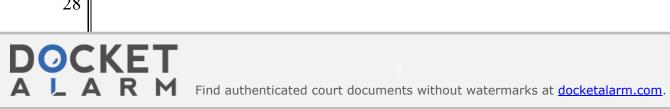1 MARCELLUS MCRAE, SBN 140308
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10
                    UNITED STATES DISTRICT COURT
11
                 CENTRAL DISTRICT OF CALIFORNIA
12
                        WESTERN DIVISION
13

SETH SHAPIRO,
 	
                    Plaintiff,
 	
     v.
 	
AT&T MOBILITY, LLC,
 	
                    Defendant.
	CASE NO. 2:19-CV-8972 (CBM)
	
	DEFENDANT AT&T MOBILITY LLC'S NOTICE OF MOTION AND MOTION TO DISMISS THE COMPLAINT; MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT THEREOF
	
	[*[Proposed]* Order lodged concurrently herewith]
	
	Action Filed: October 17, 2019
	
	Hearing:
	Date: February 18, 2020
	Time: 10:00 a.m.
	Place: 350 West 1st Street, 8th Floor
	              Courtroom 8B
	              Los Angeles, CA 90012
	Judge: Hon. Consuelo B. Marshall

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NOTICE OF MOTION

TO ALL PARTIES AND THEIR COUNSEL OF RECORD:

PLEASE TAKE NOTICE that at 10:00 a.m. on February 18, 2020, before the Honorable Consuelo B. Marshall, United States District Court Judge, in Courtroom 8B, at 350 West 1st Street, 8th Floor, Los Angeles, California 90012, Defendant AT&T Mobility LLC ("AT&T" or "Defendant") will and hereby does move, pursuant to Rule 12(b)(6) of the Federal Rules of Civil Procedure, to dismiss Plaintiff Seth Shapiro's complaint.

AT&T moves to dismiss all claims for the following reasons:

1.   As to all claims, Mr. Shapiro has failed to plausibly allege proximate cause;

2.   Claim 3 (California constitutional right to privacy) fails to allege an egregious breach of social norms and fails to plead the required reasonable expectation of privacy;

3.   Claims 4 and 5 (negligence) are foreclosed by the economic loss doctrine;

4.   Claim 6 (Consumer Legal Remedies Act) does not plead the required notice and opportunity to cure; does not plead that Mr. Shapiro read the documents he alleges he relied upon; and does not plead that any misrepresentation occurred before his transaction with AT&T;

5.   Claim 7 (Computer Fraud and Abuse Act) does not plead that Mr. Shapiro suffered a recoverable loss;

AT&T also moves to dismiss Mr. Shapiro's request for punitive damages because Mr. Shapiro has not pled any involvement by an "officer, director or managing agent" of AT&T in any challenged conduct and has not pled the required malice, fraud or oppression.

The Motion is based on this Notice of Motion, the Memorandum of Points and Authorities that follows, all pleadings and records on file in this action, and any other arguments and evidence presented to this Court at or before the hearing on the Motion.

1   This Motion is made following the conference of counsel pursuant to Civil

2 Local Rule 7-3, which took place on November 27, 2019.

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Dated: December 6, 2019

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Respectfully submitted,

GIBSON, DUNN & CRUTCHER LLP

By: */s/ Marcellus A. McRae*
     Marcellus A. McRae

     Attorney for Defendant
     AT&T MOBILITY LLC

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