

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION**

ANTHONY DALE, BRETT JACKSON,  
JOHNNA FOX, BENJAMIN  
BORROWMAN, ANN LAMBERT,  
ROBERT ANDERSON, and CHAD  
HOHENBERY, on behalf of themselves and  
all others similarly situated,

Plaintiffs,

v.

DEUTSCHE TELEKOM AG, and  
T-MOBILE US, INC.,

Defendants.

Case No. 1:22-cv-03189

Hon. Thomas M. Durkin

Hon. Jeffrey Cole

**DECLARATION OF HILL BRAKEFIELD IN SUPPORT OF  
PLAINTIFFS' REPLY IN SUPPORT OF THEIR MOTION TO COMPEL  
T-MOBILE TO USE PLAINTIFFS' PROPOSED CUSTODIAN LIST**

I, Hill Brakefield, declare as follows:

1. I am admitted to the State Bar of Texas and the District of Columbia Bar, and I am admitted *pro hac vice* in this case. I am an associate at the law firm of Hausfeld LLP, and Counsel for Plaintiffs in the above-captioned manner. I make this declaration in support of Plaintiffs' Reply in Support of Their Motion to Compel T-Mobile to Use Plaintiffs' Proposed Custodian List. I have personal knowledge of the facts set forth herein, and, if called as a witness, I could and would competently testify thereto.

2. On August 22, 2024, Plaintiffs' counsel emailed T-Mobile's counsel to convey their expectation that T-Mobile "engage in the discussions required by Paragraph 17 of the ESI Protocol" for the 47 custodians that were identical in the parties' competing 50-custodian proposals. According to Paragraph 17 of the ESI Protocol, "[t]he parties shall cooperate to identify appropriate custodians and/or other sources to be searched, appropriate search terms or

other search techniques to be employed, and appropriate time frame(s) to be searched and produced. . . . If the parties cannot reach agreement on the search parameters, the parties reserve the right to escalate disputes to the Court for resolution.” Dkt. 191 at 11.

3. On August 23, 2024, T-Mobile’s counsel responded to the August 22, 2024 email from Plaintiffs’ counsel, and indicated their belief that the two-week deadline for the parties to fulfill their obligations under Paragraph 17 of the ESI Protocol was not triggered because Plaintiffs sought court intervention on custodians.

4. Plaintiffs’ counsel did not hear again from T-Mobile’s counsel regarding the parties obligations under Paragraph 17 of the ESI Protocol until September 13, 2024, when T-Mobile’s counsel emailed a list of “search terms T-Mobile intends to run across its ESI custodians’ files to identify documents potentially responsive to Plaintiffs’ requests for production” and conveyed that T-Mobile intends “to use Technology Assisted Review to review documents that hit on the search terms” after it runs search terms across agreed custodians.

5. Plaintiffs are evaluating T-Mobile’s proposals and have not consented to the proposed search methods T-Mobile’s counsel communicated in their September 13, 2024 email.

6. Attached as Exhibit A is a true and correct copy of a document produced by T-Mobile in this litigation beginning at Bates number TMUS\_SpntMerger\_T\_00651199.

7. Attached as Exhibit B is a true and correct copy of a document produced by T-Mobile in this litigation beginning at Bates number TMUS\_SpntMerger\_T\_01349686.

8. Attached as Exhibit C is a true and correct copy of a document produced by T-Mobile in this litigation beginning at Bates number TMUS\_SpntMerger\_T\_01165558.

9. Attached as Exhibit D is a true and correct copy of a document produced by T-Mobile in this litigation beginning at Bates number TMUS\_SpntMerger\_T\_00680610.

10. Attached as Exhibit E is a true and correct copy of the July 15, 2024 letter from Hill Brakefield, Plaintiffs’ counsel, to Scott Hvidt, T-Mobile’s counsel, regarding proposed narrowing of certain of Plaintiffs’ Requests for Production.

11. Attached as Exhibit F is a true and correct copy of the March 29, 2024 letter from Hill Brakefield, Plaintiffs' counsel, to Rod Stone, T-Mobile's counsel, regarding proposed narrowing of certain of Plaintiffs' Requests for Production.

12. Attached as Exhibit G is a true and correct copy of Plaintiffs' First Set of Requests for Production of Documents to T-Mobile US, Inc., which Plaintiffs sent to T-Mobile on November 13, 2023.

13. Attached as Exhibit H is a true and correct copy of a document produced by T-Mobile in this litigation beginning at Bates number TMO\_Dale\_00070668.

14. Attached as Exhibit I is a true and correct copy of the email thread between Plaintiffs' counsel and T-Mobile's counsel regarding the parties' obligations under Paragraph 17 of the ESI Protocol.

15. Attached as Exhibit J is a true and correct copy of the September 13, 2024 email from Scott Hvidt, T-Mobile's counsel, to Plaintiffs' counsel proposing search terms and TAR disclosures.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Dated: September 16, 2024

Respectfully submitted,

/s/ *Hill Brakefield*

Hill Brakefield (*pro hac vice*)  
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*Interim Co-Lead Class Counsel for Plaintiffs and  
the Proposed Class*

**CERTIFICATE OF SERVICE**

I, Hill Brakefield, an attorney, hereby certify that this **Declaration of Hill Brakefield** was electronically filed on September 16, 2024, and will be served electronically via the Court's ECF Notice system upon the registered parties of record.

Respectfully submitted,

*/s/ Hill Brakefield*

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