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23 Attorneys for Defendants

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**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA**

FLOR BARRAZA, an individual, on behalf of
herself and others similarly situated,

Plaintiff,

v.

CRICKET WIRELESS, LLC, AT&T INC. and
LEAP WIRELESS INTERNATIONAL, INC
and DOES 1 to 1000, inclusive,

Defendants.

Case No. 3:15-CV-2471

CALIFORNIA STATE COURT CASE
NO. CGC 15-545624

**NOTICE OF REMOVAL OF ACTION
BY DEFENDANTS CRICKET
WIRELESS, LLC AND LEAP
WIRELESS INTERNATIONAL, INC.
PURSUANT TO 28 U.S.C. §§ 1332, 1441
AND 1446**

(DIVERSITY JURISDICTION—CLASS
ACTION FAIRNESS ACT)

1 TO THE CLERK OF THE ABOVE-ENTITLED COURT:

2 PLEASE TAKE NOTICE THAT, pursuant to 28 U.S.C. §§ 1332, 1441 and 1446,
3 Defendants Cricket Wireless, LLC and Leap Wireless International, Inc. hereby remove to this
4 Court the state-court action described below.

5 **STATEMENT OF JURISDICTION**

6 This is a civil action for which this Court has original jurisdiction under 28 U.S.C.
7 § 1332, and is one that may be removed to this Court, pursuant to 28 U.S.C. §§ 1441 and
8 1332(d)(2)(A) for the reasons below.¹

9 **BASES FOR DIVERSITY AND REMOVAL**

10 1. On May 1, 2015, Plaintiff Flor Barraza filed a putative class action in the Superior
11 Court of the State of California for the County of San Francisco entitled: *FLOR BARRAZA, an*
12 *individual, on behalf of herself and others similarly situated, Plaintiff v. CRICKET WIRELESS,*
13 *LLC, AT&T INC. and LEAP WIRELESS INTERNATIONAL, INC and DOES 1-1000, inclusive,*
14 Case Number CGC 15-545624.

15 2. On May 5, 2015, Cricket Wireless LLC was served with the Summons,
16 Complaint, ADR Packet, Civil Case Cover Sheet, Stipulation to Use of Alternative Dispute
17 Resolution, Alternative Dispute Resolution (ADR) Information, Notice of Case Assignment,
18 Notice of Eligibility to eFile and Expedited Jury Trial Information Sheet. Pursuant to 28 U.S.C.
19 § 1446(a), true and correct copies of all process, pleadings, and orders served upon defendants
20 are attached to this Notice of Removal as Exhibit 1.

21 3. This Notice has been filed timely pursuant to 28 U.S.C. § 1446(b).

22 4. The California Superior Court for the County of San Francisco is located within
23 the Northern District of California. 28 U.S.C. § 84(a). This Notice of Removal is therefore
24 properly filed in this Court pursuant to 28 U.S.C. § 1441(a).

25
26
27 ¹ Plaintiff's dispute is covered by an arbitration agreement. Defendants hereby reserve
28 their right to compel Plaintiff to arbitrate her claims in accordance with her arbitration
agreement.

1 5. The Court has jurisdiction over this action pursuant to Section 4 of the Class
2 Action Fairness Act of 2005 (“CAFA”), 28 U.S.C. § 1332(d), which grants federal district courts
3 original jurisdiction over putative class actions with more than 100 class members where the
4 aggregate amount in controversy exceeds \$5 million, and any member of the class of plaintiffs is
5 a citizen of a state different from any defendant. As set forth below, this action satisfies each of
6 the requirements of Section 1332(d)(2) for original jurisdiction under CAFA.

7 6. **Covered Class Action.** This action meets CAFA’s definition of a class action,
8 which is “any civil action filed under rule 23 of the Federal Rules of Civil Procedure or similar
9 State statute or rule of judicial procedure authorizing an action to be brought by 1 or more
10 representative persons as a class action.” 28 U.S.C. §§ 1332(d)(1)(B), 1435(a) & (b). Plaintiff
11 states that she has filed her action “pursuant to section 382 of the California Code of Civil
12 Procedure” (Complaint ¶ 50), which governs class actions in California state court.

13 7. **Class Action Consisting of More than 100 Members.** The Complaint alleges
14 that “[t]he members of the Class are so numerous that individual joinder is impracticable.
15 Plaintiffs are informed and believe that there are, at least, a thousand [such] Cricket customers.”
16 Complaint ¶ 52. Accordingly, the Complaint alleges that the aggregate number of putative class
17 members is greater than 100 persons, as required by 28 U.S.C. § 1332(d)(5)(B).

18 8. **Diversity.** Pursuant to 28 U.S.C. § 1332(d)(2)(A), Plaintiff is a “citizen of a State
19 different from any defendant.” Plaintiff alleges that she is “a resident of the State of California.”
20 Complaint ¶ 12. As detailed in the accompanying Declaration of Jackie Begue (attached as
21 Exhibit 2) and explained further below, defendant Leap Wireless International, Inc. is a citizen of
22 Delaware and Georgia, and defendant Cricket Wireless, LLC is a citizen of Delaware, Georgia,
23 and Texas.

24 9. Leap Wireless International, Inc. is a Delaware corporation with its principal
25 place of business in Georgia. Begue Declaration ¶ 10.

26 10. Cricket Wireless, LLC is a citizen of Delaware, Georgia, and Texas. “[A]n LLC
27 is a citizen of every state of which its owners/members are citizens.” *Johnson v. Columbia*
28

1 *Properties Anchorage, LP*, 437 F.3d 894, 899 (9th Cir. 2006). The members of Cricket
 2 Wireless, LLC are AT&T Mobility II LLC and Cricket, Inc. Begue Declaration ¶ 7. Cricket,
 3 Inc., is a Delaware corporation with its principal place of business in Georgia. *Id.* ¶ 9. AT&T
 4 Mobility II LLC is a limited liability company with four members: (a) New Cingular Wireless
 5 Services, Inc., which is a Delaware corporation with its principal place of business in Georgia;
 6 (b) Centennial Communications Corp., which is a Delaware corporation with its principal place
 7 of business in Georgia; (c) BellSouth Mobile Data, Inc., which is a Georgia corporation with its
 8 principal place of business in Georgia; and (d) AT&T Mobility LLC, which is a citizen of the
 9 states of Delaware, Georgia, and Texas, based on the citizenship of its members. *Id.* ¶ 8.

10 11. Accordingly, Plaintiff is a citizen of a state (California) different from any
 11 defendant—both Leap Wireless International, Inc. (citizen of Delaware and Georgia) and Cricket
 12 Wireless, LLC (citizen of Delaware, Georgia, and Texas) (*see* 28 U.S.C. § 1332(c), (d)(10)), thus
 13 satisfying the minimal diversity requirements of 28 U.S.C. § 1332(d)(2)(A).

14 12. **Amount in Controversy.** Under CAFA, the claims of the individual class
 15 members are aggregated to determine if the amount in controversy exceeds the required “sum or
 16 value of \$5,000,000, exclusive of interest and costs.” 28 U.S.C. § 1332(d)(2), (d)(6); *see also*
 17 *Abrego Abrego v. The Dow Chemical Co.*, 443 F.3d 676, 684 (9th Cir. 2006). While defendants
 18 deny the claims alleged in Plaintiff’s Complaint and further deny that Plaintiff, or any putative
 19 class member, is entitled to any monetary or injunctive relief, the amount in controversy here
 20 satisfies the jurisdictional threshold, as explained below.

21 13. **Amount in Controversy – Restitution And/or Actual Damages.** The
 22 Complaint itself is silent as to the amount of damages sought, but given the size of the putative
 23 class and the monetary relief sought, the amount in controversy exceeds \$5 million, exclusive of
 24 interest and costs. This action is a putative statewide class action in which Plaintiff alleges that
 25 California Cricket customers purchased 4G/LTE capable mobile cellular phones “in an attempt
 26 to take advantage of Cricket’s advertised UNLIMITED 4G/LTE services throughout the State of
 27 California,” but “[c]ontrary to Cricket’s advertisements[,] . . . Cricket did not have the capability
 28

1 to provide 4G/LTE services to the vast majority of its customers.” Complaint ¶¶ 2-3. Plaintiff
2 claims that the Defendants violated the California Consumer Legal Remedies Act (Cal. Civ.
3 Code § 1750 *et seq.*) (Complaint ¶¶ 54-63) and the California Business and Professions Code
4 (Cal. Civ. Code § 17500 *et seq.*) (Complaint ¶¶ 64-75). Plaintiff demands compensatory and
5 punitive damages, disgorgement, restitution, injunctive relief, attorneys’ fees, costs, and pre- and
6 post-judgment interest. Complaint pp. 18-19.

7 14. Based on the allegations contained in Plaintiff’s Complaint, the amount in
8 controversy with respect to restitution or damages alone exceeds \$5 million. Plaintiff identifies
9 the putative class as “[a]ll persons in California who purchased a 4G/LTE Capable Phone from
10 Cricket from May 1, 2012 to the present” (Complaint ¶ 50), excluding those “persons that
11 purchased 4G/LTE Capable Phones after the ATT-Cricket Merger and had immediate access to
12 ‘the New Cricket’ on ATT’s network” (*id.* ¶ 51). If only the restitution Plaintiff seeks is
13 considered, it is apparent that the amount in controversy exceeds \$5 million. For example, the
14 relief Plaintiff seeks includes restitution for the amounts that putative class members paid for
15 4G/LTE capable phones. *Id.* ¶¶ 72, 84. Records of Cricket Wireless sales indicate that Cricket
16 sold 11,566 Samsung Galaxy S4 devices and 1,316 LG Optimus Regard devices (both 4G/LTE
17 devices, which are the subject of Plaintiff’s Complaint) between June 1, 2012 and May 18, 2014.
18 Declaration of Chad Walker ¶ 5 (attached as Exhibit 3). The Complaint alleges that Cricket
19 offered these devices for sale at a full retail price generally between \$399.99 and \$599.99.
20 Complaint ¶ 33. Thus, even at the lowest price alleged, \$399.99, the total amount in controversy
21 is, at minimum, \$5,152,671.18. *Id.* Accordingly, while defendants contend that neither Plaintiff
22 nor putative class members are entitled to any restitution or damages, the amount placed in
23 controversy easily exceeds \$5 million. *See Lewis v. Verizon Comm’ns, Inc.*, 627 F.3d 395, 401-
24 02 (9th Cir. 2010).

25 15. In accordance with 28 U.S.C. § 1446(d), defendants are serving Plaintiff with a
26 copy of a Notice to Plaintiff of Filing of Notice of Removal of Action Pursuant to 28 U.S.C.
27 §§ 1332, 1441, and 1446, in the form of Exhibit 4, which is incorporated by reference.
28

1 16. Pursuant to 28 U.S.C. § 1446(d), defendants are also filing in the Superior Court
2 of California for San Francisco County, and will serve the same upon Plaintiff, a Notice to
3 Superior Court of Filing of Removal of Action Pursuant to 28 U.S.C. §§ 1332, 1441, and 1446,
4 in the form of Exhibit 5, which is incorporated by reference.
5

6 Dated: June 3, 2015
7

8 AT&T Services Inc. Legal Dept.

9 By: s / Raymond P. Bolaños
10 RAYMOND P. BOLANOS

11 *rb2659@att.com*
12 Attorney for Defendants
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EXHIBIT 1



**Service of Process
Transmittal**

05/05/2015

CT Log Number 527072280

TO: Jill M Calafiore, Rm 3A119A
AT&T Corp.
One AT&T Way-
Bedminster, NJ 07921-

RE: Process Served in California

FOR: Cricket Wireless, LLC (Domestic State: DE)

ENCLOSED ARE COPIES OF LEGAL PROCESS RECEIVED BY THE STATUTORY AGENT OF THE ABOVE COMPANY AS FOLLOWS:

TITLE OF ACTION: Flor Barraza, etc., on behalf of herself and others similarly situated,
Pltf. vs. Cricket Wireless, LLC, et al., Dfts.

DOCUMENT(S) SERVED: Summonses, Notice, Complaint, Jury Demand, Cover Sheet, Instructions,
Attachment(s), Alternative Dispute Resolution Program Information Package,
Stipulation, Statement

COURT/AGENCY: San Francisco County - Superior Court - San Francisco, CA
Case # CGC15545624

NATURE OF ACTION: Plaintiff and other members prays for judgment against the defendants in regards to
the violation of the consumers legal remedies act, false advertising, business and
professions code, negligent misrepresentation, unconscionability and
unconscionable conduct

ON WHOM PROCESS WAS SERVED: C T Corporation System, Los Angeles, CA

DATE AND HOUR OF SERVICE: By Process Server on 05/05/2015 at 14:05

JURISDICTION SERVED : California

APPEARANCE OR ANSWER DUE: Within 30 days after service (Document(s) may contain additional answer dates)

ATTORNEY(S) / SENDER(S): Keith A. Robinson
6320 Canoga Avenue
Suite 1500
Woodland Hills, CA 91367
310-849-3135

ACTION ITEMS: CT has retained the current log, Retain Date: 05/06/2015, Expected Purge Date:
05/16/2015
Image SOP
Email Notification, Jill M Calafiore jcalafiore@att.com

SIGNED: C T Corporation System
ADDRESS: 818 West Seventh Street
Los Angeles, CA 90017
TELEPHONE: 213-337-4615

5/5/15 2:05 p.

SUM-100

SUMMONS (CITACION JUDICIAL)

FOR COURT USE ONLY
(SOLO PARA USO DE LA CORTE)

NOTICE TO DEFENDANT: (AVISO AL DEMANDADO):

CRICKET WIRELESS, LLC, AT&T INC. and LEAP WIRELESS INTERNATIONAL, INC

YOU ARE BEING SUED BY PLAINTIFF: (LO ESTÁ DEMANDANDO EL DEMANDANTE):

FLOR BARRAZA, an individual, on behalf of herself and others similarly situated

NOTICE! You have been sued. The court may decide against you without your being heard unless you respond within 30 days. Read the information below.

You have 30 CALENDAR DAYS after this summons and legal papers are served on you to file a written response at this court and have a copy served on the plaintiff. A letter or phone call will not protect you. Your written response must be in proper legal form if you want the court to hear your case. There may be a court form that you can use for your response. You can find these court forms and more information at the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), your county law library, or the courthouse nearest you. If you cannot pay the filing fee, ask the court clerk for a fee waiver form. If you do not file your response on time, you may lose the case by default, and your wages, money, and property may be taken without further warning from the court.

There are other legal requirements. You may want to call an attorney right away. If you do not know an attorney, you may want to call an attorney referral service. If you cannot afford an attorney, you may be eligible for free legal services from a nonprofit legal services program. You can locate these nonprofit groups at the California Legal Services Web site (www.lawhelpcalifornia.org), the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), or by contacting your local court or county bar association. **NOTE:** The court has a statutory lien for waived fees and costs on any settlement or arbitration award of \$10,000 or more in a civil case. The court's lien must be paid before the court will dismiss the case. **¡AVISO!** Lo han demandado. Si no responde dentro de 30 días, la corte puede decidir en su contra sin escuchar su versión. Lea la información a continuación.

Tiene 30 DÍAS DE CALENDARIO después de que le entreguen esta citación y papeles legales para presentar una respuesta por escrito en esta corte y hacer que se entregue una copia al demandante. Una carta o una llamada telefónica no lo protegen. Su respuesta por escrito tiene que estar en formato legal correcto si desea que procesen su caso en la corte. Es posible que haya un formulario que usted pueda usar para su respuesta. Puede encontrar estos formularios de la corte y más información en el Centro de Ayuda de las Cortes de California (www.sucorte.ca.gov), en la biblioteca de leyes de su condado o en la corte que le quede más cerca. Si no puede pagar la cuota de presentación, pida al secretario de la corte que le dé un formulario de exención de pago de cuotas. Si no presenta su respuesta a tiempo, puede perder el caso por incumplimiento y la corte le podrá quitar su sueldo, dinero y bienes sin más advertencia.

Hay otros requisitos legales. Es recomendable que llame a un abogado inmediatamente. Si no conoce a un abogado, puede llamar a un servicio de remisión a abogados. Si no puede pagar a un abogado, es posible que cumpla con los requisitos para obtener servicios legales gratuitos de un programa de servicios legales sin fines de lucro. Puede encontrar estos grupos sin fines de lucro en el sitio web de California Legal Services, (www.lawhelpcalifornia.org), en el Centro de Ayuda de las Cortes de California, (www.sucorte.ca.gov) o poniéndose en contacto con la corte o el colegio de abogados locales. **AVISO:** Por ley, la corte tiene derecho a reclamar las cuotas y los costos exentos por imponer un gravamen sobre cualquier recuperación de \$10,000 ó más de valor recibida mediante un acuerdo o una concesión de arbitraje en un caso de derecho civil. Tiene que pagar el gravamen de la corte antes de que la corte pueda desechar el caso.

The name and address of the court is:

(El nombre y dirección de la corte es):

San Francisco County Superior Court
400 McAllister St., San Francisco, CA 91402-4515

CASE NUMBER:
(Número de Caso):

CGC 15-545624

The name, address, and telephone number of plaintiff's attorney, or plaintiff without an attorney, is:

(El nombre, la dirección y el número de teléfono del abogado del demandante, o del demandante que no tiene abogado, es):

Keith A. Robinson (CSBN 126246) 6320 Canoga Ave, Suite 1500, Woodland Hills, CA 91367 310-849-3135

DATE: MAY 01 2015
(Fecha)

CLERK OF THE COURT

Clerk, by
(Secretario)

Victoria Gonzalez

Deputy
(Adjunto)

(For proof of service of this summons, use Proof of Service of Summons (form POS-010).)

(Para prueba de entrega de esta citación use el formulario Proof of Service of Summons, (POS-010)).

[SEAL]

NOTICE TO THE PERSON SERVED: You are served

- ☐ as an individual defendant.
- ☐ as the person sued under the fictitious name of (specify):

- ☒ on behalf of (specify): CRICKET WIRELESS, LLC

- under: ☐ CCP 416.10 (corporation) ☐ CCP 416.60 (minor)
☐ CCP 416.20 (defunct corporation) ☐ CCP 416.70 (conservatee)
☒ CCP 416.40 (association or partnership) ☐ CCP 416.90 (authorized person)

☐ other (specify):

- ☒ by personal delivery on (date): 5/5/15

SUM-100

SUMMONS (CITACION JUDICIAL)

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(SOLO PARA USO DE LA CORTE)

NOTICE TO DEFENDANT: (AVISO AL DEMANDADO):

CRICKET WIRELESS, LLC, AT&T INC. and LEAP WIRELESS
INTERNATIONAL, INC

YOU ARE BEING SUED BY PLAINTIFF: (LO ESTÁ DEMANDANDO EL DEMANDANTE):

FLOR BARRAZA, an individual, on behalf of herself and others
similarly situated

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Hay otros requisitos legales. Es recomendable que llame a un abogado inmediatamente. Si no conoce a un abogado, puede llamar a un servicio de remisión a abogados. Si no puede pagar a un abogado, es posible que cumpla con los requisitos para obtener servicios legales gratuitos de un programa de servicios legales sin fines de lucro. Puede encontrar estos grupos sin fines de lucro en el sitio web de California Legal Services (www.lawhelpcalifornia.org), en el Centro de Ayuda de las Cortes de California (www.sucorte.ca.gov) o poniéndose en contacto con la corte o el colegio de abogados locales. **AVISO:** Por ley, la corte tiene derecho a reclamar las cuotas y los costos exentos por imponer un gravamen sobre cualquier recuperación de \$10,000 o más de valor recibida mediante un acuerdo o una concesión de arbitraje en un caso de derecho civil. Tiene que pagar el gravamen de la corte antes de que la corte pueda desechar el caso.

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CASE NUMBER:
(Número del caso):

CGC 15-545624

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Keith A. Robinson (CSBN 126246) 6320 Canoga Ave, Suite 1500, Woodland Hills, CA 91367 310-849-3135

DATE:

MAY 01 2015

CLERK OF THE COURT

Clerk, by

Victoria Gonzalez

Deputy

(Fecha)

(Secretario)

(Adjunto)

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(SEAL)

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- ☐ as an individual defendant.
- ☐ as the person sued under the fictitious name of (specify):

- ☒ on behalf of (specify): **AT&T INC.**

- under: ☒ CCP 416.10 (corporation) ☐ CCP 416.60 (minor)
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☐ other (specify):

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Page 1 of 1

SUM-100

SUMMONS (CITACION JUDICIAL)

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(El nombre y dirección de la corte es):

San Francisco County Superior Court
400 McAllister St., San Francisco, CA 91402-4515

CASE NUMBER:
(Número del caso):

CGC 15-545624

The name, address, and telephone number of plaintiff's attorney, or plaintiff without an attorney, is:

(El nombre, la dirección y el número de teléfono del abogado del demandante, o del demandante que no tiene abogado, es):

Keith A. Robinson (CSBN 126246) 6320 Canoga Ave, Suite 1500, Woodland Hills, CA 91367 310-849-3135

DATE:
(Fecha)

MAY 01 2015

CLERK OF THE COURT

Clerk, by
(Secretario)

Victoria Gonzalez

Deputy
(Adjunto)

(For proof of service of this summons, use Proof of Service of Summons (form POS-010).)

(Para prueba de entrega de esta citación use el formulario Proof of Service of Summons, (POS-010)).

(SEAL)

NOTICE TO THE PERSON SERVED: You are served

- ☐ as an individual defendant.
- ☐ as the person sued under the fictitious name of (specify):

- ☒ on behalf of (specify): **LEAP WIRELESS INTERNATIONAL, INC**

- under: ☒ CCP 416.10 (corporation) ☐ CCP 416.60 (minor)
☐ CCP 416.20 (defunct corporation) ☐ CCP 416.70 (conservatee)
☐ CCP 416.40 (association or partnership) ☐ CCP 416.90 (authorized person)
☐ other (specify):

- ☐ by personal delivery on (date):

Page 1 of 1

CASE NUMBER: CGC-15-545624 FLOR BARRAZA VS. CRICKET WIRELESS, LLC ET AL

NOTICE TO PLAINTIFF

A Case Management Conference is set for:

DATE: SEP-30-2015

TIME: 10:30AM

**PLACE: Department 610
400 McAllister Street
San Francisco, CA 94102-3680**

All parties must appear and comply with Local Rule 3.

CRC 3.725 requires the filing and service of a case management statement form CM-110 no later than 15 days before the case management conference. However, it would facilitate the issuance of a case management order **without an appearance** at the case management conference if the case management statement is filed, served and lodged in Department 610 twenty-five (25) days before the case management conference.

Plaintiff must serve a copy of this notice upon each party to this action with the summons and complaint. Proof of service subsequently filed with this court shall so state. **This case is eligible for electronic filing and service per Local Rule 2.10. For more information, please visit the Court's website at www.sfsuperiorcourt.org under Online Services.**

ALTERNATIVE DISPUTE RESOLUTION POLICY REQUIREMENTS

IT IS THE POLICY OF THE SUPERIOR COURT THAT EVERY CIVIL CASE PARTICIPATE IN EITHER MEDIATION, JUDICIAL OR NON-JUDICIAL ARBITRATION, THE EARLY SETTLEMENT PROGRAM OR SOME SUITABLE FORM OF ALTERNATIVE DISPUTE RESOLUTION PRIOR TO A TRIAL.
(SEE LOCAL RULE 4)

Plaintiff must serve a copy of the Alternative Dispute Resolution Information Package on each defendant along with the complaint. All counsel must discuss ADR with clients and opposing counsel and provide clients with a copy of the Alternative Dispute Resolution Information Package prior to filing the Case Management Statement.

[DEFENDANTS: Attending the Case Management Conference does not take the place of filing a written response to the complaint. You must file a written response with the court within the time limit required by law. See Summons.]

Superior Court Alternative Dispute Resolution Coordinator
400 McAllister Street, Room 103
San Francisco, CA 94102
(415) 551-3869

See Local Rules 3.3, 6.0 C and 10 B re stipulation to judge pro tem.

1 **KEITH A. ROBINSON, Esq. (SBN 126246)**
2 **ATTORNEY AT LAW**
3 6320 Canoga Avenue, Suite 1500
4 Woodland Hills, CA 91367
5 Tel. 310.849.3135
6 Fax. 818.279.0604
7 Email keith.robinson@karlawgroup.com

ENDORSED
FILED
Superior Court of California
County of San Francisco

MAY 01 2015

CLERK OF THE COURT
BY: VICTORIA GONZALEZ
Deputy Clerk

BY FAX

8
9
10 Attorney for Plaintiff FLOR BARRAZA,
11 an individual, on behalf of herself and others
12 similarly situated,
13

14 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
15 **FOR THE COUNTY OF SAN FRANCISCO**
16

17 **FLOR BARRAZA, an individual, on**
18 **behalf of herself and others**
19 **similarly situated,**

20 Plaintiff

21 v.

22 **CRICKET WIRELESS, LLC, AT&T**
23 **INC. and LEAP WIRELESS**
24 **INTERNATIONAL, INC and DOES 1-**
25 **1000, inclusive,**

26 Defendants

Case No.:

CGC 15-545624

CLASS ACTION COMPLAINT
JURY TRIAL DEMANDED

27 Plaintiff, FLOR BARRAZA, on behalf of herself and all others similarly
28 situated, and demanding a trial by jury, complain and allege upon information and
belief as follows:

//

//

NATURE OF THE ACTION

1
2 1. Beginning in 2012, LEAP Wireless International, Inc. ("LEAP"), by
3 and through its affiliated entities including, but not limited to, Cricket Wireless,
4 LLC ("Cricket Wireless"), marketed **UNLIMITED 4G/LTE** services throughout
5 the State of California (LEAP and its affiliated entities, including Cricket Wireless
6 will be referred to hereinafter, collectively, as "Cricket", which is the commonly
7 known brand name).

8 2. Based on the representations made by Cricket, Plaintiff and thousands
9 of other consumers seeking better call connectivity and faster internet and data
10 speeds purchased high-end, expensive 4G/LTE capable mobile cellular phones
11 ("4G/LTE Capable Phones") such as the iPhone and Samsung Galaxy in an
12 attempt to take advantage of Cricket's advertised **UNLIMITED 4G/LTE** services
13 throughout the State of California.

14 3. Contrary to Cricket's advertisements of **UNLIMITED 4G/LTE**,
15 Cricket did not have the capability to provide 4G/LTE services to the vast majority
16 of its customers.

17 4. Plaintiff brings this lawsuit against AT&T Inc. ("ATT"), the successor
18 in interest to LEAP Wireless International, Inc., and the other named Defendants on
19 behalf of herself and all other similarly situated consumers.

20 5. At all times mentioned in this complaint, Defendants were, and are,
21 entities doing business in San Francisco County, California and are corporations
22 formed under the laws of the State of Delaware.

23 6. LEAP's principal place of business is in California.

24 **JURISDICTION AND VENUE**

25 7. Plaintiff, on behalf of herself and those similarly situated, re-allege and
26 incorporate by reference each and every allegation set forth in the preceding
27 paragraphs as though alleged in full herein.

1 mobile cellular services in this County and this State. ATT is one of the largest
2 communication companies in the world by revenue.

3 14. ATT is, at all times mentioned herein, a holding company organized
4 under the laws of the state of Delaware that maintains its headquarters at 208 S.
5 Akard St., Dallas, Texas, 75202. ATT, through its subsidiaries and affiliates, does
6 business in California and this County.

7 15. Defendant LEAP Wireless International, Inc. is a wholly owned
8 subsidiary of ATT which, at all times relevant prior to the Merger Agreement
9 described below, directly owned and controlled various entities including, but not
10 limited, to Cricket Wireless, LLC and non-parties Cricket Communications, Inc.
11 and Cricket License Company, LLC.

12 16. In July of 2013, ATT and LEAP entered into an Agreement and Plan of
13 Merger ("Merger Agreement").

14 17. In March of 2014, the Merger Agreement was formally consummated
15 after approval by the Federal Communications Commission.

16 18. Pursuant to the Merger Agreement, Mariner Acquisition Sub, Inc. (a
17 Delaware corporation and a wholly owned subsidiary of ATT) merged with and
18 into LEAP, with LEAP surviving as a wholly owned subsidiary of ATT¹.

19 19. ATT has retained the "Cricket" brand in all advertisements after the
20 Merger Agreement.

21
22
23 ¹ On March 23, 2014, LEAP made the following statement to the Securities and Exchanges
24 Commission ("SEC") in its Form 8-K: "Pursuant to the Agreement and Plan of Merger dated July
25 12, 2013 (the "Merger Agreement"), by and among Leap Wireless International, Inc., a Delaware
26 corporation (the "Company"), AT&T Inc., a Delaware Corporation ("AT&T"), Laser, Inc., a
27 Delaware corporation (the "Stockholder's Representative"), and Mariner Acquisition Sub Inc., a
28 Delaware corporation and a wholly owned subsidiary of AT&T ("Merger Sub"), on March 13,
2014, Merger Sub merged with and into the Company with the Company surviving as a wholly
owned subsidiary of AT&T (the "Merger"). In the Schedule 14A filed October 2, 2013 filed
with the SEC by LEAP Wireless International, Inc., the merger was described as follows: *ATT
acquired all of LEAP including its stock and wireless properties, including licenses, network
assets, retail stores, approximately 5 million subscribers and debt.*

1 20. ATT is liable for the actions and omissions of LEAP and all of its
2 affiliates and subsidiaries prior to the consummation of the Merger Agreement.

3 21. Defendant Cricket Wireless, LLC is a Delaware corporation doing
4 business in California.

5 **FACTS, SUBSTANTIVE ALLEGATIONS and**
6 **OVERVIEW OF DEFENDANTS' FALSE AND DECEPTIVE CONDUCT**

7 22. Cricket describes itself as providing "innovative, high-value wireless
8 services to a fast-growing, young and ethnically diverse customer base".

9 23. Since 2012, Cricket has advertised to thousands of consumers across
10 the United States the opportunity to purchase a phone with **UNLIMITED 4G/LTE**
11 without distinction or clarification that such 4G/LTE coverage was extremely
12 limited in size and strength and, in most cities, nonexistent.

13 24. Cricket advertised 4G/LTE Services in a variety of methods including:
14 in-store advertising, printed marketing materials, radio, television, billboards and
15 online websites.

16 25. Such advertisements included statements that Cricket had
17 **UNLIMITED 4G/LTE** across California.

18 26. Cricket also marketed itself as the "**Home of the No Contract, No**
19 **Hassle Wireless Carrier.**

20 27. 4G/LTE has several significant advantages over conventional 3G
21 service. This includes, but is not limited to: a significantly higher quality cellular
22 service for making phone calls, faster text messaging and exponentially faster data
23 and internet services (approximately eight times faster than 3G).

24 28. Cricket's own current "Acceptable Use Policy" describes data speeds as
25 follows (updated as of May 18, 2014²):

26
27
28 ² See <https://www.cricketwireless.com/legal-info/acceptable-use-policy.html>

- 1 a. Cricket's 4G LTE service currently offers download speeds up to 8
- 2 Mbps³; and
- 3 b. 3G service as providing download speeds from 700 Kbps up to 1.7
- 4 Mbps.

5 29. 4G/LTE Services allow a consumer to get the best and highest use of

6 the 4G/LTE Capable Phone. This includes, but is not limited to:

- 7 a. Ability to download or stream music, videos, etc.;
- 8 b. Greatly enhanced speed of downloading or streaming music,
- 9 video, etc.;
- 10 c. Ability to use mobile applications that have practical, safety-
- 11 enhancing features such as turn by turn GPS directions;
- 12 d. The use of other mobile applications that would require 4G/LTE
- 13 Services as advertised by Cricket (such as MUVE); and
- 14 e. In general, the ability of consumer to the have the full
- 15 functionality of a 4G/LTE capable mobile phone.

16 30. From 2012 to the present, Cricket offered a variety of wireless cell

17 phone plans (talk, text and data) on both a 3G and 4G signal including the

18 following:

- 19 a. 3G Basic Plans from approximately \$35.00 or \$45.00 per month;
- 20 and
- 21 b. 4G/LTE plans from approximately \$50.00 to \$60.00 per month.

22 31. In order to use 4G/LTE Services, it is necessary for a consumer to

23 purchase a 4G/LTE Capable Phone.

24 32. From 2012 to the present, Cricket offered a variety of high-end,

25 4G/LTE Capable Phones such as various versions of the Apple iPhone and the

26 Samsung Galaxy S4.

27

28 ³ "Mbps" = Mega bytes per second

1 33. Cricket offered these high-end 4G/LTE Capable Phones for sale at full
2 retail price, generally between \$399.99 and \$599.99.

3 34. Cricket also took significant measures to brand the packaging of the
4 phone, the instruction booklet, the SIM Card holder and the phone itself as having
5 "4G/LTE", leading a reasonable consumer to believe that their new phone would
6 receive a 4G/LTE signal.

7 35. Despite advertising **Unlimited 4G/LTE** throughout Southern
8 California, Cricket did not have a network that was capable of providing any
9 4G/LTE Services.

10 36. Essentially, Cricket sold customers 4G/LTE Capable Phones even
11 though 4G/LTE Services were not available to the majority of its customers,
12 including those in the Southern California area.

13 37. In numerous reports filed with the Securities and Exchange
14 Commission ("SEC"), Cricket (filed as LEAP Wireless International, Inc.) admits
15 that its 4G/LTE coverage extends to only approximately 21 Million Population and
16 Potential Customers (or "POP's"⁴) in the entire United States.

17 38. As of December 31, 2013, Cricket service was offered in 48 states and
18 the District of Columbia across an extended area covering approximately 292
19 million POPs.

20 39. As such, Cricket's 4G/LTE coverage extended to only a very limited
21 customer base across the United States.

22 40. Further, LEAP's SEC Filings as recent as March 5, 2014 made the
23 following public statements concerning its lack of 4G/LTE capabilities and its lack
24 of ability to expand its 4G/LTE capabilities⁵:

25
26 ⁴ POP's is a term that refers to the potential customers that a network could cover. Specifically,
27 LEAP Wireless International, Inc., in its 10KA filed for the period ending December 31, 2013,
28 refers to this as "information relating to population and potential customers, or POP's, is based on
2012 population estimates provided by Claritas Inc., a market research company".

⁵ LEAP Wireless International, Inc.'s 10-K for the period of January 1, 2013 to December 31, 2013

- a. "Many of our competitors also offer LTE services over a significantly larger geographic area than we do...";
- b. "Given the significant decrease in the size of our customer base in recent quarters, our high level of indebtedness and high cost of LTE deployment, **we have generally determined not to deploy LTE network technology in additional markets at this time...**"; and
- c. "Our ability to remain competitive will depend, in part, on our ability to anticipate and respond to various competitive factors, to provide LTE-based services and meet increasing customer demand for high data throughput speeds..."

41. Despite advertising across Southern California and Northern California for Unlimited 4G/LTE Services, Cricket failed to inform customers that its 4G/LTE services were only available in very limited geographic regions.

THE AT&T – LEAP MERGER: TIMELINE AND FACTS

42. On or about August 1, 2013, Cricket License Company, LLC, LEAP Wireless International, Inc. and AT&T, Inc. filed an Application for Assignments and Transfers of Control ("the Application") with the Federal Communications Commission ("FCC").

43. In the Application, ATT seeks permission to take over Cricket and LEAP's wireless communication rights and licenses.

44. Included in the Application were the following statements made by the joint applicants ATT and LEAP:

- a. "LEAP'S financial resources and limited spectrum depth make it uneconomic to upgrade its current 3G CDMA platform to LTE throughout its network; **to date it has deployed LTE technology in only 11 metropolitan areas**

1 covering approximately 21 million people and has little prospect today of financing
2 significant upgrades to cover the remainder of its network footprint”;

3 b. “LEAP had deployed LTE technology in only 11 metropolitan
4 areas...offers only slower, less spectrally efficient 3G CDMA EVDO elsewhere
5 to 65 percent of its subscribers”.; and

6 c. “LEAP primarily deployed its spectrum to support CDMA EVDO
7 technology, which is far less spectrally efficient than AT&T’s 4G network. To the
8 extent that Leap has deployed LTE, it has done so in 3x3 MHz and 5x5 MHz block
9 configurations. In contract, AT&T is typically deploying spectrum to support LTE
10 in 10x10 MHz blocks, with 5x5 MHz configuration as a minimum”.

11 45. In March of 2014, the FCC, approved the merger.

12 46. On or about May 18, 2014, the “New Cricket” re-launched under ATT.

13 47. Over the coming months, ATT will discontinue Cricket’s old networks
14 causing many of the high-end 4G/LTE capable cell phones purchased by Cricket
15 Customers to be useless on Cricket’s network.

16 48. In addition, Cricket has already begun to shut off cellular services to
17 customers on an apparent ad hoc basis.

18 49. Many cricket customers are now forced to purchase a new phone
19 whenever Cricket phases out its old networks over the next few months.

20 21 CLASS ACTION ALLEGATIONS

22 50. Plaintiffs bring this action pursuant to section 382 of the California
23 Code of Civil Procedure, on behalf of herself and others similarly situated (the
24 “Class”), initially defined as:

25 All persons in California who purchased a 4G/LTE Capable Phone
26 from Cricket from May 1, 2012 to the present.

1 51. The following persons shall be excluded from the Class: (1) Defendants
 2 and their subsidiaries and affiliates; (2) governmental entities; (3) the judge(s) to
 3 whom this case is assigned and any immediate family members thereof; and (4) all
 4 persons that purchased 4G/LTE Capable Phones purchased after the ATT-Cricket
 5 Merger and had immediate access to "the New Cricket" on ATT's network.

6 52. This action has been brought and may properly be maintained as a class
 7 action, pursuant to the provisions of the California Code of Civil Procedure section
 8 382 because there is a well-defined community of interest in this litigation and the
 9 proposed Class is easily ascertainable:

10 a. **Numerosity.** The members of the Class are so numerous that
 11 individual joinder of all the members is impracticable. Plaintiffs
 12 are informed and believe that there are, at least, a thousand
 13 Cricket customers who have been damaged by Cricket's conduct,
 14 as alleged herein. The precise number of class members and
 15 their addresses are unknown to Plaintiffs; however, they are
 16 readily available from Cricket's records.

17 b. **Commonality and Predominance.** This action involves
 18 common questions of law and fact, which predominate over any
 19 questions affecting individual class members, including, but not
 20 limited to, the following:

21 i. Whether Cricket advertised:

- 22 1. "No Contracts";
- 23 2. "4G/LTE Capable Phones"; and
- 24 3. "4G/LTE Services"

25 ii. Whether Plaintiff and Class members purchased 4G/LTE
 26 Capable Phones from Cricket; and
 27
 28

1 iii. Whether Plaintiff and Class members purchased 4G/LTE
2 wireless cellular phone plans from Cricket/LEAP;

3 iv. Whether Cricket failed to provide 4G/LTE Services.

4 c. **Typicality.** The named Plaintiff's claim is typical of the claims
5 of the Class because, among other things, Plaintiffs accepted
6 Cricket's offer for, and paid consideration for, 4G/LTE Services;
7 and, notwithstanding that Plaintiffs at all times held up their end
8 of the bargain, Cricket never provided 4G/LTE Services or
9 provided only limited 4G/LTE Services in cities across the
10 United States.

11 d. **Adequacy of Representation.** Plaintiff is an adequate
12 representative of the Class because her interest does not conflict
13 with the interests of the Class that she seeks to represent; she has
14 retained counsel competent and experienced in complex class
15 action litigation; and Plaintiff intends to prosecute this action
16 vigorously. The interests of the Class will be fairly and
17 adequately protected by Plaintiff and her counsel.

18 e. **Superiority.** A class action is superior to all other available
19 means for the fair and efficient adjudication of this controversy,
20 and no unusual difficulties are likely to be encountered in the
21 management of this class action. The damages or other financial
22 detriment suffered by individual Class members are relatively
23 small compared to the burden and expense that would be required
24 to individually litigate their claims against Cricket, so it would be
25 impracticable for the members of the Class to individually seek
26 redress for Cricket's wrongful conduct. Even if the members of
27 the Class could afford individual litigation, the court system
28

1 could not. Individualized litigation creates a potential for
 2 inconsistent or contradictory judgments, and increases the delay
 3 and expense to all parties and the court system. By contrast, a
 4 class action presents far fewer management difficulties, and
 5 provides the benefits of single adjudication, economy of scale,
 6 and comprehensive supervision by a single court.

7 8 **CAUSES OF ACTION**

9 53. Plaintiff does not plead, and hereby disclaims, any causes of action
 10 under the Federal Communications Act and regulations promulgated by the FCC.

11 12 **COUNT ONE:**

13 **VIOLATION OF THE CONSUMERS LEGAL REMEDIES ACT**

14 **Cal. Civ. Code § 1750, et. seq.**

15 (As to All Defendants)

16 54. Plaintiff, on behalf of herself and those similarly situated, re-allege and
 17 incorporate by reference each and every allegation set forth in the preceding
 18 paragraphs as though alleged in full herein.

19 55. This cause of action is brought pursuant to the California Consumers
 20 Legal Remedies Act, California Civil Code § 1750, et seq. ("CLRA").

21 56. Plaintiff and other proposed class members purchased from Defendants
 22 "goods", specifically Cal. Civ. Code § 1761(a) and "services", specifically Cal. Civ.
 23 Code § 1761(b).

24 57. Defendants' actions, representations and conduct have violated the
 25 CLRA because they extended to transactions that are intended to result, or which
 26 have resulted in, the sale or lease of goods or services to consumers.

1 58. Plaintiff and other class members are “consumers” as that term is
2 defined by the CRLA, specifically, Cal. Civ. Code § 1761(d).

3 59. By engaging in the conduct described above, Defendants violated the
4 CLRA as follows:

- 5 a. By representing that goods or services have sponsorship,
6 approval, characteristics, etc. which they do not have, in violation
7 of Cal. Civ. Code § 1770(a)(5);
- 8 b. By representing that goods or services are of a particular
9 standard, quality or grade if they are of another, in violation of
10 Cal. Civ. Code § 1770(a)(7); and
- 11 c. By advertising goods or services with intent not to supply them
12 as advertised, in violation of Cal. Civ. Code § 1770(a)(9).

13 60. Specifically, Defendants’ acts and practices lead customers to falsely
14 believe that their “goods” and “services” would allow consumers access to a
15 4G/LTE network when they knew such representations to be false and/or
16 misleading.

17 61. Plaintiff requests, and is entitled to, an injunction enjoining Defendants
18 from continuing to employ unlawful methods, acts and practices herein pursuant to
19 Cal. Civ. Code § 1780(a)(2). If Defendants are not restrained from engaging in
20 these types of practices in the future, Plaintiff and the other class members will
21 continue to suffer harm.

22 62. CLRA § 1782 Notice. Irrespective of any representations to the
23 contrary in this Class Action Complaint, Plaintiff specifically disclaims, at this
24 time, any request for damages under any provision of the CLRA. Plaintiff,
25 however, hereby provides Defendants with notice and demand that within thirty
26 (30) days from that date, Defendants correct, repair, replace or otherwise rectify the
27 unlawful, unfair, false and/or deceptive practices complained of herein.

1 Defendants' failure to do so will result in Plaintiff amending this Class Action
2 Complaint to seek, pursuant to Cal. Civ. Code § 1780(a)(3), on behalf of herself and
3 those similarly situated class members, compensatory damages, punitive damages
4 and restitution for any ill-gotten gains due to Defendants' acts and practices.

5 63. Plaintiff also requests that this Court award her costs and reasonable
6 attorneys' fees pursuant to Cal. Civ. Code § 1780(d).

7
8 **COUNT TWO:**

9 **FALSE ADVERTISING, BUSINESS AND PROFESSIONS CODE,**

10 **(Business Professions Code § 17500, et. seq.)**

11 (As to All Defendants)

12
13 64. Plaintiff, on behalf of herself and those similarly situated, re-allege and
14 incorporate by reference each and every allegation set forth in the preceding
15 paragraphs as though alleged in full herein.

16 65. Beginning at an exact date unknown to Plaintiff, but within three (3)
17 years preceding the filing of this Class Action Complaint, Defendants made untrue,
18 false, deceptive and/or misleading statements in connection with the advertising and
19 marketing of their Products and Services.

20 66. Defendants made representations through advertisement (through a
21 variety of mediums) and product labeling/branding (the cellular phones purchased
22 by Plaintiff and others similarly situated were branded/labeled with the "4G"
23 branding and the instruction booklet contained "4G" branding), that led reasonable
24 customers to believe that they were purchasing a 4G/LTE Capable Phone that
25 would receive 4G/LTE Services in their respective geographic regions.

1 67. Defendants deceptively failed to inform Plaintiff, and those similarly
2 situated, that their goods and services did not actually provide for 4G/LTE Services
3 in their respective geographic areas.

4 68. Plaintiff and those similarly situated relied to their detriment on
5 Defendants' false, misleading and deceptive advertising and marketing practices
6 including, without limitation each of the misrepresentations and omissions set forth
7 in paragraphs above. Had Plaintiff and others similarly situated been adequately
8 informed and not intentionally deceived by Defendants, they would have acted
9 differently by not purchasing Defendants' good and services.

10 69. Defendants' acts and omissions were likely to deceive the general
11 public.

12 70. Defendants engaged in these false, misleading and deceptive
13 advertising and marketing practices to increase their profits. Accordingly,
14 Defendants have engaged in false advertising, as defined by Cal. Business and
15 Professions Code § 17500.

16 71. The aforementioned practices, which Defendants used, and continue to
17 use, to their significant financial gain also constitute unlawful competition and
18 provide an unlawful advantage over Defendants' competitors and result in injury to
19 the general public.

20 72. Plaintiff seeks, on behalf of those similarly situated, full restitution of
21 monies as necessary and according to proof, to restore any and all monies acquired
22 by Defendants from Plaintiff, the general public or those similarly situated by
23 means of the false, misleading and deceptive advertising and marketing practices
24 complained of herein, plus interest.

25 73. Plaintiff seeks, on behalf of those similarly situated, an injunction to
26 prohibit Defendants from continuing to engage in the false, misleading and
27 deceptive advertising and marketing practices as pled herein. The acts complained
28

1 of herein occurred, at least in part, within three (3) years preceding the filing of this
2 Class Action Complaint.

3 74. Plaintiff and those similarly situated are further entitled to and do seek
4 both a declaration that the above-described practices constitute false, misleading
5 and deceptive advertising, and injunctive relief restraining Defendants from
6 engaging in any such advertising and marketing practices in the future. Such
7 misconduct by Defendants, unless and until enjoined and restrained by order of this
8 Court, will continue to cause injury in fact to Plaintiff and the general public and
9 the loss of money and property in that Defendants will continue to violate the laws
10 of California unless specifically ordered to comply with the same. This expectation
11 of future violations will require current and future customers to repeatedly and
12 continuously seek legal redress in order to recover monies paid to Defendants to
13 which Defendants are not entitled. Plaintiff, those similarly situated and/or other
14 consumers nationwide have no adequate remedy at law to ensure future compliance
15 with the California Business and Professions Code alleged to have been violated
16 herein.

17 75. As a direct and proximate result of such actions, Plaintiff and the other
18 members of the Class have suffered, and continue to suffer, injury in fact and have
19 lost money and/or property as result of such false, deceptive and misleading
20 advertising in an amount which will be proven at trial, but which is in excess of the
21 jurisdictional minimum of this Court.

22
23 **COUNT THREE:**

24 **NEGLIGENT MISREPRESENTATION**

25 (As to All Defendants)
26
27
28

1 76. Plaintiff, on behalf of herself and those similarly situated, re-allege and
2 incorporate by reference each and every allegation set forth in the preceding
3 paragraphs as though alleged in full herein.

4 77. From 2012 to the Present, Cricket represented – through in-store
5 materials and various advertising mediums – to Plaintiff and the Class that it had
6 4G/LTE Services.

7 78. Cricket knew that its 4G/LTE Services were very limited and that its
8 customers would rely upon their representations and advertisements.

9 79. Plaintiff and the proposed class did not, and could not have, known that
10 such representations and/or advertisements were false.

11 80. Plaintiff and the Class justifiably relied upon these false statements in
12 making their purchase decisions (with respect to 4G/LTE Capable Phones and
13 4G/LTE Capable Services).

14 81. As a direct and proximate result of Defendants conduct, Plaintiff and
15 the class have been damaged.

16
17 **COUNT FOUR:**

18 **UNCONSCIONABILITY and UNCONSCIONABLE CONDUCT**

19 (As to All Defendants)

20 82. Plaintiff, on behalf of herself and those similarly situated, re-allege and
21 incorporate by reference each and every allegation set forth in the preceding
22 paragraphs as though alleged in full herein.

23 83. Defendants' conduct, including advertising 4G/LTE Services while
24 knowing Cricket could not provide such services to most California consumers
25 (including Plaintiff), is unfair and unconscionable.

26 84. As a result of Defendants' unconscionable acts and/or omissions,
27 Plaintiff and the proposed class sustained damages in an amount to be determined
28

1 by this Court, including interest on all liquidated sums and reasonable attorneys'
 2 fees. Plaintiff also seeks restitution and disgorgement of profits relating to the false
 3 advertisement and offer and/or declaratory relief as may be appropriate.

4
 5 **PRAYER FOR RELIEF**

6 Plaintiff, on behalf of herself and those similarly situated, requests that the
 7 Court order relief and enter judgment against the Defendants as follows:

8 1. On **Count One** against Defendants and in favor of Plaintiff and those
 9 similarly situated:

- 10 a. For injunctive relief pursuant to California Civil Code section
 11 1780;
 12 b. [Reserved]; and
 13 c. [Reserved].

14 2. On **Count Two** against Defendants and in favor of Plaintiff and those
 15 similarly situated:

- 16 a. For restitution pursuant to, without limitation, the California
 17 Business & Professions Code sections § 17500, *et. seq.*;
 18 b. For injunctive relief pursuant to, without limitation, the
 19 California Business & Professions Code sections § 17500, *et.*
 20 *seq.*

21 3. On **Count Three** against Defendants and in favor of Plaintiff and those
 22 similarly situated: an award of compensatory damages, the amount of
 23 which is to be determined at trial.

24 4. On **Count Four** against Defendants and in favor of Plaintiff and those
 25 similarly situated: an award of compensatory damages, the amount of
 26 which is to be determined at trial.

1 5. On Counts Two, Three and Four against Defendants and in favor of
2 Plaintiff and those similarly situated:

- 3 a. Approving the Class, certifying Plaintiff as representative of the
4 Class, and designating their counsel as counsel for the Class;
5 b. Granting damages, restitution and/or disgorgement to Plaintiff
6 and the Class;
7 c. Granting compensatory damages, the amount of which is to be
8 determined at trial;
9 d. Granting punitive damages;
10 e. Granting pre and post-judgment interest;
11 f. Granting attorneys' fees and costs; and
12 g. Granting further relief as this Court may deem proper.

13
14 Dated: April 27, 2015

15
16 Respectfully submitted,

17 Attorneys for Plaintiff

18 

19 Keith A. Robinson,
20 (CSBN 126246)
21 6320 Canoga Avenue, Ste. 1500
22 Woodland Hills, CA 91367
23 Telephone: 310-849-3135
24 Facsimile:
25 keith.robinson@karlawgroup.com

26 /s/ A. Scott Waddell

27 A. Scott Waddell
28 Waddell Law Firm LLC
29 2029 Wyandotte Street, Suite 100
30 Kansas City, Missouri 64108
31 Telephone: 816-221-2555
32 Facsimile: 816-221-2508
33 scott@aswlawfirm.com
34 [To be admitted Pro Hac Vice]

35 /s/ Rex Sharp

36 Rex Sharp
37 Gunderson Sharp, LLP
38 5301 West 75th Street
39 Prairie Village, Kansas 66208
40 Telephone: 913-901-0505
41 Facsimile: 913-901-0419
42 rsharp@midwest-law.com

43 [To be admitted Pro Hac Vice]

44 /s/ Scott Shachtman

45 Scott Shachtman
46 The Shachtman Law Firm,
47 LLC
48 2029 Wyandotte, Ste. 100
49 Kansas City, MO 64108
50 Telephone: 816-221-2555
51 Facsimile: 816-221-2508

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Scott@kcmoTrialLawyer.com

[To be admitted Pro Hac Vice]

/s/ Bryce B. Bell

Bryce B. Bell

Bell Law, LLC

2029 Wyandotte, Ste. 100

Kansas City, Missouri 64108

Telephone: 816-221-2555

Facsimile: 816-221-2508

Bryce@BellLawKC.com


[To be admitted Pro Hac Vice]

JURY DEMAND

Plaintiff on behalf of herself and others similarly situated demands a trial by jury for all issues so triable under the law.

Respectfully submitted,

Dated: April 27, 2015 **KEITH A. ROBINSON, ATTORNEY AT LAW**

By: 

KEITH A. ROBINSON
Attorney for Plaintiff

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): Keith A. Robinson (CSBN 126246) 6320 Canoga Ave., Suite 1500 Woodland Hills, CA 91367		FOR COURT USE ONLY <div style="border: 1px solid black; padding: 5px; margin: 0 auto; width: 150px;"> ENDORSED FILED Superior Court of California County of San Francisco </div> MAY 01 2015 CLERK OF THE COURT BY: <u>VICTORIA GONZALEZ</u> Deputy Clerk	
TELEPHONE NO.: 310-849-3135 FAX NO.: 818-279-0604 ATTORNEY FOR (Name): Plaintiff		CASE NUMBER: CGC 15-54562 JUDGE: _____ DEPT: _____	
SUPERIOR COURT OF CALIFORNIA, COUNTY OF San Francisco STREET ADDRESS: 400 McAllister Street MAILING ADDRESS: same CITY AND ZIP CODE: San Francisco, CA 91402 BRANCH NAME: Civic Center Courthouse			
CASE NAME: Barraza v Cricket Wireless, etc., et al.			
CIVIL CASE COVER SHEET <input checked="" type="checkbox"/> Unlimited (Amount demanded exceeds \$25,000) <input type="checkbox"/> Limited (Amount demanded is \$25,000 or less)		Complex Case Designation <input type="checkbox"/> Counter <input type="checkbox"/> Joinder Filed with first appearance by defendant (Cal. Rules of Court, rule 3.402)	

Items 1-6 below must be completed (see instructions on page 2).

1. Check one box below for the case type that best describes this case:

Auto Tort <input type="checkbox"/> Auto (22) <input type="checkbox"/> Uninsured motorist (46) Other P/DPD/WD (Personal Injury/Property Damage/Wrongful Death) Tort <input type="checkbox"/> Asbestos (04) <input type="checkbox"/> Product liability (24) <input type="checkbox"/> Medical malpractice (45) <input type="checkbox"/> Other P/DPD/WD (23) Non-P/DPD/WD (Other) Tort <input type="checkbox"/> Business tort/unfair business practice (07) <input type="checkbox"/> Civil rights (08) <input type="checkbox"/> Defamation (13) <input type="checkbox"/> Fraud (16) <input type="checkbox"/> Intellectual property (19) <input type="checkbox"/> Professional negligence (25) <input checked="" type="checkbox"/> Other non-P/DPD/WD tort (35) Employment <input type="checkbox"/> Wrongful termination (36) <input type="checkbox"/> Other employment (15)	Contract <input type="checkbox"/> Breach of contract/warranty (06) <input type="checkbox"/> Rule 3.740 collections (09) <input type="checkbox"/> Other collections (09) <input type="checkbox"/> Insurance coverage (18) <input type="checkbox"/> Other contract (37) Real Property <input type="checkbox"/> Eminent domain/inverse condemnation (14) <input type="checkbox"/> Wrongful eviction (33) <input type="checkbox"/> Other real property (26) Unlawful Detainer <input type="checkbox"/> Commercial (31) <input type="checkbox"/> Residential (32) <input type="checkbox"/> Drugs (38) Judicial Review <input type="checkbox"/> Asset forfeiture (05) <input type="checkbox"/> Petition re: arbitration award (11) <input type="checkbox"/> Writ of mandate (02) <input type="checkbox"/> Other judicial review (39)	Provisionally Complex Civil Litigation (Cal. Rules of Court, rules 3.400-3.403) <input type="checkbox"/> Antitrust/Trade regulation (03) <input type="checkbox"/> Construction defect (10) <input type="checkbox"/> Mass tort (40) <input type="checkbox"/> Securities litigation (28) <input type="checkbox"/> Environmental/Toxic tort (30) <input type="checkbox"/> Insurance coverage claims arising from the above listed provisionally complex case types (41) Enforcement of Judgment <input type="checkbox"/> Enforcement of judgment (20) Miscellaneous Civil Complaint <input type="checkbox"/> RICO (27) <input type="checkbox"/> Other complaint (not specified above) (42) Miscellaneous Civil Petition <input type="checkbox"/> Partnership and corporate governance (21) <input type="checkbox"/> Other petition (not specified above) (43)
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2. This case ☒ is ☐ is not complex under rule 3.400 of the California Rules of Court. If the case is complex, mark the factors requiring exceptional judicial management:
- | | |
|--|--|
| a. <input type="checkbox"/> Large number of separately represented parties | d. <input type="checkbox"/> Large number of witnesses |
| b. <input type="checkbox"/> Extensive motion practice raising difficult or novel issues that will be time-consuming to resolve | e. <input type="checkbox"/> Coordination with related actions pending in one or more courts in other counties, states, or countries, or in a federal court |
| c. <input type="checkbox"/> Substantial amount of documentary evidence | f. <input type="checkbox"/> Substantial postjudgment judicial supervision |
3. Remedies sought (check all that apply): a. ☒ monetary b. ☒ nonmonetary; declaratory or injunctive relief c. ☒ punitive
4. Number of causes of action (specify): 4. 1. CLRA; 2. False Advertising; 3. Negl Misrepresent; 4. Unconscionability
5. This case ☒ is ☐ is not a class action suit.
6. If there are any known related cases, file and serve a notice of related case. (You may use form CM-015.)

Date: April 27, 2015

Keith A. Robinson

(TYPE OR PRINT NAME)



(SIGNATURE OF PARTY OR ATTORNEY FOR PARTY)

NOTICE

- Plaintiff must file this cover sheet with the first paper filed in the action or proceeding (except small claims cases or cases filed under the Probate Code, Family Code, or Welfare and Institutions Code). (Cal. Rules of Court, rule 3.220.) Failure to file may result in sanctions.
- File this cover sheet in addition to any cover sheet required by local court rule.
- If this case is complex under rule 3.400 et seq. of the California Rules of Court, you must serve a copy of this cover sheet on all other parties to the action or proceeding.
- Unless this is a collections case under rule 3.740 or a complex case, this cover sheet will be used for statistical purposes only.

Page 1 of 2

INSTRUCTIONS ON HOW TO COMPLETE THE COVER SHEET

To Plaintiffs and Others Filing First Papers. If you are filing a first paper (for example, a complaint) in a civil case, you must complete and file, along with your first paper, the *Civil Case Cover Sheet* contained on page 1. This information will be used to compile statistics about the types and numbers of cases filed. You must complete items 1 through 6 on the sheet. In item 1, you must check one box for the case type that best describes the case. If the case fits both a general and a more specific type of case listed in item 1, check the more specific one. If the case has multiple causes of action, check the box that best indicates the primary cause of action. To assist you in completing the sheet, examples of the cases that belong under each case type in item 1 are provided below. A cover sheet must be filed only with your initial paper. Failure to file a cover sheet with the first paper filed in a civil case may subject a party, its counsel, or both to sanctions under rules 2.30 and 3.220 of the California Rules of Court.

To Parties in Rule 3.740 Collections Cases. A "collections case" under rule 3.740 is defined as an action for recovery of money owed in a sum stated to be certain that is not more than \$25,000, exclusive of interest and attorney's fees, arising from a transaction in which property, services, or money was acquired on credit. A collections case does not include an action seeking the following: (1) tort damages, (2) punitive damages, (3) recovery of real property, (4) recovery of personal property, or (5) a prejudgment writ of attachment. The identification of a case as a rule 3.740 collections case on this form means that it will be exempt from the general time-for-service requirements and case management rules, unless a defendant files a responsive pleading. A rule 3.740 collections case will be subject to the requirements for service and obtaining a judgment in rule 3.740.

To Parties in Complex Cases. In complex cases only, parties must also use the *Civil Case Cover Sheet* to designate whether the case is complex. If a plaintiff believes the case is complex under rule 3.400 of the California Rules of Court, this must be indicated by completing the appropriate boxes in Items 1 and 2. If a plaintiff designates a case as complex, the cover sheet must be served with the complaint on all parties to the action. A defendant may file and serve no later than the time of its first appearance a joinder in the plaintiff's designation, a counter-designation that the case is not complex, or, if the plaintiff has made no designation, a designation that the case is complex.

CASE TYPES AND EXAMPLES**Auto Tort**

Auto (22)—Personal Injury/Property Damage/Wrongful Death
Uninsured Motorist (46) *(if the case involves an uninsured motorist claim subject to arbitration, check this item instead of Auto)*

Other PVPD/WD (Personal Injury/Property Damage/Wrongful Death) Tort

Asbestos (04)
Asbestos Property Damage
Asbestos Personal Injury/Wrongful Death
Product Liability *(not asbestos or toxic/environmental)* (24)
Medical Malpractice (45)
Medical Malpractice—Physicians & Surgeons
Other Professional Health Care Malpractice
Other PVPD/WD (23)
Premises Liability (e.g., slip and fall)
Intentional Bodily Injury/PD/WD (e.g., assault, vandalism)
Intentional Infliction of Emotional Distress
Negligent Infliction of Emotional Distress
Other PVPD/WD

Non-PVPD/WD (Other) Tort

Business Tort/Unfair Business Practice (07)
Civil Rights (e.g., discrimination, false arrest) *(not civil harassment)* (08)
Defamation (e.g., slander, libel) (13)
Fraud (16)
Intellectual Property (19)
Professional Negligence (25)
Legal Malpractice
Other Professional Malpractice *(not medical or legal)*
Other Non-PVPD/WD Tort (35)

Employment

Wrongful Termination (36)
Other Employment (15)

Contract

Breach of Contract/Warranty (06)
Breach of Rental/Lease
Contract *(not unlawful detainer or wrongful eviction)*
Contract/Warranty Breach—Seller
Plaintiff *(not fraud or negligence)*
Negligent Breach of Contract/Warranty
Other Breach of Contract/Warranty
Collections (e.g., money owed, open book accounts) (09)
Collection Case—Seller Plaintiff
Other Promissory Note/Collections Case
Insurance Coverage *(not provisionally complex)* (18)
Auto Subrogation
Other Coverage
Other Contract (37)
Contractual Fraud
Other Contract Dispute

Real Property

Eminent Domain/Inverse Condemnation (14)
Wrongful Eviction (33)
Other Real Property (e.g., quiet title) (28)
Writ of Possession of Real Property
Mortgage Foreclosure
Quiet Title
Other Real Property *(not eminent domain, landlord/tenant, or foreclosure)*

Unlawful Detainer

Commercial (31)
Residential (32)
Drugs (38) *(if the case involves illegal drugs, check this item; otherwise, report as Commercial or Residential)*

Judicial Review

Asset Forfeiture (05)
Petition Re: Arbitration Award (11)
Writ of Mandate (02)
Writ—Administrative Mandamus
Writ—Mandamus on Limited Court Case Matter
Writ—Other Limited Court Case Review
Other Judicial Review (39)
Review of Health Officer Order
Notice of Appeal—Labor Commissioner Appeals

Provisionally Complex Civil Litigation (Cal. Rules of Court Rules 3.400–3.403)

Antitrust/Trade Regulation (03)
Construction Defect (10)
Claims Involving Mass Tort (40)
Securities Litigation (28)
Environmental/Toxic Tort (30)
Insurance Coverage Claims *(arising from provisionally complex case type listed above)* (41)

Enforcement of Judgment

Enforcement of Judgment (20)
Abstract of Judgment (Out of County)
Confession of Judgment *(non-domestic relations)*
Sister State Judgment
Administrative Agency Award *(not unpaid taxes)*
Petition/Certification of Entry of Judgment on Unpaid Taxes
Other Enforcement of Judgment Case

Miscellaneous Civil Complaint

RICO (27)
Other Complaint *(not specified above)* (42)
Declaratory Relief Only
Injunctive Relief Only *(non-harassment)*
Mechanics Lien
Other Commercial Complaint Case *(non-tort/non-complex)*
Other Civil Complaint *(non-tort/non-complex)*

Miscellaneous Civil Petition

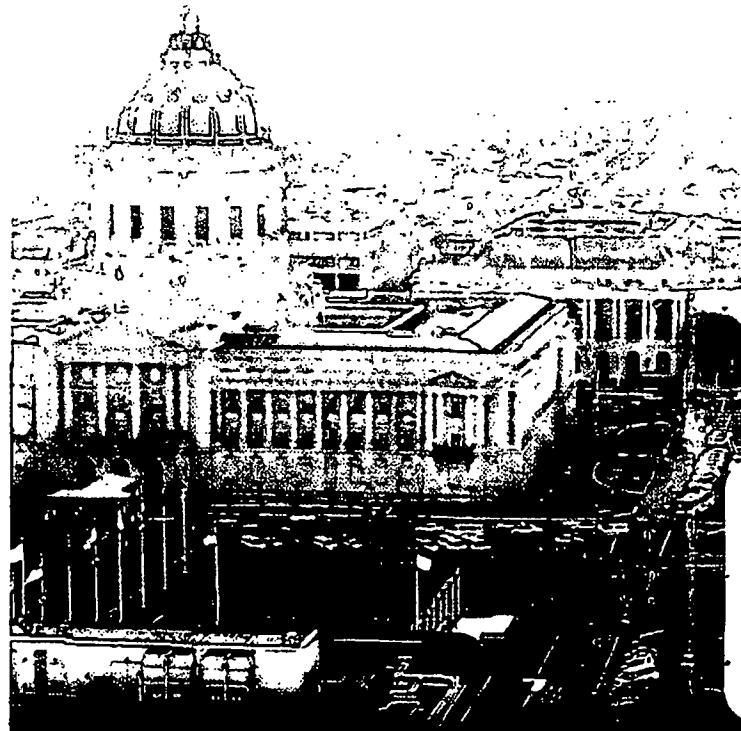
Partnership and Corporate Governance (21)
Other Petition *(not specified above)* (43)
Civil Harassment
Workplace Violence
Elder/Dependent Adult Abuse
Election Contest
Petition for Name Change
Petition for Relief From Late Claim
Other Civil Petition

The Early Settlement Program:

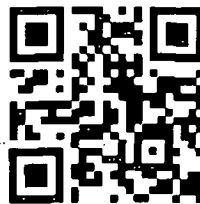
- ▶ Helps you resolve cases **quickly** and **economically**
- ▶ Has been a trusted program for over **20 years**
- ▶ Boasts a **78% settlement** rate and **97% satisfaction** rate

Early Settlement provides:

- ▶ Panels of experienced trial attorneys (all with at least **10 years of experience**)
- ▶ **Three free hours** of settlement conference time per case, including one hour of preparation time
- ▶ Panelists who are matched with the case's type of law
- ▶ **Low administrative fee** of \$295/party, capped at \$590 for parties represented by the same counsel



Learn more about the Early Settlement Program—scan the QRCode or visit www.sfbar.org/adr/esp



FAST

Do you have a case filed in San Francisco Superior Court and want to settle sooner than your trial date?

Want a settlement option with less stress and cost than trial?

Want the skills of experienced panelists in arriving at a realistic, satisfying settlement?

Consider The Bar Association
of San Francisco's

**Early
Settlement
Program**

What is ESP?

The Bar Association of San Francisco's **Early Settlement Program (ESP)** is available as one of San Francisco Superior Court's Alternative Dispute Resolution (ADR) programs (Local Rule 4.3).

ESP is a **highly successful** ADR program that handles cases in areas of law such as business, personal injury, employment, labor, civil rights, discrimination, insurance, malpractice, landlord/tenant, and many others.

ESP is **unique** in that the panelists, in helping you move toward settlement, can provide you confidential feedback about their evaluation of your case, including opinions as to potential case value.

For more information as well as the complete Policies & Procedures, go to: **www.sfbar.org/esp**

Who are the Panelists?

They are experienced attorneys with at least **10 years** of trial experience. Panels consist of one plaintiff and one defense attorney. Sometimes an attorney who is experienced in both types of representation serves as a solo panelist.

Costs

There is a \$295 administrative fee per party, capped at \$590 for multiple parties represented by the same attorney, to pay for the cost of running this program. If you have a fee waiver with the Superior Court, your fee will be waived by the ESP program.

Contact

- **email esp@sfbar.org**
- **phone: 415-982-1600**
- **fax: 415-989-0381**

Steps

The forms you need can be found at **www.sfbar.org/esp**, or email adr@sfbar.org or call 415-782-8905 for a packet to be sent to you.

- ① Please complete the ESP Agreement and return it to BASF via email at adr@sfbar.org or by fax to 415-989-0381. You don't have to get the other parties to sign, just send yours.
- ② When all parties have signed the ESP Agreement, you will be sent the Notice of ESP, along with an invoice.
- ③ There is a \$295 administrative fee per party, with a cap of \$590 for multiple parties represented by the same attorney. You can pay by check, money order or credit card.
- ④ Send your administrative fee by fax, email or mail to: BASF / ESP, 301 Battery Street, Third Floor, San Francisco, California 94111.
- ⑤ When BASF receives the fees from all parties, your matter will be assigned to a panelist (or panel of 2), who you will work with to set the date, time and location for your conference.
- ⑥ If you must reschedule your ESP conference date, work with the other side and your panelist(s) to set the new date. BASF does not need to be notified.
- ⑦ Before your conference, provide a copy of your description of the dispute to all parties and panelists. BASF does not need a copy.
- ⑧ If the matter is settled in your ESP conference, congratulations!
- ⑨ If the matter is not settled in your ESP conference, your initial court date remains the same.

Experienced mediators are
available in the following areas

Business
Civil Rights
Commercial
Construction
Contracts
Disability
Discrimination
Education
Employment/Workplace
Environmental
Family
Family-Certified Specialists
Fee Disputes
Financial
Government
Insurance
Intellectual Property
Intra-Organizational
Labor
Landlord/Tenant
Land Use
LGBT Issues
Malpractice: Legal-Medical-Professional
Partnership Dissolutions
Personal Injury
Probate/Trust
Products Liability
Real Estate
Securities
Taxation
Uninsured Motorist
And more...

TESTIMONIALS

"This was the third attempt to mediate this case, and the BASF mediator was far and away the best mediator. I dare say that we would not have settled today but for his efforts."

George Yuhas, Esq.
Orrick, Herrington & Sutcliffe LLP

"We had an excellent experience and, after 8 1/2 hours of mediation, [the BASF mediator] settled a very difficult case involving claims against four clients of ours by a wealthy investor who claimed inadequate disclosure was made."

Robert Charles Friese, Esq.
Shartsis Friese LLP

"When the other side made their offer, I thought there was no way we would reach an agreement – we were too far apart, but the mediator brought us together. He saved me a lot of time and aggravation by facilitating a settlement. Thanks!"

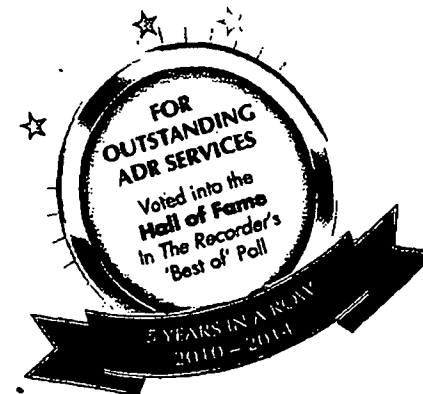
Leslie Caplan
Global Warming Campaign Manager
Bluewater Network

"BASF staff was very helpful – stayed on the task and kept after a hard to reach party. The mediator was great!"

Mark Abelson, Esq.
Campagnoli, Abelson & Campagnoli

"The [BASF] mediator was excellent! He was effective with some strong, forceful personalities."

Denise A. Leadbetter, Esq.
Zacks, Utrecht & Leadbetter



MEDIATION SERVICES



PROCEDURES, PODCASTS,
FORMS, MEDIATOR BIOGRAPHIES
AND PHOTOGRAPHS:
www.sfbar.org/mediation

adr@sfbar.org or
415-982-1600



THE BAR ASSOCIATION OF
SAN FRANCISCO

QUALITY**WHAT IS BASF'S
MEDIATION SERVICE?**

The Bar Association of San Francisco's Mediation Services is a private mediation service which will assist you with almost any type of dispute, from simple contract disputes to complex commercial matters.

WHO ARE THE MEDIATORS?

They are established mediators who have private mediation practices and have met our extensive experience requirements. By going through BASF you receive the services of these highly qualified mediators at a great value.

**HOW DO I LEARN MORE
ABOUT THE MEDIATORS?**

BASF's website at www.sfbar.org/mediation provides bios, photos and hourly rates of mediators. You can search by name or by area of law needed for your case. BASF staff is always available to assist you with selection or to answer questions.

**HOW MUCH DOES
THE SERVICE COST?**

A \$295 per party administrative fee is paid to BASF at the time the Consent to Mediate form is filed. This fee covers the first hour of mediator preparation time and the first two hours of session time. Time beyond that is paid at the mediator's normal hourly rate.

EXPERIENCE**HOW IS THE
MEDIATOR CHOSEN?**

You may request a specific mediator from our website (www.sfbar.org/mediation) and indicate your choice on the BASF Consent to Mediate form, or you may indicate on the form that you would like BASF staff to assist with the selection.

**WHY SHOULD I GO THROUGH BASF?
CAN'T I JUST CALL THE
MEDIATOR DIRECTLY?**

BASF mediators have agreed to provide three free hours as a service to BASF. If you go directly to one of our mediators, you do not qualify for the free hours unless you notify us. Once you have filed with us, you will talk directly to the mediator to ask questions and to set a convenient mediation date and time.

**HOW LONG IS THE
MEDIATION SESSION?**

The time spent in mediation will vary depending on your dispute. BASF mediators are dedicated to reaching a settlement, whether you need a few hours or several days.

WHO CAN USE THE SERVICE?

BASF mediation can be utilized by anyone and is NOT limited to San Francisco residents or issues. Also, the service may be used before a court action is filed or at any time during a court action.

TRUST**OUR CASE IS FILED IN COURT. HOW DO
WE USE BASF'S MEDIATION SERVICES?**

When you file the San Francisco Superior Court's Stipulation to ADR form, check the box indicating "Mediation Services of BASF." Then complete BASF's Consent to Mediate form found on our website and file it with us. (If the matter was filed in a different county, please check with that court for the appropriate process.)

**WE ARE ON A DEADLINE;
HOW QUICKLY CAN WE MEDIATE?**

Once all parties have filed all the paperwork, BASF can normally have you in touch with the mediator within a day or two. If there is a deadline, BASF staff will give the matter top priority.

**WHAT TYPES OF DISPUTES
CAN I MEDIATE?**

BASF mediators are trained in 30+ areas of law. If you don't see the area you need on our website or in this brochure, contact us; it is very likely we can match your need with one of our panelists.

MORE INFORMATION

Visit our website (www.sfbar.org/mediation) where you can search by name or by area of law. For personal assistance, please call 415-982-1600.



Superior Court of California, County of San Francisco
Alternative Dispute Resolution
Program Information Package



The plaintiff must serve a copy of the ADR information package on each defendant along with the complaint. (CRC 3.221(c))

WHAT IS ADR?

Alternative Dispute Resolution (ADR) is the term used to describe the various options available for settling a dispute without a trial. There are many different ADR processes, the most common forms of which are mediation, arbitration and settlement conferences. In ADR, trained, impartial people decide disputes or help parties decide disputes themselves. They can help parties resolve disputes without having to go to court.

WHY CHOOSE ADR?

"It is the policy of the Superior Court that every noncriminal, nonjuvenile case participate either in an early settlement conference, mediation, arbitration, early neutral evaluation or some other alternative dispute resolution process prior to trial." (Local Rule 4)

ADR can have a number of advantages over traditional litigation:

- **ADR can save time.** A dispute often can be resolved in a matter of months, even weeks, through ADR, while a lawsuit can take years.
- **ADR can save money,** including court costs, attorney fees, and expert fees.
- **ADR encourages participation.** The parties may have more opportunities to tell their story than in court and may have more control over the outcome of the case.
- **ADR is more satisfying.** For all the above reasons, many people participating in ADR have reported a high degree of satisfaction.

HOW DO I PARTICIPATE IN ADR?

Litigants may elect to participate in ADR at any point in a case. General civil cases may voluntarily enter into the court's ADR programs by any of the following means:

- Filing a Stipulation to ADR: Complete and file the Stipulation form (attached to this packet) at the clerk's office located at 400 McAllister Street, Room 103;
- Indicating your ADR preference on the Case Management Statement (also attached to this packet); or
- Contacting the court's ADR office (see below) or the Bar Association of San Francisco's ADR Services at 415-782-8905 or www.sfbabar.org/adr for more information.

For more information about ADR programs or dispute resolution alternatives, contact:

Superior Court Alternative Dispute Resolution
400 McAllister Street, Room 103, San Francisco, CA 94102
415-551-3869

Or, visit the court ADR website at www.sfsuperiorcourt.org

The San Francisco Superior Court offers different types of ADR processes for general civil matters; each ADR program is described in the subsections below:

1) SETTLEMENT CONFERENCES

The goal of settlement conferences is to provide participants an opportunity to reach a mutually acceptable settlement that resolves all or part of a dispute early in the litigation process.

(A) THE BAR ASSOCIATION OF SAN FRANCISCO (BASF) EARLY SETTLEMENT PROGRAM (ESP): ESP remains as one of the Court's ADR programs (see Local Rule 4.3) but parties must select the program – the Court no longer will order parties into ESP.

Operation: Panels of pre-screened attorneys (one plaintiff, one defense counsel) each with at least 10 years' trial experience provide a minimum of two hours of settlement conference time, including evaluation of strengths and weakness of a case and potential case value. On occasion, a panelist with extensive experience in both plaintiff and defense roles serves as a sole panelist. BASF handles notification to all parties, conflict checks with the panelists, and full case management. The success rate for the program is 78% and the satisfaction rate is 97%. Full procedures are at: www.sfbar.org/esp.

Cost: BASF charges an administrative fee of \$295 per party with a cap of \$590 for parties represented by the same counsel. Waivers are available to those who qualify. For more information, call Marilyn King at 415-782-8905, email adr@sfbar.org or see enclosed brochure.

(B) MANDATORY SETTLEMENT CONFERENCES: Parties may elect to apply to the Presiding Judge's department for a specially-set mandatory settlement conference. See Local Rule 5.0 for further instructions. Upon approval of the Presiding Judge, the court will schedule the conference and assign the case for a settlement conference.

2) MEDIATION

Mediation is a voluntary, flexible, and confidential process in which a neutral third party facilitates negotiations. The goal of mediation is to reach a mutually satisfactory agreement that resolves all or part of a dispute after exploring the interests, needs, and priorities of the parties in light of relevant evidence and the law.

(A) MEDIATION SERVICES OF THE BAR ASSOCIATION OF SAN FRANCISCO, in cooperation with the Superior Court, is designed to help civil litigants resolve disputes before they incur substantial costs in litigation. While it is best to utilize the program at the outset of litigation, parties may use the program at any time while a case is pending.

Operation: Experienced professional mediators, screened and approved, provide one hour of preparation time and the first two hours of mediation time. Mediation time beyond that is charged at the mediator's hourly rate. BASF pre-screens all mediators based upon strict educational and experience requirements. Parties can select their mediator from the panels at www.sfbar.org/mediation or BASF can assist with mediator selection. The BASF website contains photographs, biographies, and videos of the mediators as well as testimonials to assist with the selection process. BASF staff handles conflict checks and full case management. Mediators work with parties to arrive at a mutually agreeable solution. The success rate for the program is 64% and the satisfaction rate is 99%.

Cost: BASF charges an administrative fee of \$295 per party. The hourly mediator fee beyond the first three hours will vary depending on the mediator selected. Waivers of the administrative fee are available to those who qualify. For more information, call Marilyn King at 415-782-8905, email adr@sfbar.org or see the enclosed brochure.

(B) JUDICIAL MEDIATION provides mediation with a San Francisco Superior Court judge for civil cases, which include but are not limited to, personal injury, construction defect, employment, professional malpractice, insurance coverage, toxic torts and industrial accidents. Parties may utilize this program at anytime throughout the litigation process.

Operation: Parties interested in judicial mediation should file a Stipulation to Judicial Mediation indicating a joint request for inclusion in the program. A preference for a specific judge may be indicated. The court will coordinate assignment of cases for the program. There is no charge for the Judicial Mediation program.

(C) PRIVATE MEDIATION: Although not currently a part of the court's ADR program, parties may elect any private mediator of their choice; the selection and coordination of private mediation is the responsibility of the parties. Parties may find mediators and organizations on the Internet. The cost of private mediation will vary depending on the mediator selected.

3) ARBITRATION

An arbitrator is neutral attorney who presides at a hearing where the parties present evidence through exhibits and testimony. The arbitrator applies the law to the facts of the case and makes an award based upon the merits of the case.

(A) JUDICIAL ARBITRATION: When the court orders a case to arbitration it is called "judicial arbitration". The goal of arbitration is to provide parties with an adjudication that is earlier, faster, less formal, and usually less expensive than a trial.

Operation: Pursuant to CCP 1141.11, all civil actions in which the amount in controversy is \$50,000 or less, and no party seeks equitable relief, shall be ordered to arbitration. (Upon stipulation of all parties, other civil matters may be submitted to judicial arbitration.) An arbitrator is chosen from the court's arbitration panel. Arbitrations are generally held between 7 and 9 months after a complaint has been filed. Judicial arbitration is not binding unless all parties agree to be bound by the arbitrator's decision. Any party may request a trial within 60 days after the arbitrator's award has been filed. Local Rule 4.2 allows for mediation in lieu of judicial arbitration, so long as the parties file a stipulation to mediate after the filing of a complaint. There is no cost to the parties for judicial arbitration.

(B) PRIVATE ARBITRATION: Although not currently a part of the court's ADR program, civil disputes may also be resolved through private arbitration. Here, the parties voluntarily consent to arbitration. If all parties agree, private arbitration may be binding and the parties give up the right to judicial review of the arbitrator's decision. In private arbitration, the parties select a private arbitrator and are responsible for paying the arbitrator's fees.

TO PARTICIPATE IN ANY OF THE COURT'S ADR PROGRAMS, PLEASE COMPLETE THE ATTACHED STIPULATION TO ADR AND SUBMIT IT TO THE COURT. YOU MUST ALSO CONTACT BASF TO ENROLL IN THE LISTED BASF PROGRAMS. THE COURT DOES NOT FORWARD COPIES OF STIPULATIONS TO BASF.



Superior Court of California County of San Francisco



HON. JOHN K. STEWART
PRESIDING JUDGE

Judicial Mediation Program

JENIFFER B. ALCANTARA
ADR ADMINISTRATOR

The Judicial Mediation program offers mediation in civil litigation with a San Francisco Superior Court judge familiar with the area of the law that is the subject of the controversy. Cases that will be considered for participation in the program include, but are not limited to personal injury, professional malpractice, construction, employment, insurance coverage disputes, mass torts and complex commercial litigation. Judicial Mediation offers civil litigants the opportunity to engage in early mediation of a case shortly after filing the complaint in an effort to resolve the matter before substantial funds are expended. This program may also be utilized at anytime throughout the litigation process. The panel of judges currently participating in the program includes:

The Honorable Michael I. Begert
The Honorable Suzanne R. Bolanos
The Honorable Angela Bradstreet
The Honorable Andrew Y.S. Cheng
The Honorable Samuel K. Feng
The Honorable Charles F. Haines

The Honorable Harold E. Kahn
The Honorable Curtis E.A. Karnow
The Honorable Charlene P. Kiesselbach
The Honorable James Robertson, II
The Honorable Richard B. Ulmer, Jr.
The Honorable Mary E. Wiss

Parties interested in Judicial Mediation should file a Stipulation to Judicial Mediation indicating a joint request for inclusion in the program and deliver a courtesy copy to Department 610. A preference for a specific judge may be indicated on the request, and although not guaranteed, every effort will be made to fulfill the parties' choice. Please allow at least 30 days from the filing of the form to receive the notice of assignment. The court's Alternative Dispute Resolution Administrator will facilitate assignment of cases that qualify for the program.

Note: Space and availability is limited. Submission of a stipulation to Judicial Mediation does *not* guarantee inclusion in the program. You will receive written notification from the court as to the outcome of your application.

Alternative Dispute Resolution
400 McAllister Street, Room 103, San Francisco, CA 94102
(415) 551-3869

ATTORNEY OR PARTY WITHOUT ATTORNEY (<i>Name and address</i>) TELEPHONE NO.: ATTORNEY FOR (<i>Name</i>):	FOR COURT USE ONLY
SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN FRANCISCO 400 McAllister Street San Francisco, CA 94102-4514	
PLAINTIFF/PETITIONER: DEFENDANT/RESPONDENT:	
STIPULATION TO ALTERNATIVE DISPUTE RESOLUTION (ADR)	CASE NUMBER: DEPARTMENT 610

1) The parties hereby stipulate that this action shall be submitted to the following ADR process:

- ☐ **Early Settlement Program of the Bar Association of San Francisco (BASF) -** Pre-screened experienced attorneys provide a minimum of 2 hours of settlement conference time for a BASF administrative fee of \$295 per party. Waivers are available to those who qualify. BASF handles notification to all parties, conflict checks with the panelists, and full case management. www.sfbbar.org/esp
- ☐ **Mediation Services of BASF -** Experienced professional mediators, screened and approved, provide one hour of preparation and the first two hours of mediation time for a BASF administrative fee of \$295 per party. Mediation time beyond that is charged at the mediator's hourly rate. Waivers of the administrative fee are available to those who qualify. BASF assists parties with mediator selection, conflicts checks and full case management. www.sfbbar.org/mediation
- ☐ **Private Mediation -** Mediators and ADR provider organizations charge by the hour or by the day, current market rates. ADR organizations may also charge an administrative fee. Parties may find experienced mediators and organizations on the Internet.
- ☐ **Judicial Arbitration -** Non-binding arbitration is available to cases in which the amount in controversy is \$50,000 or less and no equitable relief is sought. The court appoints a pre-screened arbitrator who will issue an award. There is no fee for this program. www.sfsuperiorcourt.org
- ☐ **Judicial Mediation -** The Judicial Mediation program offers mediation in civil litigation with a San Francisco Superior Court judge familiar with the area of the law that is the subject of the controversy. There is no fee for this program. www.sfsuperiorcourt.org

Judge Requested (see list of Judges currently participating in the program): _____

Date range requested for Judicial Mediation (from the filing of stipulation to Judicial Mediation):

- ☐
- 30-90 days
- ☐
- 90-120 days
- ☐
- Other (please specify) _____

- ☐ Other ADR process (describe) _____

2) The parties agree that the ADR Process shall be completed by (date): _____

3) Plaintiff(s) and Defendant(s) further agree as follows:

Name of Party Stipulating

Name of Party Stipulating

Name of Party or Attorney Executing Stipulation

Name of Party or Attorney Executing Stipulation

Signature of Party or Attorney

Signature of Party or Attorney

☐ Plaintiff ☐ Defendant ☐ Cross-defendant☐ Plaintiff ☐ Defendant ☐ Cross-defendant

Dated: _____

Dated: _____

☐ **Additional signature(s) attached**

CM-110

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): TELEPHONE NO.: _____ FAX NO. (Optional): _____ E-MAIL ADDRESS (Optional): _____ ATTORNEY FOR (Name): _____	FOR COURT USE ONLY
SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	
PLAINTIFF/PETITIONER: DEFENDANT/RESPONDENT:	
CASE MANAGEMENT STATEMENT (Check one): <input type="checkbox"/> UNLIMITED CASE (Amount demanded exceeds \$25,000) <input type="checkbox"/> LIMITED CASE (Amount demanded is \$25,000 or less)	
CASE NUMBER:	
A CASE MANAGEMENT CONFERENCE is scheduled as follows: Date: _____ Time: _____ Dept.: _____ Div.: _____ Room: _____ Address of court (if different from the address above): _____ <input type="checkbox"/> Notice of Intent to Appear by Telephone, by (name): _____	

INSTRUCTIONS: All applicable boxes must be checked, and the specified information must be provided.

1. **Party or parties (answer one):**
 - a. ☐ This statement is submitted by party (name):
 - b. ☐ This statement is submitted jointly by parties (names):

2. **Complaint and cross-complaint (to be answered by plaintiffs and cross-complainants only)**
 - a. The complaint was filed on (date):
 - b. ☐ The cross-complaint, if any, was filed on (date):

3. **Service (to be answered by plaintiffs and cross-complainants only)**
 - a. ☐ All parties named in the complaint and cross-complaint have been served, have appeared, or have been dismissed.
 - b. ☐ The following parties named in the complaint or cross-complaint
 - (1) ☐ have not been served (specify names and explain why not):
 - (2) ☐ have been served but have not appeared and have not been dismissed (specify names):
 - (3) ☐ have had a default entered against them (specify names):
 - c. ☐ The following additional parties may be added (specify names, nature of involvement in case, and date by which they may be served):

4. **Description of case**
 - a. Type of case in ☐ complaint ☐ cross-complaint (Describe, including causes of action):

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PLAINTIFF/PETITIONER:	CASE NUMBER:
DEFENDANT/RESPONDENT:	

4. b. Provide a brief statement of the case, including any damages. (If personal injury damages are sought, specify the injury and damages claimed, including medical expenses to date [indicate source and amount], estimated future medical expenses, lost earnings to date, and estimated future lost earnings. If equitable relief is sought, describe the nature of the relief.)

☐ (If more space is needed, check this box and attach a page designated as Attachment 4b.)

5. Jury or nonjury trial

The party or parties request ☐ a jury trial ☐ a nonjury trial. (If more than one party, provide the name of each party requesting a jury trial):

6. Trial date

- a. ☐ The trial has been set for (date):
 b. ☐ No trial date has been set. This case will be ready for trial within 12 months of the date of the filing of the complaint (if not, explain):

c. Dates on which parties or attorneys will not be available for trial (specify dates and explain reasons for unavailability):

7. Estimated length of trial

The party or parties estimate that the trial will take (check one):

- a. ☐ days (specify number):
 b. ☐ hours (short causes) (specify):

8. Trial representation (to be answered for each party)

The party or parties will be represented at trial ☐ by the attorney or party listed in the caption ☐ by the following:

- a. Attorney:
 b. Firm:
 c. Address:
 d. Telephone number:
 e. E-mail address:
 f. Fax number:
 g. Party represented:
☐ Additional representation is described in Attachment 8.

9. Preference

☐ This case is entitled to preference (specify code section):

10. Alternative dispute resolution (ADR)

- a. ADR Information package. Please note that different ADR processes are available in different courts and communities; read the ADR information package provided by the court under rule 3.221 for information about the processes available through the court and community programs in this case.

(1) For parties represented by counsel: Counsel ☐ has ☐ has not provided the ADR Information package identified in rule 3.221 to the client and reviewed ADR options with the client.

(2) For self-represented parties: Party ☐ has ☐ has not reviewed the ADR information package identified in rule 3.221.

b. Referral to judicial arbitration or civil action mediation (if available).

(1) ☐ This matter is subject to mandatory judicial arbitration under Code of Civil Procedure section 1141.11 or to civil action mediation under Code of Civil Procedure section 1775.3 because the amount in controversy does not exceed the statutory limit.

(2) ☐ Plaintiff elects to refer this case to judicial arbitration and agrees to limit recovery to the amount specified in Code of Civil Procedure section 1141.11.

(3) ☐ This case is exempt from judicial arbitration under rule 3.811 of the California Rules of Court or from civil action mediation under Code of Civil Procedure section 1775 et seq. (specify exemption):

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PLAINTIFF/PETITIONER:	CASE NUMBER:
DEFENDANT/RESPONDENT:	

10. c. Indicate the ADR process or processes that the party or parties are willing to participate in, have agreed to participate in, or have already participated in (check all that apply and provide the specified information):

	The party or parties completing this form are willing to participate in the following ADR processes (check all that apply):	If the party or parties completing this form in the case have agreed to participate in or have already completed an ADR process or processes, indicate the status of the processes (attach a copy of the parties' ADR stipulation):
(1) Mediation	<input type="checkbox"/>	<input type="checkbox"/> Mediation session not yet scheduled <input type="checkbox"/> Mediation session scheduled for (date): <input type="checkbox"/> Agreed to complete mediation by (date): <input type="checkbox"/> Mediation completed on (date):
(2) Settlement conference	<input type="checkbox"/>	<input type="checkbox"/> Settlement conference not yet scheduled <input type="checkbox"/> Settlement conference scheduled for (date): <input type="checkbox"/> Agreed to complete settlement conference by (date): <input type="checkbox"/> Settlement conference completed on (date):
(3) Neutral evaluation	<input type="checkbox"/>	<input type="checkbox"/> Neutral evaluation not yet scheduled <input type="checkbox"/> Neutral evaluation scheduled for (date): <input type="checkbox"/> Agreed to complete neutral evaluation by (date): <input type="checkbox"/> Neutral evaluation completed on (date):
(4) Nonbinding judicial arbitration	<input type="checkbox"/>	<input type="checkbox"/> Judicial arbitration not yet scheduled <input type="checkbox"/> Judicial arbitration scheduled for (date): <input type="checkbox"/> Agreed to complete judicial arbitration by (date): <input type="checkbox"/> Judicial arbitration completed on (date):
(5) Binding private arbitration	<input type="checkbox"/>	<input type="checkbox"/> Private arbitration not yet scheduled <input type="checkbox"/> Private arbitration scheduled for (date): <input type="checkbox"/> Agreed to complete private arbitration by (date): <input type="checkbox"/> Private arbitration completed on (date):
(6) Other (specify):	<input type="checkbox"/>	<input type="checkbox"/> ADR session not yet scheduled <input type="checkbox"/> ADR session scheduled for (date): <input type="checkbox"/> Agreed to complete ADR session by (date): <input type="checkbox"/> ADR completed on (date):

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PLAINTIFF/PETITIONER:	CASE NUMBER:
DEFENDANT/RESPONDENT:	

11. Insurance

- a. ☐ Insurance carrier, if any, for party filing this statement (*name*):
- b. Reservation of rights: ☐ Yes ☐ No
- c. ☐ Coverage issues will significantly affect resolution of this case (*explain*):

12. Jurisdiction

Indicate any matters that may affect the court's jurisdiction or processing of this case and describe the status.

☐ Bankruptcy ☐ Other (*specify*):

Status:

13. Related cases, consolidation, and coordination

- a. ☐ There are companion, underlying, or related cases.
- (1) Name of case:
- (2) Name of court:
- (3) Case number:
- (4) Status:
- ☐ Additional cases are described in Attachment 13a.
- b. ☐ A motion to ☐ consolidate ☐ coordinate will be filed by (*name party*):

14. Bifurcation

- ☐ The party or parties intend to file a motion for an order bifurcating, severing, or coordinating the following issues or causes of action (*specify moving party, type of motion, and reasons*):

15. Other motions

- ☐ The party or parties expect to file the following motions before trial (*specify moving party, type of motion, and issues*):

16. Discovery

- a. ☐ The party or parties have completed all discovery.
- b. ☐ The following discovery will be completed by the date specified (*describe all anticipated discovery*):
- | <u>Party</u> | <u>Description</u> | <u>Date</u> |
|--------------|--------------------|-------------|
|--------------|--------------------|-------------|

- c. ☐ The following discovery issues, including issues regarding the discovery of electronically stored information, are anticipated (*specify*):

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PLAINTIFF/PETITIONER:	CASE NUMBER:
DEFENDANT/RESPONDENT:	

17. Economic litigation

- a. ☐ This is a limited civil case (i.e., the amount demanded is \$25,000 or less) and the economic litigation procedures in Code of Civil Procedure sections 90-98 will apply to this case.
- b. ☐ This is a limited civil case and a motion to withdraw the case from the economic litigation procedures or for additional discovery will be filed (if checked, explain specifically why economic litigation procedures relating to discovery or trial should not apply to this case):

18. Other issues

- ☐ The party or parties request that the following additional matters be considered or determined at the case management conference (specify):

19. Meet and confer

- a. ☐ The party or parties have met and conferred with all parties on all subjects required by rule 3.724 of the California Rules of Court (if not, explain):
- b. After meeting and conferring as required by rule 3.724 of the California Rules of Court, the parties agree on the following (specify):

20. Total number of pages attached (if any): _____

I am completely familiar with this case and will be fully prepared to discuss the status of discovery and alternative dispute resolution, as well as other issues raised by this statement, and will possess the authority to enter into stipulations on these issues at the time of the case management conference, including the written authority of the party where required.

Date:

(TYPE OR PRINT NAME)



(SIGNATURE OF PARTY OR ATTORNEY)

(TYPE OR PRINT NAME)



(SIGNATURE OF PARTY OR ATTORNEY)

☐ Additional signatures are attached.



Superior Court of California County of San Francisco

Expedited Jury Trial Information Sheet

What is an expedited jury trial?

An expedited jury trial is a trial that is much faster and has a smaller jury than a traditional jury trial. An expedited jury trial differs from a regular jury trial in several ways:

- **The trial will be shorter.** Each side has 3 hours to make opening statements, present witnesses and evidence, and make closing statements.
- **The jury will be smaller.** There will be 8 jurors instead of 12.
- **Choosing the jury will be faster.** The parties will exercise fewer preemptory challenges.
- **Parties will waive some post trial motions and rights to appeal.** Appeals are allowed only if there is: (1) Misconduct of the judicial officer that materially affected substantial rights of a party; (2) Jury misconduct; or (3) Corruption or fraud or some other bad act that prevented a fair trial.

In addition, parties may not ask the judge to set the jury verdict aside, except on those same grounds.

Does the jury have to reach a unanimous decision?

No. Just as in a traditional civil jury trial, only three-quarters of the jury must agree in order to reach a decision in an expedited jury trial. With 8 people on the jury, that means that at least 6 of the jurors must agree on the verdict in an expedited jury trial.

Is the decision of the jury binding on the parties?

Generally, yes. A verdict from a jury in an expedited jury trial is like a verdict in a traditional jury trial. However, parties who take part in expedited jury trials are allowed to make an agreement before the trial that guarantees that the defendant will pay a certain amount to the plaintiff even if the jury decides on a lower payment or no payment. That agreement may also impose a cap, or maximum, on the highest amount that a defendant has to pay, even if the jury decides on a higher amount. These agreements are commonly known as "high/low agreements."

How do I qualify for an expedited jury trial?

The process can be used in any civil case. To have an expedited jury trial, both sides must want one. Each side must agree that it will use only three hours to put on its case and agree to the other rules described above. This agreement must be put in writing in a Stipulation and submitted along with a Proposed Consent Order Granting an Expedited Jury Trial, which is given to the court for approval. The court will usually agree to the Consent Order.

How do I request an expedited jury trial?

To have an expedited jury trial, both sides must submit a Stipulation and Proposed Consent Order for Expedited Jury Trial to the court for approval. This may happen at three stages of litigation:

- 1) **At Filing and Prior to Setting of a Trial Date:** Parties may submit a Stipulation to Expedited Jury Trial to Dept. 610 using the attached short form (see below). Parties must

also submit a Proposed Consent Order for Expedited Jury Trial to Dept. 610.

2) **After a Trial Date has been Set:** Parties submit a Stipulation and Proposed Consent Order for Expedited Jury Trial directly to Dept. 206 at least 30 days prior to the assigned trial date.

3) **After Trial Assignment:** A Proposed Consent Order for Expedited Jury Trial may be submitted immediately to the assigned trial department not less than 30 days prior to the assigned trial date.

Also, after a case is assigned to a particular judge for trial, the parties may ask the trial judge to have an Expedited Jury Trial, and the judge may permit the parties to then sign the appropriate Stipulation and Proposed Consent Order for Expedited Jury Trial.

Can I change my mind after agreeing to an expedited jury trial?

No, unless the other side or the court agrees. Once you and the other side have agreed to take part in an expedited jury trial the agreement is binding on both sides.

Expedited Jury Trial Request
Please submit a copy of this request to Dept. 610.

Case No. _____

Case Name: _____ v. _____

The parties would like this action to be submitted to an Expedited Jury Trial.

The parties shall submit a consent order to the Court on or by _____.

Name of Party

Name of Party/Attorney

Signature of Party

Dated: _____

Name of Party

Name of Party/Attorney

Signature of Party

Dated: _____

Name of Party

Name of Party/Attorney

Signature of Party

Dated: _____

Please note: a [Proposed] Consent Order for Expedited Jury Trial is still required in addition to this stipulation form.

You can find the law and rules governing expedited jury trials in Code of Civil Procedure sections 630.01–630.12 and in rules 3.1545–3.1552 of the California Rules of Court. You can find these at any county law library or online. The statutes are online at www.leginfo.ca.gov/calaw.html. The rules are at www.courts.ca.gov/rules.

**Information adapted from Judicial Council's Expedited Jury Trial Information Sheet EJT-010-INFO, New January 1, 2011*

EXHIBIT 2

1 MAYER BROWN LLP
2 Archis A. Parasharami (DC Bar No. 477493)
3 (*pro hac vice application to be filed*)
4 *aparasharami@mayerbrown.com*
5 1999 K Street NW
6 Washington, DC 20006
7 Telephone: (202) 263-3000
8 Facsimile: (202) 263-3300

9 AT&T SERVICES, INC. LEGAL DEPT.
10 Catherine C. Hwang (Bar No. 177540)
11 *ch0171@att.com*
12 5738 Pacific Center Boulevard, 2nd Floor
13 San Diego, CA 92121
14 Telephone: (858) 824-9717
15 Facsimile: (858) 535-7025

16 AT&T SERVICES, INC. LEGAL DEPT.
17 Raymond P. Bolaños (Bar No. 142069)
18 *rb2659@att.com*
19 525 Market Street, 20th Floor
20 San Francisco, CA 94105
21 Telephone: (415) 778-1357
22 Facsimile: (415) 882-4458

23 Attorneys for Defendants

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**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA**

FLOR BARRAZA, an individual, on behalf of
herself and others similarly situated,

Plaintiff,

v.

CRICKET WIRELESS, LLC, AT&T INC. and
LEAP WIRELESS INTERNATIONAL, INC
and DOES 1 to 1000, inclusive,

Defendants.

Case No. _____

**DECLARATION OF JACKIE BEGUE
IN SUPPORT OF NOTICE OF
REMOVAL OF ACTION BY
DEFENDANTS CRICKET WIRELESS
LLC AND LEAP WIRELESS
INTERNATIONAL, INC. PURSUANT
TO 28 U.S.C. §§ 1332, 1441 AND 1446**

1 I, Jackie Begue, declare as follows:

2 1. I have personal knowledge of the following facts, and if called as a witness I
3 could and would testify competently as to their truth.

4 2. I am a Senior Paralegal and Assistant Secretary for AT&T Mobility LLC
5 Corporation, the Manager of AT&T Mobility LLC (“AT&T Mobility”).

6 3. I maintain the corporate records and minute books for AT&T Mobility, which is
7 an indirect, wholly owned subsidiary of AT&T Inc.

8 4. In my position, I am familiar with—and have examined records detailing—the
9 corporate structure of the AT&T Inc. family of companies, of which AT&T Mobility is a part.

10 5. I have been told that the above-captioned action at issue was filed in May 2015.

11 6. AT&T Inc. is a holding company incorporated in Delaware with its principal
12 place of business in Texas.

13 7. The members of Cricket Wireless LLC are AT&T Mobility II LLC and Cricket,
14 Inc.

15 8. AT&T Mobility II LLC is a limited liability company with four members: (1)
16 New Cingular Wireless Services, Inc., which is a Delaware corporation with its principal place
17 of business in Georgia; (2) Centennial Communications Corp., which is a Delaware corporation
18 with its principal place of business in Georgia; (3) BellSouth Mobile Data, Inc., which is a
19 Georgia corporation with its principal place of business in Georgia; and (4) AT&T Mobility
20 LLC, which is a citizen of the states of Delaware, Georgia, and Texas, based on the citizenship
21 of its members.

22 9. Cricket, Inc., is a Delaware corporation with its principal place of business in
23 Georgia.

24 10. Leap Wireless International, Inc., is a Delaware corporation with its principal
25 place of business in Georgia.

1 I declare under penalty of perjury of the laws of the United States that the foregoing is
2 true and correct. Executed at Atlanta, Georgia on June 1, 2015.
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6 Jackie Begue
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EXHIBIT 3

1 MAYER BROWN LLP
2 Archis A. Parasharami (DC Bar No. 477493)
3 (*pro hac vice application to be filed*)
4 *aparasharami@mayerbrown.com*
5 1999 K Street NW
6 Washington, DC 20006
7 Telephone: (202) 263-3000
8 Facsimile: (202) 263-3300

9 AT&T SERVICES, INC. LEGAL DEPT.
10 Catherine C. Hwang (Bar No. 177540)
11 *ch0171@att.com*
12 5738 Pacific Center Boulevard, 2nd Floor
13 San Diego, CA 92121
14 Telephone: (858) 824-9717
15 Facsimile: (858) 535-7025

16 AT&T SERVICES, INC. LEGAL DEPT.
17 Raymond P. Bolaños (Bar No. 142069)
18 *rb2659@att.com*
19 525 Market Street, 20th Floor
20 San Francisco, CA 94105
21 Telephone: (415) 778-1357
22 Facsimile: (415) 882-4458

23 Attorneys for Defendants

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**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA**

17 FLOR BARRAZA, an individual, on behalf of
18 herself and others similarly situated,

19 Plaintiff,

20 v.

21 CRICKET WIRELESS, LLC, AT&T INC. and
22 LEAP WIRELESS INTERNATIONAL, INC
and DOES 1 to 1000, inclusive,

23 Defendants.

Case No. _____

CALIFORNIA STATE COURT CASE
NO. CGC 15-545624

**DECLARATION OF CHAD WALKER
IN SUPPORT OF NOTICE OF
REMOVAL OF ACTION BY
DEFENDANTS CRICKET WIRELESS,
LLC AND LEAP WIRELESS
INTERNATIONAL, INC. PURSUANT
TO 28 U.S.C. §§ 1332, 1441 AND 1446**

(DIVERSITY JURISDICTION—CLASS
ACTION FAIRNESS ACT)

1 I, Chad Walker, declare as follows:

2 1. I have personal knowledge of the following facts, and if called as a witness I
3 could and would testify competently as to their truth.

4 2. I was formerly Assistant Controller for Cricket Communications Inc.

5 3. I am currently an Executive Director for AT&T Mobility LLC.

6 4. In that capacity, I am familiar with retrieving and reviewing records of Cricket's
7 CDMA handset sales to customers.

8 5. Those records indicate that during the period between June 1, 2012 and May 18,
9 2014, customers purchased 11,566 Samsung Galaxy S4 devices and 1,316 LG Optimus Regard
10 devices (both of which are 4G/LTE capable devices), which could be used on Cricket's CDMA
11 network.

12 6. I declare under penalty of perjury of the laws of the United States that the
13 foregoing is true and correct. Executed at 6:00 PM on June 2, 2015.

14 
15 Chad Walker

EXHIBIT 4

1 AT&T SERVICES, INC. LEGAL DEPT.
2 Catherine C. Hwang (Bar No. 177540)
3 *ch0171@att.com*
4 5738 Pacific Center Boulevard, 2nd Floor
5 San Diego, CA 92121
6 Telephone: (858) 824-9717
7 Facsimile: (858) 535-7025

5 AT&T SERVICES, INC. LEGAL DEPT.
6 Raymond P. Bolaños (Bar No. 142069)
7 *rb2659@att.com*
8 525 Market Street, 20th Floor
9 San Francisco, CA 94105
10 Telephone: (415) 778-1357
11 Facsimile: (415) 882-4458

12 Attorneys for Defendants

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**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SAN FRANCISCO**

FLOR BARRAZA, an individual, on behalf of
herself and others similarly situated,

Plaintiff,

v.

CRICKET WIRELESS, LLC, AT&T INC. and
LEAP WIRELESS INTERNATIONAL, INC
and DOES 1 to 1000, inclusive,

Defendants.

Case No. CGC 15-545624

**DEFENDANTS CRICKET WIRELESS,
LLC AND LEAP WIRELESS
INTERNATIONAL, INC.'S NOTICE TO
PLAINTIFF OF FILING OF NOTICE
OF REMOVAL OF ACTION
PURSUANT TO 28 U.S.C. §§ 1332, 1441,
AND 1446**

1 TO PLAINTIFF FLOR BARRAZA AND HER ATTORNEY OF RECORD:

2 PLEASE TAKE NOTICE that, pursuant to 28 U.S.C. § 1446(d), on June 3, 2015,
3 Defendants Cricket Wireless, LLC and Leap Wireless International, Inc., filed a Notice of
4 Removal of Action Pursuant to 28 U.S.C. §§ 1332, 1441, and 1446 (Diversity Jurisdiction—
5 Class Action Fairness Act) in the United States District Court for the Northern District of
6 California.

7 A true and correct copy of the Notice of Removal filed with the federal court is attached
8 hereto as Exhibit A.

9
10 Dated: June 3, 2015

11 AT&T Services Inc. Legal Dept.

12
13 By: s / Raymond P. Bolaños
RAYMOND P. BOLANOS

14 *rb2659@att.com*
15 Attorney for Defendants
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27
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EXHIBIT 5

1 AT&T SERVICES, INC. LEGAL DEPT.
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2 *ch0171@att.com*
5738 Pacific Center Boulevard, 2nd Floor
3 San Diego, CA 92121
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5 AT&T SERVICES, INC. LEGAL DEPT.
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7 San Francisco, CA 94105
Telephone: (415) 778-1357
8 Facsimile: (415) 882-4458

9 Attorneys for Defendants

10
11 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
12 **FOR THE COUNTY OF SAN FRANCISCO**

13 FLOR BARRAZA, an individual, on behalf of
14 herself and others similarly situated,

15 Plaintiff,

16 v.

17 CRICKET WIRELESS, LLC, AT&T INC. and
18 LEAP WIRELESS INTERNATIONAL, INC
and DOES 1 to 1000, inclusive,

19 Defendants.

Case No. CGC 15-545624

**DEFENDANTS CRICKET WIRELESS,
LLC AND LEAP WIRELESS
INTERNATIONAL, INC.'S NOTICE TO
SUPERIOR COURT OF FILING OF
NOTICE OF REMOVAL OF ACTION
PURSUANT TO 28 U.S.C. §§ 1332, 1441,
AND 1446**

1 TO THE CLERK OF THE ABOVE-CAPTIONED COURT:

2 PLEASE TAKE NOTICE that, pursuant to 28 U.S.C. § 1446(d), on June 3, 2015,
3 Defendants Cricket Wireless, LLC and Leap Wireless International, Inc., filed a Notice of
4 Removal of Action Pursuant to 28 U.S.C. §§ 1332, 1441, and 1446 (Diversity Jurisdiction—
5 Class Action Fairness Act) in the United States District Court for the Northern District of
6 California, together with a copy of all pleadings and documents obtained from the state court
7 file.

8 A true and correct copy of the Notice of Removal filed with the federal court is attached
9 hereto as Exhibit A.

10
11 Dated: June 3, 2015

12 AT&T Services Inc. Legal Dept.

13
14 By: s / Raymond P. Bolaños
RAYMOND P. BOLANOS

15 *rb2659@att.com*
16 Attorney for Defendants
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CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

FLOR BARRAZA, an individual, on behalf of herself and others similarly situated

(b) County of Residence of First Listed Plaintiff San Diego
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)
KEITH A. ROBINSON, Esq. (SBN 126246)
ATTORNEY AT LAW
6320 Canoga Avenue, Suite 1500
Woodland Hills, CA 91367
Tel. 310.849.3135

DEFENDANTS

CRICKET WIRELESS, LLC, AT&T INC. and LEAP WIRELESS INTERNATIONAL, INC and DOES 1 to 1000, inclusive

County of Residence of First Listed Defendant _____

(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

AT&T SERVICES, INC. LEGAL DEPT.
Raymond P. Bolaños (Bar No. 142069)
525 Market Street, 20th Floor
San Francisco, CA 94105, Telephone: (415) 778-1357

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff ☐ 3 Federal Question (U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant ☒ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

	PTF	DEF		PTF	DEF
Citizen of This State	<input checked="" type="checkbox"/> 1	<input type="checkbox"/> 1	Incorporated or Principal Place of Business In This State	<input type="checkbox"/> 4	<input type="checkbox"/> 4
Citizen of Another State	<input type="checkbox"/> 2	<input type="checkbox"/> 2	Incorporated and Principal Place of Business In Another State	<input type="checkbox"/> 5	<input checked="" type="checkbox"/> 5
Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice PERSONAL INJURY <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input checked="" type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities Employment <input type="checkbox"/> 446 Amer. w/Disabilities Other <input type="checkbox"/> 448 Education PRISONER PETITIONS Habeas Corpus: <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty Other: <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement			

V. ORIGIN (Place an "X" in One Box Only)

- ☐ 1 Original Proceeding ☒ 2 Removed from State Court ☐ 3 Remanded from Appellate Court ☐ 4 Reinstated or Reopened ☐ 5 Transferred from Another District (specify) ☐ 6 Multidistrict Litigation

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

28 U.S.C. sections 1332, 1441, and 1446

Brief description of cause:

Class Action Fairness Act removal of CA Consumer Legal Remedies Act and California Business and Professions Code claims

VII. REQUESTED IN COMPLAINT:

☒ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.

DEMAND \$

CHECK YES only if demanded in complaint:

JURY DEMAND: ☒ Yes ☐ No

VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE

DOCKET NUMBER

IX. DIVISIONAL ASSIGNMENT (Civil L.R. 3-2)

(Place an "X" in One Box Only)

(X) SAN FRANCISCO/OAKLAND

() SAN JOSE

() EUREKA

DATE

SIGNATURE OF ATTORNEY OF RECORD

6-3-2015

/s/ Raymond P. Bolaños

MAYER BROWN LLP
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(*pro hac vice application to be filed*)
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Facsimile: (415) 882-4458

Attorneys for Defendants

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA**

FLOR BARRAZA, an individual, on behalf of
herself and others similarly situated,

Plaintiff,

v.

CRICKET WIRELESS, LLC, AT&T INC. and
LEAP WIRELESS INTERNATIONAL, INC
and DOES 1 to 1000, inclusive,

Defendants.

Case No. 3:15-CV-2471

CALIFORNIA STATE COURT CASE
NO. CGC 15-545624

CERTIFICATE OF SERVICE

(DIVERSITY JURISDICTION—CLASS
ACTION FAIRNESS ACT)

I certify that on June 3, 2015, I electronically filed the foregoing NOTICE OF REMOVAL,
including exhibits, with the Clerk of the Court for the United States District Court for the
Northern District of California by using the CM/ECF system. I further certify that I served the

1 foregoing NOTICE OF REMOVAL, including exhibits, by overnight delivery via third-party
2 courier on the following:

3
4 KEITH A. ROBINSON, Esq.
6320 Canoga Avenue, Suite 1500
5 Woodland Hills, CA 91367

6
7 Dated: June 3, 2015

8
9
10 AT&T Services Inc. Legal Dept.

11 By: s / Raymond P. Bolaños
12 RAYMOND P. BOLANOS

13 *rb2659@att.com*
14 Attorney for Defendants