

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

SPRINT NEXTEL CORPORATION,)	
)	
<i>Plaintiff,</i>)	
)	
v.)	
)	
AT&T INC.,)	Case No. 1:11-cv-01600-ESH
AT&T MOBILITY LLC,)	
T-MOBILE USA, INC.)	
and)	
DEUTSCHE TELEKOM AG,)	
)	
<i>Defendants.</i>)	

**MOTION FOR ENTRY OF COORDINATED SCHEDULING ORDER
AND CASE MANAGEMENT PLAN, AND OF PROTECTIVE ORDER
CONCERNING CONFIDENTIALITY; AND STATEMENT OF POINTS AND
AUTHORITIES IN SUPPORT**

Pursuant to Fed. R. Civ. P. 16, LCvR 7 and LCvR 16.1, Plaintiff Sprint Nextel Corporation (“Sprint”) respectfully moves this Court for entry of Sprint’s proposed Coordinated Scheduling Order and Case Management Plan and for entry of Sprint’s proposed Protective Order Concerning Confidentiality.

Coordinated Scheduling Order and Case Management Plan

On August 31, 2011, the United States of America (the “DOJ”) filed a complaint against AT&T, Inc., T-Mobile USA, Inc., and Deutsche Telekom AG, to enjoin AT&T’s acquisition of T-Mobile, which case is docketed as Civil No. 1:11-cv-01560-ESH (“DOJ Case”). Sprint filed the above-captioned action as a related case against the same Defendants and AT&T Mobility LLC on September 6, 2011 (“Sprint Case”).

Following a telephonic conference with the parties in the DOJ Case, the Court entered a Minute Order on September 6, 2011, ordering the DOJ and Defendants to file a joint Proposed Scheduling Order and Case Management Plan in advance of a September 21, 2011, status conference. The DOJ has informed counsel for Sprint that, during the telephonic hearing between the Court and the parties in the DOJ Case on September 6, 2011, the Court requested that the DOJ invite Sprint to participate in the September 21 status conference.

The parties in the DOJ Case filed a Stipulated Scheduling and Case-Management Order (“DOJ Case Stipulated Order”) on September 16, 2011 (*see* Declaration of Tara L. Reinhart, Ex. 1), as required by the Court’s September 6 Minute Order. Sprint now files its own proposed Coordinated Scheduling Order and Case Management Plan (“Sprint Case Proposed Plan”) and its proposed Protective Order Concerning Confidentiality in advance of the September 21 status conference for the purpose of coordinating schedules and discovery procedures in the two cases.

Rule 1 of the Fed. R. Civ. P. provides that the Federal Rules should be administered to “secure the just, speedy, and inexpensive determination of every action and proceeding.” Rule 16 of the Fed. R. Civ. P. and LCvR 16.1 provide for the Court’s issuance of a scheduling order. Sprint seeks entry of a schedule and plan for discovery procedures that is aligned with the DOJ case, because the cases involve common issues of fact and law, and the actions will be resolved most efficiently through common schedules and discovery procedures. The discovery procedures in the Sprint Case Proposed Plan are aligned with those in the DOJ Case Stipulated Order. Attached for the Court’s convenience is a chart comparing the schedule and discovery procedures in the DOJ Case Stipulated Order with the Sprint Case Proposed Plan (*see* Declaration of Tara L. Reinhart, Ex. 2). Likewise, the case schedule in the Sprint Case Proposed Plan mirrors the position of the DOJ in the DOJ Case Stipulated Order, but also includes —

within those dates — an expedited schedule for anticipated motions practice for the benefit of Defendants. Thus, Sprint proposes that any motion to dismiss against Sprint will be done concurrently with the litigation of the merits of the case, which will allow the DOJ and Sprint cases to remain on the same pre-trial schedule. Sprint respectfully submits that entry of its Proposed Plan, which will align management of its case with the DOJ Case, will provide the most efficient means of preparing the cases for trial.

Sprint counsel conferred with the DOJ, and the DOJ does not object to Sprint's moving for entry of a scheduling order and case management plan that will coordinate the schedules and discovery in the two cases. Sprint counsel conferred with Defendants' counsel on September 7, September 9, and September 15, 2011, regarding scheduling and case management issues, and the parties have reached an impasse. Sprint's position is that the schedules and discovery procedures in the two cases should be coordinated. The Defendants' position is that there should be no discovery in the Sprint matter pending the outcome of an anticipated motion to dismiss (*see* Declaration of Tara L. Reinhart, Exs. 3-4). Sprint hereby represents to the Court that it has satisfied its obligation under LCvR 7(m) to confer with opposing counsel on this Motion as it pertains to the Entry of Coordinated Scheduling Order and Case Management Plan, and Defendants oppose the motion.

Protective Order Concerning Confidentiality

On September 15, 2011, the Court entered the Stipulated Protective Order Concerning Confidentiality (*see* Declaration of Tara L. Reinhart, Ex. 5) pursuant to Fed. R. Civ. P. 26(c)(1)(G) in the DOJ Case (Docket No. 24). Sprint now files its own proposed Protective Order Concerning Confidentiality ("Protective Order") pursuant to Fed. R. Civ. P. 26(c)(1)(G) in advance of the September 21 status conference. Sprint's proposed Protective Order mirrors the

DOJ Case protective order. Sprint counsel conferred with Defendants' counsel on September 15, 2011, and the parties have reached an impasse. Sprint's position is that the same protective order entered in the DOJ Case should be entered in the Sprint Case with all due speed so that the parties may have access to each others' confidential materials and those of third parties that produced documents in the DOJ merger investigation. In the DOJ Case, the Defendants shortly will have access to DOJ investigation materials now that the protective order has been entered. In the interests of justice and efficiency, Sprint should have access to discovery materials on the same schedule. Defendants' position is that there should be no discovery in the Sprint matter pending the outcome of an anticipated motion to dismiss (*see* Declaration of Tara L. Reinhart ¶ 7). Sprint hereby represents to the Court that it has satisfied its obligations under Fed. R. Civ. P. 26(c)(1) and LCvR 7(m) to confer with opposing counsel on this Motion as it pertains to the Entry of Protective Order Concerning Confidentiality, and Defendants oppose the motion.

For all of the foregoing reasons, Sprint respectfully submits that the interests of justice and efficiency would be served by the entry of the Sprint Case Proposed Plan and Proposed Protective Order, which would align the proceedings in the DOJ and Sprint cases.

Dated: September 16, 2011

/s/ Steven C. Sunshine

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CERTIFICATE OF SERVICE

I hereby certify that on September 16, 2011, I caused the foregoing document or paper to be filed with the Clerk of the Court using the CM/ECF system. I also caused the foregoing document or paper to be mailed via electronic mail and United States mail to counsel for the Defendants listed below:

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