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COMCAST CORPORATION and
COMCAST CABLE
COMMUNICATIONS, LLC

22 UNITED STATES DISTRICT COURT
23 NORTHERN DISTRICT OF CALIFORNIA
24 SAN FRANCISCO DIVISION

25 CHARLES TILLAGE and
26 JOSEPH LOOMIS,
27 Individually, As Private Attorneys General,
28 and On Behalf of All Others Similarly
Situated,

Plaintiffs,

v.

COMCAST CORPORATION; and
COMCAST CABLE
COMMUNICATIONS, LLC, and
DOES 1-20, inclusive

Defendants.

Case No. 3:17-cv-06477-VC-DMR

**JOINT STATUS REPORT AND
STIPULATED REQUEST AND
~~PROPOSED~~ ORDER MODIFYING
SCHEDULE FOR CLASS
CERTIFICATION MOTION**

1 Plaintiffs Charles Tillage and Joseph Loomis (together, “Plaintiffs”) and Defendants
2 Comcast Corporation and Comcast Cable Communications, LLC (together, “Comcast”), by and
3 through their undersigned counsel, respectfully submit this joint status report and stipulated
4 request to modify the current schedule for the upcoming motion for class certification. As
5 explained further below, the proposed modification—which would continue the briefing and
6 hearing schedule by approximately four (4) months—is necessitated by the fact that discovery is
7 taking longer than anticipated, including because of business disruptions associated with the
8 COVID-19 pandemic and the extent of the parties’ considerable discovery meet and confer
9 efforts:

10 WHEREAS, on February 15, 2018, the Court denied Comcast’s motion to compel
11 arbitration of Plaintiffs’ claims (Dkt. 37) (the “Arbitration Order”);

12 WHEREAS, on February 21, 2018, Comcast filed a notice of appeal of the Arbitration
13 Order (Dkt. 41);

14 WHEREAS, on March 13, 2018, the Court granted Comcast’s motion to stay this case
15 pending Comcast’s appeal of the Arbitration Order, except that the Court permitted limited
16 discovery relevant to the arbitration of the individual plaintiffs’ cases (Dkt. 51);

17 WHEREAS, the parties engaged in limited discovery consistent with the Court’s stay
18 order;

19 WHEREAS, on June 28, 2019, the Ninth Circuit affirmed this Court’s Arbitration Order
20 (Dkt. 80);

21 WHEREAS, on August 9, 2019, Comcast filed a petition for rehearing en banc in the
22 Ninth Circuit;

23 WHEREAS, at Plaintiffs’ request, the Court held a Further Case Management Conference
24 in this case on November 13, 2019, in connection with which, *inter alia*, the parties agreed that
25 the Court’s stay order would remain in place while Comcast’s en banc petition was pending, the
26 parties addressed the amount of time expected to be needed for discovery prior to the class
27 certification motion, and the Court ordered as follows: “If the [en banc] petition is denied, the
28 stay will automatically be lifted and discovery will proceed. Additionally, the plaintiff’s motion

1 for class certification would be due within 8 months of the stay being lifted. Defendant's response
 2 is due 42 days after the motion is filed. The reply is due 42 days after the response is filed. The
 3 hearing should be noticed upon the time of filing the motion for a date 3 weeks after the reply
 4 brief would be due.” (Dkt. 84, 85, 89);

5 WHEREAS, on January 17, 2020, the Ninth Circuit denied Comcast’s en banc petition;

6 WHEREAS, pursuant to the Court’s November 13, 2019 order (Dkt. 89), discovery was
 7 open effective January 17, 2020 (*i.e.*, with the denial of Comcast’s en banc petition) and the
 8 current briefing and hearing schedule for the class certification motion is as follows:

| Event | Deadline |
|---|--------------------|
| Plaintiffs’ motion for class certification | September 17, 2020 |
| Comcast’s opposition to class certification | October 29, 2020 |
| Plaintiffs’ reply in support of class certification | December 10, 2020 |
| Hearing on motion for class certification | December 31, 2020 |

16 WHEREAS, since the time the stay was lifted, the parties have been actively engaged in
 17 discovery. To summarize:

- 18 • Plaintiffs drafted 62 document requests which they served on Comcast on
 19 February 18, 2020.
- 20 • Given, *inter alia*, significant business disruptions associated with the COVID-19
 21 pandemic, Comcast requested and Plaintiffs agreed to an extension of 30 days for
 22 Comcast to serve written responses and objections (which otherwise would have
 23 been due in mid-late March).
- 24 • Comcast served written responses and objections to Plaintiffs’ document requests
 25 on April 23, 2020.
- 26 • In the period leading up to, and then continuing after, Comcast’s serving its written
 27 responses and objections, counsel for the parties have engaged in a series of
 28 regular telephonic meet and confer sessions (approximately bi-weekly, the most

1 recent of which occurred on June 26, 2020 and the next of which is scheduled for
2 July 9, 2020) regarding Plaintiffs’ requests and Comcast’s objections, the nature
3 and scope of Comcast’s search for documents, and other related matters, pursuant
4 to which efforts the parties have been able to reach agreement on most of the
5 requests and initial areas of dispute, without the need for Court intervention.

- 6 • The parties also negotiated a proposed order governing the production of
7 electronically-stored information, which was entered by Magistrate Judge Ryu on
8 April 1, 2020. (Dkt. 98, 101.)
- 9 • Comcast has begun collecting responsive documents consistent with its responses
10 and objections and with the parties’ agreements, though those efforts have been
11 delayed to some degree as a result of the COVID-19 pandemic.

12 WHEREAS, despite the parties’ diligence and best efforts, discovery is taking longer than
13 had been anticipated—including because of business disruptions related to the COVID-19
14 pandemic, which among other things has required Comcast personnel to focus on other urgent
15 matters, and because of the extent of the parties’ meet and confer efforts—and the parties
16 therefore agree that additional time is needed to conduct discovery in advance of the filing of
17 Plaintiffs’ motion for class certification, and that a corresponding adjustment to the existing class
18 certification briefing and hearing schedule is needed;

19 WHEREAS, on June 1, 2020, the United States Supreme Court denied Comcast’s petition
20 for a writ of certiorari regarding the Arbitration Order, and on June 3, 2020, the mandate issued
21 (Dkt. 102, 103);

22 WHEREAS, the parties have agreed on a proposed revised briefing and hearing schedule
23 for the class certification motion, subject to Court approval, that would adjust the briefing
24 deadlines and hearing by approximately four (4) months, and have also agreed on certain interim
25 discovery deadlines associated with that proposed schedule;

26 WHEREAS, as discovery and the case proceed, the parties will meet and confer regarding
27 scheduling of any dispositive motions, including any motions pursuant to Federal Rules of Civil
28 Procedure 12(c) and 56, and will present any such motions on a schedule consistent with the

1 modified schedule presented below.

2 THEREFORE, Plaintiffs and Comcast, by and through their undersigned counsel, hereby
3 stipulate and respectfully request that the Court modify the existing schedule as follows:

| Event | Deadline |
|--|-------------------------|
| Comcast to file Answer | July 17, 2020 |
| Comcast's substantial completion of agreed document production in response to Plaintiffs' Amended First Set of Requests for Production of Documents ¹ | July 31, 2020 |
| Fact witness depositions for class certification motion to be completed | November 20, 2020 |
| Plaintiffs to serve any expert declarations in support of their motion for class certification | December 10, 2020 |
| Plaintiffs' motion for class certification | January 14, 2021 |
| Depositions of Plaintiffs' expert(s) in support of class certification to be completed | January 28, 2021 |
| Comcast to serve any expert declarations in opposition to Plaintiffs' motion for class certification | February 11, 2021 |
| Comcast's opposition to class certification | March 4, 2021 |
| Depositions of Comcast's expert(s) in opposition to class certification to be completed | March 18, 2021 |
| Plaintiffs' reply in support of class certification | April 15, 2021 |
| Hearing on motion for class certification | May 6, 2021, 10:00 a.m. |

27 ¹ This excludes certain requests and portions of requests as to which the parties continue to have
28 outstanding disagreements as of this filing. Those documents, if they are to be produced, may be produced on separate track(s).

1 IT IS SO STIPULATED.

2 Dated: June 26, 2020

Respectfully submitted,

3 LIEFF CABRASER HEIMANN & BERNSTEIN, LLP

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5 By: /s/ Roger N. Heller

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~~PROPOSED~~ ORDER

PURSUANT TO STIPULATION, IT IS SO ORDERED.

Date: July6, 2020



Hon. Vince Chhabria
United States District Judge