hepting* plaintiffs filed a cross-petition.

19 D. On August 9, 2006, the Judicial Panel on Multi-District Litigation (“JPML”)
20 entered its Transfer Order creating this MDL and transferring cases to this Court for
21 coordinated or consolidated pretrial proceedings pursuant to 28 U.S.C. § 1407. Since the
22 August 9, 2006 Initial Transfer Order, the JPML has entered additional transfer orders,
23 transferring additional cases to this Court for coordinated or consolidated pretrial
24 proceedings.

25 E. The cases transferred into the MDL that have been filed against the Cingular
26 Entities are:

27 06-5452-VRW, *Harrington v. AT&T, Inc.*

28 06-6222-VRW, *Cross v. AT&T Communications, Inc.*

1 06-6224-VRW, *Cross v. AT&T Communications of California Inc.*

2 06-6253-VRW, *Derosier v. Cingular Wireless LLC*

3 06-6254-VRW, *Crockett v. Verizon Wireless*

4 06-6570-VRW, *Chulsky v. Cellco Partnership d/b/a Verizon Wireless*

5 07-0464-VRW, *Lebow et al v. BellSouth Corporation*

6 F. On November 7, 2006, the Ninth Circuit granted the petitions of the United
7 States and AT&T Corp. to appeal the *Hepting* Ruling.

8 G. On November 17, 2006, this Court held an MDL Case Management
9 Conference where, *inter alia*, it was ordered that Plaintiffs would file master consolidated
10 complaints against various defendant groups including against the Cingular Entities.

11 H. On January 16, 2007, the Plaintiffs filed consolidated complaints against the
12 Cingular Entities.

13 I. In furtherance of judicial economy, the plaintiffs' counsel for the subscribers
14 to the Cingular Entities, and the Cingular Entities wish to stay all proceedings against the
15 Cingular Entities pending the final adjudication of all appeals of the *Hepting* Ruling,
16 including disposition of any petition for certiorari to the United States Supreme Court,
17 without any prejudice to the rights of any party.

18 **STIPULATION**

19 The plaintiffs' counsel for the subscribers to the Cingular Entities and the Cingular
20 Entities hereby stipulate as follows:

21 1. All proceedings against the Cingular Entities shall be stayed pending the
22 final appellate ruling on the July 20, 2006, *Hepting* Ruling, including the disposition of any
23 petition for certiorari (or the expiration of time to seek such a petition) from the United
24 States Supreme Court for review of any decision the Ninth Circuit issues in its interlocutory
25 review of the *Hepting* ruling. This stay shall encompass any proceedings against the
26 Cingular Entities transferred by the JPML to this Court and consolidated with this MDL
27 subsequent to the entry of this Stipulation.

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1 2. This stay shall in no way affect any MDL proceedings against entities other
2 than the Cingular Entities.

3 3. This stay shall not affect the substantive and other procedural rights of the
4 Cingular Entities or of the subscribers who have filed complaints against them.

5 4. The Cingular Entities need not file any pleading responding to the
6 consolidated complaints against each of them until sixty (60) days after the expiration of
7 this stay.

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[PROPOSED] ORDER

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

1. All proceedings against Cingular Wireless LLC (now known as AT&T Mobility LLC), New Cingular Wireless Services, Inc., Cingular Wireless Corporation (now known as AT&T Mobility Corporation) (collectively, the “Cingular Defendants”) in this MDL, including those proceedings transferred to this Court by the JPML and consolidated with this MDL subsequent to entry of this Order, are hereby stayed pending the final appellate ruling on this Court’s July 20, 2006 ruling in *Hepting, et. al v. AT&T Corp., et. al.*, including the disposition of any petition for certiorari (or the expiration of time to seek such a petition) from the United States Supreme Court for review of any decision the Ninth Circuit issues in its interlocutory review of that Hepting ruling.

2. This stay shall in no way affect any MDL proceedings against entities other than the Cingular Defendants.

3. The Cingular Defendants need not file pleadings responsive to the consolidated complaints against them until sixty (60) days after the expiration of this stay.

PURSUANT TO STIPULATION, IT IS SO ORDERED.

Dated: February __, 2007.

Hon. Vaughn R. Walker
United States District Chief Judge