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COME NOW Plaintiffs Ray Leon, Richard Inza, Michael Inza, and VoIP-Pal.com Inc., by and through the undersigned counsel, and respond in opposition to Defendant Samsung Electronics America, Inc.'s Motion to Compel Arbitration and Stay Proceedings, stating:

Samsung Electronics America, Inc. ("SEA") moves to compel arbitration of federal antitrust and RICO claims brought on behalf of a putative nationwide class of approximately 373 million smartphone device owners. SEA moves to compel arbitration on behalf of itself and the other defendants based on boilerplate Terms and Conditions that it contends categorically bar any class action against the industry. According to SEA, its click-through language is so sweeping that it requires arbitration of virtually any claim, regardless of the claim's substance.

It is true that courts have historically favored arbitration and have afforded arbitration agreements broad application. But that preference is not without limits. If SEA's position were correct, nearly every click-through agreement used by modern corporations would function as a blanket shield from judicial review, effectively insulating companies from access to courts regardless of the nature of the claims.

Fortunately, that is not the law. Arbitration provisions remain limited to the disputes the parties actually agreed to arbitrate. Here, Plaintiffs' acceptance of SEA's Terms and Conditions, directed primarily at product condition and performance disputes, cannot be read as an agreement to arbitrate the claims alleged in the FAC. These claims challenge the technical architecture of SEA's products and allege that the system was deliberately designed to suppress competition and impose inflated costs on all consumers. Plaintiff's allegations extend well beyond the scope of the consumer-transaction disputes contemplated by SEA's boilerplate terms.

## 1. INTRODUCTION

The First Amended Complaint (“FAC”) alleges that SEA, together with Apple Inc., Alphabet Inc./Google LLC, and three national wireless carriers, implemented what the FAC describes as a “Lock-and-Key” architecture. Under that system, platform operating systems and firmware enforce device-level rules (“the Lock”) that activate native telephony functionality only when carrier authorization credentials (“the Key”) are present. FAC ¶¶ 2–4, 12–17, 94–104. The alleged architecture conditions parity-grade native telephony access on the purchase and maintenance of carrier subscription bundles, imposing overcharges and functional degradation on device owners nationwide.

Samsung’s motion attempts to recast the FAC as a set of individual consumer arbitration disputes under carrier and Samsung agreements, including disputes relating to the sale, condition, or performance of Samsung products. The FAC alleges something different. It challenges coordinated architectural conditioning implemented across multiple defendants and operating-system ecosystems. Samsung enforces the challenged architecture through firmware and CSC-based controls that ‘implement the Lock at boot’ and withhold native parity absent carrier validation. FAC ¶¶ 99–100. The FAC therefore challenges device-layer architectural conditioning at a platform chokepoint governing access to native telephony functionality — the type of exclusionary product-design conduct addressed in *United States v. Microsoft Corp.*, 253 F.3d 34 (D.C. Cir. 2001). The alleged restraint operates at a must-pass device interface present on every class member’s smartphone, determining whether any voice service may obtain parity-grade native telephony privileges.

Samsung’s own filings treat the challenged conduct as platform and firmware architecture, not contract performance. In its Motion to Dismiss, Samsung characterizes the challenged

decisions as unilateral product-design conduct and argues that they are “not exclusionary as a matter of law.” Platform MTD at 16–19. That framing aligns with the FAC’s allegation that the challenged restraint is implemented through operating-system and firmware rules governing native telephony access. FAC ¶¶ 12–17, 94–104.

In the simultaneously filed arbitration motion, Samsung invokes the FAC’s allegation that Samsung firmware would “facilitate carrier dominance,” and separately argues that Plaintiffs alleged “concerted misconduct” for equitable-estoppel purposes. SEA Mot. at 18, 19–22. Neither characterization describes the performance of obligations under a consumer device agreement. The contradiction runs throughout Samsung’s filings and is addressed at each stage of the analysis below.

According to the FAC, device owners must maintain carrier bundles to obtain parity-grade native calling functionality, even though lower-cost standalone native Wi-Fi calling services could operate absent the challenged Lock-and-Key restrictions. FAC ¶¶ 26–27, 70, 88–94.

According to the FAC, the architecture forecloses standalone native Wi-Fi calling providers capable of operating at approximately \$6.50 per month, requiring device owners instead to maintain carrier bundles priced at approximately \$60–\$90 per month. FAC ¶¶ 26, 70, 88–94. The FAC further alleges that the architecture has been progressively reinforced through successive operating-system releases from 2014 through iOS 26 (September 2025) and Android 16 (June 2025), with native telephony access continuing to depend on carrier entitlements as new OS versions are deployed. FAC ¶¶ 83–86, 100-108.

Because the FAC challenges coordinated platform architecture implemented across multiple defendants and operating-system ecosystems, the claims do not arise from — and are not governed by — bilateral consumer device agreements.

The Lock-and-Key architecture alleged in the FAC also illustrates why arbitration is structurally impractical here. The challenged conduct is not confined to bilateral relationships between Samsung and individual consumers. It arises from coordinated platform- and carrier-level architecture operating across six defendants and two industry tiers — the same architecture that is the subject of four related actions currently pending before this Court. On August 19, 2025, this Court recognized that those actions arise from the same alleged structural restraint and directed the parties to address coordinated case management across the proceedings. Minute Order, Aug. 19, 2025. Where claims arise from interdependent conduct across multiple defendants and proceedings, compelling arbitration of a single defendant’s role would fragment adjudication of the same structural restraint and undermine the Court’s coordinated management of the related cases. Courts evaluate claims as pleaded — not as recharacterized by the moving party — and as pleaded the FAC challenges a coordinated six-defendant architecture that a bilateral arbitral forum cannot meaningfully adjudicate.

Samsung’s motion fails for multiple independent reasons:

First, Scope. The antitrust and RICO claims arise from cross-defendant firmware architecture coordinated at the platform level, not from bilateral consumer device agreements.

Second, Equitable estoppel is not available. Samsung, as a non-signatory, is not entitled to enforce arbitration agreements that have been asserted by Carrier defendants.

Third, Formation. Certain agreements contain formation defects under Florida law, including post-purchase timing gaps and provisions expressly reserving arbitrability determinations for the Court. Moreover, Michael Inza has no Samsung arbitration agreement, and VoIP-Pal, a non-signatory competitor plaintiff, cannot be compelled to arbitrate.

Fourth, Unconscionability. The Samsung arbitration agreement is invalid for reasons of unconscionability.

Fifth, Compelling these claims to a Samsung-only forum is incompatible with the effective-vindication doctrine.

Sixth, Waiver. By designating this Court as its fallback merits tribunal in Platform MTD Footnote 5, Samsung has taken a litigation posture inconsistent with a genuine commitment to arbitration.

At this stage, the Court's task is limited. The question is not whether Samsung prefers a different characterization of the alleged conduct, but whether the claims actually pleaded in the First Amended Complaint fall within the scope of the arbitration agreements Samsung invokes. When the Motion is compared directly with the allegations of the FAC, it becomes apparent that Samsung's arguments repeatedly recast the Complaint as asserting bilateral consumer disputes arising from individual device purchases. The FAC alleges something materially different: coordinated platform architecture implemented across multiple defendants and operating-system ecosystems. The Court therefore evaluates arbitrability based on the claims actually pleaded in the FAC, not the substituted characterization advanced in Samsung's motion.

For these reasons, the motion to compel arbitration should be denied.

## **2. STATEMENT OF FACTS**

The following facts are drawn from the Waitley and Salamon Declarations submitted by SEA in support of its motion, supplemented where indicated by the FAC and Samsung's own filings.

**A. The Contractual Record.**

The AT&T Consumer Service Agreement applicable to Ray Leon provides that “only a court can decide ... issues relating to the scope and enforceability of the arbitration provision” and “whether a dispute can or must be brought in arbitration.” Salamon Decl. Ex. 9 at 4. Samsung acknowledges that scope questions under the AT&T agreement are for the Court. SEA Mot. at 23. The agreements applicable to Richard Inza’s S23+ and S24+ devices and to Ray Leon’s Samsung Account separately reserve for the Court jurisdiction over threshold questions of arbitrability, enforceability, formation, and scope. Waitley Decl. ¶ 17.

Richard Inza purchased the Galaxy S9+ in August 2018. Waitley Decl. ¶ 5. Samsung’s records reflect that Inza agreed to the S9+ Terms and Conditions on February 19, 2020 — approximately eighteen months after purchase. Id

Samsung identifies no direct Samsung device arbitration agreement for Michael Inza and instead reserves a separate co-defendant-clause theory tied to T-Mobile if consolidation occurs. SEA Mot. at 3 n.4. Samsung’s motion asserts that Michael Inza may be compelled to arbitrate under a T-Mobile co-defendant provision contained in a carrier subscriber agreement. See SEA Mot. at 19–22. Consolidation with the related carrier action has not been ordered. See *VoIP-Pal v. AT&T*, Aug. 19, 2025 Min. Order.

**B. The Architectural Conduct Alleged in the FAC.**

The FAC alleges that Samsung enforces the Lock through device-level firmware and CSC-based controls that “implement the Lock at boot.” FAC ¶¶ 99–100. Those controls are alleged to operate at the device level rather than through any bilateral subscriber obligation.

The FAC alleges that the architecture has been progressively reinforced through successive operating-system releases from 2014 through 2025, including re-implementations in iOS 26

(September 2025) and Android 16 (June 2025) conditioning native telephony access on carrier entitlements in newly compiled code. FAC ¶¶ 83–86, 100–108.

Samsung’s arbitration motion invokes the FAC’s allegation that Samsung firmware would “facilitate carrier dominance” over Wi-Fi calling functionality. SEA Mot. at 18.

Platform MTD Footnote 8 identifies three distinct manufacturer implementations: Apple controls entitlement gating through iOS; Google controls access through the smartphone operating systems they design, and Samsung controls access through firmware. Platform MTD at 10 n.8. The FAC similarly alleges that the Lock is embodied in platform code and firmware, including iOS entitlements, Android carrier-privilege / IMS gating, and Samsung firmware allow-lists. FAC ¶ 147.

### **C. Samsung’s Simultaneous Filings.**

On January 30, 2026 — the same day SEA filed the present motion — SEA filed a Platform Motion to Dismiss seeking dismissal with prejudice of the FAC’s claims. Platform MTD at 6–31.

In the Platform Motion to Dismiss, Samsung treats the challenged firmware decisions as unilateral product-design conduct rather than contractual performance. Platform MTD at 16–19. In the simultaneously filed arbitration motion, Samsung invokes the FAC’s allegation that Samsung firmware would “facilitate carrier dominance” and separately argues that Plaintiffs alleged “concerted misconduct” for estoppel purposes. SEA Mot. at 18, 19–22.

SEA’s simultaneous filings are inconsistent with one another, and serve as a waiver of arbitration.

### **3. STANDARD OF REVIEW**

“Whether to compel arbitration involves a two-step inquiry.” *Freestone v. CACI, Inc.-Federal*, 626 F.Supp.3d 1, 4 (D.D.C. 2022) (citing *Mitsubishi Motors Corp. v. Soler Chrysler-*

*Plymouth, Inc.*, 473 U.S. 614 (1985)). “[T]he appropriate standard of review for the district court is the same standard used in resolving summary judgment motions pursuant to Fed. R. Civ. P. 56(c).” *Id.* at 5 (quoting *Brown v. Dorsey & Whitney, LLP.*, 267 F.Supp.2d 61, 67 (2003)).

“The Court will compel arbitration if the pleadings and the evidence show that “there is no genuine issue as to any material fact and that the moving party is entitled to judgment as a matter of law.” *Fox v. Computer World Services Corp.*, 920 F.Supp.2d 90, 96 (2013). “In assessing a party's motion, “[a]ll underlying facts and inferences are analyzed in the light most favorable to the non-moving party.” *Id.* (quoting *N.S. ex rel. Stein v. District of Columbia*, 709 F.Supp.2d 57, 65 (D.D.C.2010)).

“The Court's first task ‘is to determine whether the parties agreed to arbitrate [the] dispute,’ keeping in the forefront the strong policy favoring arbitration.” *Jung v. Association of American Medical Colleges*, 300 F.Supp.2d 119 (2004) (quoting *Mitsubishi*, 473 U.S. at 626 (1985)).

“If the Court finds that the parties did agree to arbitrate the dispute at issue, the Court then must determine ‘whether legal constraints external to the parties' agreement foreclose[] the arbitration of those claims.’” *Jung*, 300 F.Supp.2d at 145 (quoting *Mitsubishi*, 473 U.S. at 628); *Freestone*, 626 F.Supp.3d at 5; *Booker*, 315 F.Supp.2d at 97-98; *National R.R. Passenger Corp. v. Consolidated Rail Corp.*, 892 F.2d 1066, 1068 (D.C. Cir. 1990). External constraints on enforcing an arbitration agreement include “whether a countervailing statute or policy renders the claim nonetheless non-arbitrable.” *Jung*, 300 F.Supp.2d at 147, 156.

#### **4. ARGUMENT**

##### **I. THE CLAIMS FALL OUTSIDE THE SCOPE OF ANY AGREEMENT**

The D.C. Circuit applies the “positive assurance” standard articulated in *AT&T Technologies, Inc. v. Communications Workers of America*, 475 U.S. 643 (1986); *Mobile Now*,

*Inc. v. Sprint Corporation*, 393 F.Supp.3d 56, 71 (2019) (“[T]here is a presumption of arbitrability in the sense that ‘[a]n order to arbitrate the particular grievance should not be denied unless it may be said with positive assurance that the arbitration clause is not susceptible of an interpretation that covers the asserted dispute.’” (quoting *AT&T Technologies*))

Whether the claims pleaded fall within the scope of the agreements Samsung invokes is a threshold judicial issue except where valid delegation applies. The question here is not whether Samsung can relabel the FAC as a set of bilateral consumer disputes, but whether the claims actually pleaded arise from the carrier and Samsung agreements Samsung invokes. They do not. The FAC pleads a coordinated Lock-and-Key architecture implemented through operating-system rules, firmware controls, entitlement checks, CSC / allow-listing, and carrier validation across multiple defendants and ecosystems. Those allegations do not arise from the sale, condition, or performance of any individual Samsung device or from the bilateral performance of any subscriber agreement.

SEA relies on broad contractual language covering disputes “relating to” Samsung products. SEA Mot. at 23–25, 43–45. But those clauses must be evaluated against the claims actually pleaded in the FAC. See *Banneker Ventures, LLC v. Graham*, 798 F.3d 1119, 1129 (D.C. Cir. 2015) (courts evaluate claims as pleaded).

The FAC does not allege bilateral consumer disputes arising from the sale or performance of individual devices. It alleges coordinated architectural conditioning implemented across multiple defendants and operating-system ecosystems. The challenged conduct consists of firmware allow-lists, CSC enforcement mechanisms, OS-level entitlement gating, and cross-platform architectural controls implemented across platform providers, Samsung firmware, and carrier-validation layers spanning the smartphone ecosystem. FAC ¶¶ 12–17, 94–104, 118–120.

The alleged restraint operates at a must-pass device interface governing access to native telephony privileges across the smartphone ecosystem, a structural chokepoint comparable to the operating-system interface addressed in *United States v. Microsoft Corp.*, 253 F.3d 34, 58–67 (D.C. Cir. 2001). The alleged restraint therefore operates at the device-layer architecture of the smartphone ecosystem, not within the contractual performance of any individual consumer agreement.

The *Microsoft* case recognized that exclusion embedded in platform product design at a must-pass interface can constitute anticompetitive conduct under the antitrust laws. The FAC alleges precisely that form of architectural conditioning here: device-level firmware and operating-system controls that determine whether any voice service may obtain parity-grade native telephony privileges on modern smartphones. Similar to the exclusionary tactics in *Microsoft*, these design decisions effectively foreclose competition by denying access to critical functionalities—an antitrust harm that undermines innovation and consumer choice. Samsung's control over its digital ecosystem allows it to implement architectural restrictions that foreclose competition, not on the merits, but through unilateral platform gating mechanisms.

Courts must evaluate arbitration scope based on claims as actually pleaded, not as recharacterized by moving parties. Samsung argues that the applicable Samsung agreements broadly cover disputes “arising out of or relating in any way” to the sale, condition, or performance of Samsung products, broadly defined to include hardware and software, and that the FAC’s claims therefore fall within that language. SEA Mot. at 43–45. The FAC alleges something different: coordinated manufacturer design embedded in platform firmware before any consumer relationship exists. The challenged conduct includes Samsung firmware that “implement[s] the Lock at boot” through the Consumer Software Customization (“CSC”) system and conditions access to native telephony privileges on carrier authorization. FAC ¶ 99. The FAC further alleges

that this architecture has been progressively reinforced through successive operating-system releases from 2014 through iOS 26 (September 2025) and Android 16 (June 2025). FAC ¶¶ 83–86, 94–108.

Samsung’s own filings confirm that the conduct at issue concerns engineering architecture rather than contractual performance. In the Platform Motion to Dismiss, Samsung characterizes its firmware decisions as unilateral product-design conduct and argues that they are “not exclusionary as a matter of law.” Platform MTD at 16–19. In the arbitration motion, Samsung invokes the FAC’s allegation that Samsung firmware would “facilitate carrier dominance” and separately argues that Plaintiffs alleged “concerted misconduct” for estoppel purposes. SEA Mot. at 18, 19–22. Both descriptions confirm that the conduct concerns engineering conduct embedded in platform architecture, not the performance of obligations under a consumer device agreement.

**A. The AT&T Agreement Reserves Scope Determinations to the Court.**

Samsung concedes that scope is for the Court under the AT&T agreement. SEA Mot. at 23. That concession is significant beyond the AT&T agreement itself. While Samsung argues for broad delegation under other agreements, it acknowledges judicial scope determination here under AT&T, underscoring that the real question is not how broad Samsung says the contractual language is, but whether the claims as pleaded arise from any consumer agreement at all. They do not.

Ray Leon’s claims against Samsung arise from alleged device- and firmware-level restrictions implemented by Samsung and other platform actors, not from any billing or service dispute with AT&T. FAC ¶¶ 12–17, 94–104. Those claims do not arise from any dispute between Leon and AT&T. The AT&T agreement therefore does not reach claims against third-party

manufacturers for firmware design decisions embedded before any subscriber relationship was formed.

**B. Samsung Device Agreements Do Not Reach These Claims.**

Samsung argues that the agreements’ broad “relating to” language reaches the claims here because they concern the sale, condition, or performance of Samsung products, broadly defined to include hardware and software. SEA Mot. at 43–45. But the relevant inquiry is whether the parties reasonably contemplated arbitration of the claims asserted. They did not.

The FAC does not allege bilateral product defects or consumer service disputes. It alleges coordinated architectural conditioning affecting a nationwide device-owner class through platform gating and carrier validation across the smartphone ecosystem. FAC ¶¶ 26–27, 94-108, 117-124.

The FAC seeks treble damages and parity-focused injunctive relief, including what amounts to certification-based, nondiscriminatory native access without bundle validation. FAC ¶ 170; see also FAC ¶ 236. Samsung’s consumer device agreements cannot reasonably be interpreted to encompass coordinated market-structure claims requiring relief across multiple defendants. *Stolt-Nielsen S.A. v. Animal Feeds Int’l Corp.*, 559 U.S. 662, 684 (2010) (holding that consent to arbitrate bilateral disputes does not establish consent to arbitrate claims requiring class-wide or multi-party relief).

**C. Samsung Account and Carrier Agreements Do Not Govern the Challenged Conduct.**

Samsung invokes Samsung Account and carrier subscriber agreements, but the FAC challenges firmware, operating-system, entitlement-gating, and carrier-validation architecture governing access to native telephony functionality—not ordinary account or billing disputes. FAC ¶¶ 94–106, 118–120.

Ray Leon’s claims arise from Samsung’s firmware design affecting access to native telephony functionality across platform ecosystems. FAC ¶¶ 12–17, 94–104. Carrier subscriber agreements govern billing relationships between carriers and consumers, not the design of Samsung firmware embedded in smartphones before any carrier relationship exists.

Under the positive-assurance standard, the Court can say with positive assurance that the claims asserted in the FAC fall outside the scope of every arbitration agreement Samsung invokes.

## II. EQUITABLE ESTOPPEL DOES NOT APPLY

Samsung’s lead theory is equitable estoppel through the carrier agreements. That theory fails because Samsung is a non-signatory to the carrier agreements it invokes, and Plaintiffs’ claims against Samsung do not depend on rights or obligations created by those contracts. Arbitration remains a matter of consent, and a non-signatory may compel only where traditional contract-law principles allow it. See *Arthur Andersen LLP v. Carlisle*, 556 U.S. 624, 631 (2009); see also the Florida authorities Samsung invokes, which do not eliminate the requirement that the claim against the non-signatory actually depend on the contract containing the arbitration clause. The FAC’s claims do not.

Samsung’s argument relies on the second type of equitable estoppel, as described in *Gunson v. BMO Harris Bank, N.A.*:

First, equitable estoppel applies when the signatory to the contract relies on the terms of the contract to assert his or her claims against the non-signatory. In other words, arbitration is appropriate when the signatory's claim against a non-signatory “makes reference to” or “presumes the existence of” the agreement. **Second, equitable estoppel applies when the signatory raises allegations of concerted misconduct by both the non-signatory and one or more of the signatories to the contract. In other words, equitable estoppel precludes a party from “trying to have his cake and eat it too”—that is, using certain provisions of the contract to their benefit to help establish their claim while also attempting to avoid the burdens of the other provisions.**

43 F. Supp. 3d 1396, 1401 (S.D. Fla. 2014) (emphasis added) (citations omitted). However, this second type of equitable estoppel still involves claims that are grounded in the terms of a contract.

In all cases, the lynchpin for equitable estoppel is equity, and the point of applying it to compel [application of a contractual provision] is to prevent a situation that would fly in the face of fairness. The purpose of the doctrine is to prevent a plaintiff from, in effect, trying to have his cake and eat it too; that is, from relying on the contract when it works to his advantage by establishing the claim, and repudiating it when it works to his disadvantage.... **The plaintiff's actual depend[ence] on the underlying contract in making out the claim against the nonsignatory defendant is therefore always the *sine qua non* of an appropriate situation for applying equitable estoppel.**

*Bailey v. ERG Enterprises, LP*, 705 F.3d 1311, 1320 (2013) (quoting *In re Humana Inc. Managed Care Litigation* 285 F.3d 971, 976 (11th Cir.2002) (citations omitted) (internal quotation marks omitted) (emphasis added).

Equitable estoppel does not apply here in this case because Samsung is a non-signatory to the carrier agreements it invokes, and Plaintiffs' claims against Samsung do not depend on rights or obligations created by those contracts. Arbitration is a matter of consent. A non-signatory may compel only where traditional contract-law principles allow it, such as where the plaintiff's claim is actually grounded in the contract containing the arbitration clause. *See Arthur Andersen LLP v. Carlisle*, 556 U.S. 624, 631 (2009); *Koehli v. BIP Int'l, Inc.*, 870 So. 2d 940, 943–44 (Fla. 1st DCA 2004).

Samsung invokes the FAC's allegations of "concerted misconduct," SEA Mot. at 19–22, but that is only half the analysis. Concerted misconduct is not enough unless the claims against the non-signatory arise from the contract itself. They do not. The FAC challenges coordinated firmware, operating-system, and credential-provisioning architecture governing access to parity-grade native telephony functionality. That architecture would operate in the same way regardless of the subscriber agreements Samsung cites. Plaintiffs do not seek to enforce any carrier-contract

term against Samsung, and the subscriber agreements neither created nor authorized the architectural restraints alleged.

Samsung's concerted-misconduct theory fails because factual overlap is not contractual dependence. If allegations of coordinated conduct were enough by themselves, any antitrust or RICO complaint naming a signatory and a non-signatory could be forced into arbitration without regard to consent. Florida law does not permit that result. The relevant question is whether Plaintiffs' claims against Samsung rely on rights created by the carrier agreements. They do not. The FAC challenges device-layer enforcement architecture, firmware allow-listing, operating-system privilege gating, and credential-conditioned native telephony access. Those duties arise, if at all, from federal statutory law governing exclusionary conduct—not from any promise made in a carrier subscriber contract.

Nor may Samsung collapse multiple distinct agreements into a single pooled arbitration right. Each arbitration clause must stand or fall on its own terms, language, and formation context. See *Volt Info. Scis., Inc. v. Bd. of Trs. of Leland Stanford Junior Univ.*, 489 U.S. 468, 478-479 (1989). A device manufacturer cannot bootstrap itself into carrier agreements collectively simply because the alleged conduct interacts with carrier systems. The clause invoked must itself bind the parties and itself cover the claims asserted. Samsung identifies no such clause here.

**A. The Platform Conduct Consists of Engineering Design Decisions — Not Contractual Obligations.**

Samsung characterizes its firmware as “concerted misconduct” designed to “facilitate carrier dominance.” SEA Mot. at 18, 20–22. In the same filings, Samsung simultaneously describes the same conduct as a “unilateral refusal to redesign.” Platform MTD at 16–19. Neither characterization is contractual. The challenged platform conduct consists of engineering design decisions embedded in proprietary operating-system and firmware architectures.

These descriptions are revealing. Samsung’s own filings characterize the conduct as engineering architecture embedded in proprietary operating-system and firmware layers governing access to native telephony functionality. That characterization confirms that the conduct challenged in the FAC is architectural and technological in nature, not contractual. Because the alleged restraint operates through device-level platform design decisions rather than contractual obligations between Samsung and individual consumers, the claims do not arise from the agreements Samsung invokes.

Apple implements entitlement gating through iOS; Google implements carrier-privilege APIs through Android; Samsung implements firmware allow-lists through the CSC system, which “implement[s] the Lock at boot.” FAC ¶ 99; Appendix B §§ C–E.

These architectural controls are embedded in the device before any subscriber relationship exists. They determine whether a voice service can access native telephony functionality at all. The subscriber agreements neither created nor govern these firmware architectures.

The FAC alleges that the architecture has been progressively reinforced through successive operating-system releases — including iOS 26 (September 2025) and Android 16 (June 2025) — conditioning native telephony access on carrier entitlements in newly compiled code with each release cycle. FAC ¶¶ 83–86, 100–108. Each such release is an independent engineering decision. No consumer subscriber agreement required or authorized those architectural design choices.

Samsung cannot maintain three inconsistent characterizations of the same conduct: independent engineering for merits purposes, concerted misconduct for arbitration purposes, and contractual performance for estoppel purposes. All three confirm the same point — the challenged conduct is independent of the consumer agreements Samsung invokes.

**B. The Carrier Conduct Also Does Not Arise from Subscriber Agreements.**

The FAC alleges that the carrier defendants participate in the architecture by supplying validation credentials and provisioning inputs used by the platform enforcement layer through enterprise-level credential provisioning decisions. FAC ¶¶ 118–130, 131–135. Those inputs include SIM and eSIM entitlements, IMS provisioning, E911 routing profiles, and quality-of-service parameters. This provisioning occurs at the enterprise level, external to individual subscriber agreements.

The subscriber agreements govern billing and service terms between carriers and customers. They do not govern how carriers provision validation credentials to platform manufacturers or whether they coordinate architectural decisions with platform operators.

The claims would therefore exist in identical form even if no Individual Plaintiff had signed a carrier subscriber agreement. Because the carrier conduct alleged in the FAC does not arise from rights or obligations the subscriber agreements create, *Seifert*'s predicate is absent as to the carrier dimension of the claim as well.

**C. Coordinated Conduct Does Not Create Contractual Dependence.**

Samsung's estoppel argument rests primarily on the FAC's allegation that platform defendants and carriers acted together. SEA Mot. at 20–22. But factual interdependence among defendants does not establish contractual dependence on consumer agreements.

The FAC alleges that neither platform enforcement (“the Lock”) nor carrier authorization (“the Key”) independently produces the class-wide foreclosure — each operates only in combination with the other. FAC ¶¶ 61–66, 94. That type of structural interdependence is recognized in antitrust law under *Interstate Circuit, Inc. v. United States*, 306 U.S. 208, 222–23

(1939), and the product-design maintenance theory addressed in *United States v. Microsoft Corp.*, 253 F.3d 34, 58–67 (D.C. Cir. 2001).

These antitrust doctrines address coordinated market conduct — not contract-law doctrines addressing subscriber obligations.

**D. Samsung’s Own Filings Confirm the Non-Contractual Nature of the Conduct.**

As explained in Section VI, Samsung’s simultaneously filed briefs present inconsistent characterizations of the same firmware conduct, each certified under Rule 11 on the same day. A unilateral product-design decision is engineering conduct. “Concerted misconduct” among platform providers and carriers is coordinated market behavior. Neither arises from rights or obligations created by consumer subscriber agreements. Samsung’s own filings therefore confirm that the challenged conduct is independent of the agreements it invokes.

**E. Michael Inza Cannot Be Compelled Under Any Estoppel Theory.**

Samsung acknowledges that Michael Inza has no Samsung device arbitration agreement. SEA Mot. at 3 n.4. Samsung instead invokes equitable estoppel based on a co-defendant arbitration provision contained in a T-Mobile subscriber agreement, premised on possible consolidation with the related carrier action. SEA Mot. at 19–22.

Consolidation has not been ordered. See *VoIP-Pal v. AT&T*, Aug. 19, 2025 Minute Order. Even if consolidation occurred, estoppel would still fail. Michael Inza’s claims arise from the same architectural conditioning that affects every device owner in the class — not from rights or obligations created by his subscriber agreement. FAC ¶¶ 48–50, 80. His injury is uniform across the class regardless of carrier relationships. FAC ¶¶ 150–161.

Because Michael Inza has no Samsung arbitration agreement and the claims do not depend on his carrier agreement, Samsung cannot compel arbitration of his claims under any estoppel theory.

### **III. DIRECT FORMATION ARGUMENTS FAILS UNDER FLORIDA LAW**

Even assuming *arguendo* that Samsung can establish assent to some arbitration language for some devices or account flows, that showing would not resolve this motion. Samsung must still establish that the particular agreement reaches the claims asserted, that any delegation provision governs, that non-signatory enforcement is proper, and that the arbitral forum can preserve the federal remedies the FAC seeks. It cannot do so.

Nor does Florida law permit Samsung to treat all alleged assent mechanisms as equivalent. Standard-form consumer terms presented through packaging references, in-box materials, setup screens, and account flows must still provide reasonably conspicuous notice and an unambiguous manifestation of assent. Buried or unclear presentation in a take-it-or-leave-it consumer setting does not establish the broad consent Samsung attributes to it here. Moreover, Samsung's own filings reinforce that the claims challenged here do not arise from bilateral consumer-contract performance. The FAC alleges a device-level chokepoint architecture governing access to parity-grade native telephony functionality. FAC ¶ 99. Samsung's arbitration motion describes that architecture as concerted conduct with carriers, while Samsung's Platform Motion to Dismiss characterizes the same firmware decisions as unilateral product design. Neither characterization describes performance of obligations under a consumer device agreement.

Even assuming *arguendo* that valid agreements exist for Richard Inza's S21+, S23+, and S24+ devices and for Ray Leon's Samsung Account, compulsion still fails for the independent

reasons set forth above. The formation defects discussed below apply specifically to the S9+ agreement.

Standard-form consumer presentation matters here. Florida courts recognize that assent is questionable when it is buried or inconspicuous terms presented on a take-it-or-leave-it basis without a meaningful opportunity for informed choice. See, e.g., *Kohl v. Bay Colony Club Condo., Inc.*, 398 So. 2d 865 (Fla. 4th DCA 1981). Courts evaluating digital assent likewise require reasonably conspicuous notice and an unambiguous manifestation of assent. Samsung's motion treats packaging references, post-purchase materials, and setup screens as interchangeable proof of assent. They are not. Each alleged assent path must be examined separately, and ambiguities in notice or timing defeat Samsung's attempt to convert product acquisition into blanket consent to arbitrate platform-architecture claims.

The S9+ timing problem is not a minor evidentiary wrinkle. A delayed, post-purchase presentation of arbitration terms materially weakens any claim of contemporaneous mutual assent. Continued use of a smartphone after purchase is not the same thing as informed agreement to waive judicial adjudication of later federal antitrust and RICO claims—especially where the challenged conduct concerns embedded device architecture rather than ordinary product-performance disputes. Samsung's theory effectively asks the Court to infer broad arbitral consent from ownership and subsequent use. Florida contract law requires more.

#### **A. The Eighteen-Month Gap Defeats Meaningful Assent.**

Richard Inza purchased the Galaxy S9+ in August 2018, while Samsung's records reflect alleged assent to the S9+ Terms and Conditions in February 2020—approximately eighteen months later. Waitley Decl. ¶ 5; SEA Mot. at 4, 12. At minimum, that chronology defeats any

simplistic contemporaneous-assent narrative and reinforces that formation and scope must be resolved carefully by the Court rather than assumed in Samsung's favor.

Florida courts scrutinize post-transaction arbitration provisions under the state's unconscionability framework *Powertel, Inc. v. Bexley*, 743 So. 2d 570, 574–76 (Fla. Dist. Ct. App. 1999). That analysis governs here.

By February 2020, the device had been owned for eighteen months. Personal data, applications, contacts, and settings had been fully integrated into the device. Rejecting the arbitration clause at that stage would have required abandoning an eighteen-month investment in the device and the Samsung ecosystem entirely. The opportunity to reject was illusory.

Moreover, by February 2020 the S9+ device was already subject to the architectural conditioning challenged in this case. The Lock-and-Key enforcement layer was embedded at manufacture and progressively reinforced through successive operating-system releases affecting the S9+ device. FAC ¶¶ 67–78, 83–86, 99–100. The arbitration clause Samsung seeks to enforce was therefore introduced after the alleged device-level conduct had already begun.

Under *Powertel*, the S9+ arbitration clause was not formed through meaningful assent.

**B. The S23+, S24+, and Samsung Account Agreements Reserve Arbitrability to the Court.**

The agreements applicable to Richard Inza's S23+ and S24+ devices and to Ray Leon's Samsung Account expressly reserve questions of arbitrability to courts. Waitley Decl. ¶ 17.

Samsung acknowledges that certain versions of its agreements reserve arbitrability determinations for the Court. SEA Mot. at 23. Because those agreements carve out threshold enforceability and scope issues for judicial determination, Samsung's delegation argument fails as to those devices and the Samsung Account agreement.

The claims asserted here target cross-defendant firmware and operating-system architecture rather than an ordinary dispute over the sale, condition, or performance of any individual Samsung device. FAC ¶¶ 12–17, 94–104.

**C. The S21+ Delegation Clause Does Not Reach the Claims Asserted.**

Samsung argues that the S21+ delegation clause assigns arbitrability questions to the arbitrator. SEA Mot. at 43–44. Even assuming arguendo that the delegation language is valid and enforceable, it extends only to disputes concerning interpretation or application of the specific consumer device agreement.

The cases Samsung cites enforcing its arbitration clauses involved bilateral product disputes, such as device defects or warranty claims. SEA Mot. at 33–40 (citing *Vasadi v. Samsung Elecs. Am., Inc.*, 2021 WL 5578736 (D.N.J. Nov. 29, 2021), *Beture v. Samsung Elecs. Am., Inc.*, 2018 WL 4621586 (D.N.J. July 18, 2018) and *McDougall v. Samsung Elecs. Am., Inc.*, 2023 WL 6445838 (S.D.N.Y. Oct. 3, 2023)). Those disputes arose directly from the sale or performance of a particular device.

The FAC alleges something different: coordinated cross-defendant architectural conditioning implemented across platform providers, Samsung firmware, and carrier-validation layers spanning the smartphone ecosystem. FAC ¶¶ 12–17, 94–104, 118–120. That alleged architecture affects a putative nationwide class of approximately 373 million device owners and, according to the FAC, has been maintained through successive platform releases over more than a decade. FAC ¶ 26; FAC ¶¶ 83–86, 94–108. Coordinated market conduct spanning multiple defendants and operating systems cannot reasonably be characterized as a dispute concerning interpretation or application of a bilateral consumer device agreement.

Under *AT&T Technologies*, arbitration must be denied where the Court can say with positive assurance that the clause does not cover the asserted dispute. That positive assurance exists here. Accordingly, even as to the S21+, compulsion is improper.

#### IV. UNCONSCIONABILITY

Courts may refuse to enforce arbitration clauses that are unconscionable or procured by fraud. See *Abadi v. National Railroad Passenger Corporation*, 2024 WL 4441737, \*2-4 (D.D.C. 2024) (a court can void a contract on the grounds that it is unconscionable if the party seeking to avoid the contract proves that the contract was both procedurally and substantively unconscionable); *Hill v. Wackenhut Services Intern.*, 865 F.Supp.2d 84, 93-96 (D.D.C. 2012) (issue of whether arbitration clause was enforceable was one of law for the court to decide; applying Florida law *Powertel, Inc. v. Bexley*, 743 So.2d 570, 573-574 (Fla. 1st DCA 1999); *Kindred Nursing Centers Ltd. P'ship v. Clark*, 581 U.S. 246 (2017); *AT&T Mobility LLC v. Concepcion*, 563 U.S. 333 (2011) (arbitration agreements may be invalidated by generally applicable contract defenses, such as fraud, duress, or unconscionability).

Where Plaintiffs challenge the enforceability of the arbitration clause itself—as procedurally and substantively unconscionable—and specifically contest any delegation provision therein, this Court must resolve that threshold issue. *Christian v. Uber Techs., Inc.*, 775 F. Supp. 3d 272 (D.D.C. 2025) (Under FAA, before a district court sends any issues to the arbitrator, it must consider any challenges to the delegation clause; such challenges, pursuant to the applicable state law, include contract defenses such as fraud in the inducement, duress, and unconscionability); *Coinbase, Inc. v. Suski*, 602 U.S. 143, 144 S. Ct. 1186 (2024); *Rent-A-Center, West, Inc. v. Jackson*, 561 U.S. 63, 70–71 (2010) (courts decide challenges directed at delegation provisions) *Lim v. TForce Logistics, LLC*, 8 F.4th 992, 1000 (9th Cir. 2021).

Florida courts have recognized that arbitration clauses may be unconscionable when they effectively eliminate meaningful legal remedies. *Powertel, Inc. v. Bexley*, 743 So. 2d 570, 576 (Fla. 1st DCA 1999); *Kohl v. Bay Colony Club Condominium, Inc.*, 398 So. 2d 865 (Fla. 4th DCA 1981).

**A. The SEA Arbitration Agreement is Procedurally Unconscionable.**

Florida courts have long held that procedural unconscionability arises when there is “an absence of any meaningful choice,” particularly in contracts of adhesion presented on a take-it-or-leave-it basis. See *Kohl v. Bay Colony Club Condominium, Inc.*, 398 So. 2d 865 (Fla. 4th DCA 1981); *Belcher v. Kier*, 558 So. 2d 1039 (Fla. 2d DCA 1990). This classical understanding echoes the U.S. Supreme Court’s early articulation in *Hume v. United States*, 132 U.S. 406, 411 (1889), where unconscionable contracts were described as those “no man in his senses and not under delusion would make on the one hand, and as no honest and fair man would accept on the other.”

SEA has clearly gone to great lengths to make their arbitration agreement binding on their customers. However, they cannot overcome the absence of meaningful choice. Samsung is essentially the only company selling PC type mobile phones. Expecting consumers to find a different option, or to switch over the an iOS type mobile phone is not reasonable.

“It is true, as Powertel argues, that customers can avoid the effect of the arbitration clause by canceling their phone service and signing an agreement with another provider. The fallacy of that argument, however, is that switching providers would result in a loss of the investment the customers have in the agreements they made with Powertel. They purchased equipment that works only with the Powertel service and they have obtained telephone numbers that cannot be transferred to a new provider... Hence, it is no answer to say that the customers can simply switch providers. Many customers may have continued their service with Powertel despite their objection to the arbitration clause simply because they had no economically feasible alternative.”

*Powertel*, 743 So.2d at 575.

**B. The SEA Arbitration Agreement is Substantively Unconscionable.**

Florida courts have held that one-sided contract terms that suppress legal accountability and deny effective remedies may be substantively unconscionable. *Powertel, Inc. v. Bexley*, 743 So. 2d 570, 576 (Fla. 1st DCA 1999); *Kohl v. Bay Colony Club Condominium, Inc.*, 398 So. 2d 865 (Fla. 4th DCA 1981). Moreover, courts have recognized that arbitration clauses may be unenforceable where they impair access to statutory remedies or limit procedural protections essential to public enforcement. See *Hill v. Wackenhut Services Intern.*, 865 F.Supp.2d 84, 93-96 (D.D.C. 2012) (to determine substantive unconscionability of a contract under Florida law, courts consider whether the disputed terms limit available remedies, exclude punitive damages, prevent equitable relief, impose substantial costs, or lack mutuality of obligation with respect to the arbitration of disputes).

The SEA agreement includes a class waiver, which overwhelmingly limits impairs access to relief. The *Powertel* decision explains how this sort of class waiver can lead to a substantively unconscionable result.

The arbitration clause also effectively removes Powertel's exposure to any remedy that could be pursued on behalf of a class of consumers. See *Champ v. Siegel Trading Co., Inc.*, 55 F.3d 269 (7th Cir.1995) (holding that the court has no independent authority to compel arbitration of a class claim). Class litigation provides the most economically feasible remedy for the kind of claim that has been asserted here. The potential claims are too small to litigate individually, but collectively they might amount to a large sum of money. The prospect of class litigation ordinarily has some deterrent effect on a manufacturer or service provider, but that is absent here. By requiring arbitration of all claims, Powertel has precluded the possibility that a group of its customers might join together to seek relief that would be impractical for any of them to obtain alone. Again, this is an advantage that inures only to Powertel.

*Powertel, Inc. v. Bexley*, 743 So.2d at 576. This reasoning is directly applicable to the case now before the Court, seeking relief for millions of claims that are too small to litigate individually.

**V. COMPELLING THESE CLAIMS TO A SAMSUNG-ONLY FORUM IS INCOMPATIBLE WITH THE EFFECTIVE-VINDICATION DOCTRINE**

The effective-vindication defect here is structural, not merely procedural. A Samsung-only arbitral forum would lack authority over Apple, Google, and the carrier defendants, could not issue coordinated Clayton Act injunctive relief across the alleged architecture, and would reduce multi-defendant statutory claims to fragmented bilateral disputes incapable of addressing the restraint the FAC pleads.

Plaintiffs do not contend that federal antitrust claims are categorically non-arbitrable. The Supreme Court confirmed in *Mitsubishi Motors Corp. v. Soler Chrysler-Plymouth, Inc.* that antitrust claims may be arbitrated. 473 U.S. 614, 628 (1985). The relevant inquiry is narrower: whether the arbitral forum would eliminate the statutory remedies Congress created. *American Express Co. v. Italian Colors Restaurant*, 570 U.S. 228, 235 (2013).

The remedial gap is concrete, not abstract. A Samsung-only panel could not bind Apple, Google, AT&T, Verizon, or T-Mobile. It could not order coordinated modification of iOS entitlement gating, Android privilege structures, Samsung firmware allow-listing, or carrier credential-provisioning practices in a single decree. It could not administer class-wide structural relief for the nationwide device-owner class. And it could not provide a unified adjudication of the common architecture the FAC alleges. Fragmenting those issues into bilateral proceedings would not merely alter procedure; it would strip the case of the integrated remedial architecture that Section 16 of the Clayton Act is designed to permit.

That inadequacy is amplified by the class dimension of the case. The FAC alleges uniform overcharge and functional-degradation injuries affecting approximately 373 million device owners. Where common factual and legal questions predominate and the requested relief is

systemic, fragmentation into one-off proceedings undermines both adjudicative consistency and the practical vindication of small-value claims that will not be pursued individually.

The defect here is therefore not that arbitration is inconvenient, but that bilateral arbitration cannot function as an adequate substitute for the coordinated statutory proceeding the FAC requires.

Samsung's authorities concerning bilateral arbitration of ordinary consumer disputes do not answer that problem. This case does not seek only individualized damages arising from a single purchase relationship. It challenges an alleged cross-defendant architecture operating at a must-pass interface across multiple devices, operating systems, and carrier provisioning channels. A forum that can bind only Samsung cannot supply the integrated relief those claims require.

Sending this case to millions of individual arbitrations would fundamentally neutralize the essential character of the class action, and would be the functional equivalent of a decision on the merits with prejudice. The Court should decline to do that as a matter of equitable contract law and public policy in accordance with the Court's jurisprudence, including the Court's decision in *Jung v. Association of American Medical Colleges*, 300 F.Supp.2d 119 (2004).

In *Jung*, "The Court concludes that the *Continental Ore* decision and its progeny manifest a clear and compelling countervailing interest in the comprehensive adjudication of conspiracy claims brought under the Sherman Act." 300 F.Supp.2d at 156 (referencing *Continental Ore Co. v. Union Carbide & Carbon Corp.*, 370 U.S. 690 (1962)).

Indeed, in *Continental Ore Co. v. Union Carbide & Carbon Corp.*, 370 U.S. 690, 82 S.Ct. 1404, 8 L.Ed.2d 777 (1962), the Supreme Court expressly held that in cases that involve an alleged conspiracy among multiple actors involving multiple acts,

plaintiffs should be given the full benefit of their proof without tightly compartmentalizing the various factual components and wiping the slate clean after scrutiny of each. The character and effect of a conspiracy are not to be judged by dismembering it and viewing

its separate parts, but only by looking at it as a whole .... [I]n a case like the one before us, the duty of the jury was to look at the whole picture and not merely at the individual figures in it.

*Id.* at 699, 82 S.Ct. 1404 (internal quotation and citation omitted). *See also In re Consumer Credit Counseling Services Antitrust Litigation*, Misc. No. 97–0233/Civil Action No. 97–1741, 1997 WL 755019, at \*5 (D.D.C. Dec. 4, 1997), 1997 U.S. Dist. LEXIS 19669, at \*13–14 (refusing to consider allegations of various anticompetitive acts separately when brought under single conspiracy claim, concluding that “the character and effect of the conspiracy are not to be evaluated by viewing its separate parts.... [T]he ramification and effect of the conspiracy should be looked at as a whole.”); *In re Medical X-Ray Film Antitrust Litigation*, 946 F.Supp. 209, 218 (E.D.N.Y.1996) (refusing to consider elements of conspiracy claim separately because “while each of these factors taken in isolation does not necessarily provide a basis alone for inferring an agreement or conspiracy, in combination, these factors, taken together and ‘on the ground,’ may support a reasonable inference that an agreement or conspiracy existed”).

*Id.* at 155–156. Similar to the *Jung* decision, compelling this case to arbitration would undermine effective vindication of the plaintiffs’ claims.

## **VI. SAMSUNG'S REQUEST FOR DISMISSAL WITH PREJUDICE IS INCONSISTENT WITH A RIGHT TO ARBITRATE**

On January 30, 2026, Samsung filed a merits motion seeking dismissal with prejudice of the claims in their entirety and, simultaneously, a motion seeking to compel arbitration of those same claims. By simultaneously seeking dismissal with prejudice and compelling arbitration, Samsung has invoked the judicial merits process in a manner inconsistent with a genuine commitment to arbitration.

Under *Morgan v. Sundance, Inc.*, 596 U.S. 411, 417–18 (2022), waiver of arbitration is governed by ordinary contract principles. The question is whether the party's litigation conduct is inconsistent with a genuine commitment to arbitration. After *Morgan*, prejudice is not required; inconsistency alone is sufficient.

A party may waive its right to arbitration by acting “inconsistently with the arbitration right.” *See Nat’l Found. for Cancer Rsch. v. A.G. Edwards & Sons, Inc.*, 821 F.2d 772, 774–75

(D.C. Cir. 1987); *Khan v. Parsons Glob. Servs., Ltd.*, 521 F.3d 421, 424–25 (D.C. Cir. 2008). Courts evaluate waiver “under the totality of the circumstances,” and a significant factor weighing in favor of waiver is a party’s “active participation in a lawsuit.” *Nat’l Found. for Cancer Rsch.*, 821 F.2d at 775. A showing of prejudice is not required to establish waiver, although courts may consider prejudice to the opposing party as a relevant factor in the analysis. *See Khan*, 521 F.3d at 424.

In conducting this analysis, courts consider several factors, including whether the party seeking arbitration timely invoked the right to arbitrate, whether that party engaged in litigation conduct that caused the opposing party and the court to expend time and resources resolving issues unrelated to arbitration, and whether the delay in seeking arbitration resulted in prejudice to the opposing party. *See Partridge v. Am. Hosp. Mgmt. Co., LLC*, 289 F. Supp. 3d 1, 16–18 (D.D.C. 2017).

Applying these principles, courts have found waiver where a party actively litigates the merits before seeking arbitration. For example, citing *Khan*, this Court found waiver where a defendant sought dismissal of the plaintiff’s complaint based on the merits of the breach-of-contract claim rather than merely challenging the sufficiency of the pleadings. In doing so, the defendant “made a decision to take advantage of the judicial system,” just as the defendant had done in *Khan*. *Winston & Strawn, LLP v. Doley*, 654 F. Supp. 2d 17, 21 (D.D.C. 2009), as amended (Jan. 22, 2010), *aff’d*, 384 F. App’x 1 (D.C. Cir. 2010). The Court explained that compelling arbitration under such circumstances would allow the movant to obtain “a second bite at the very questions presented to the court for disposition.” *Id.*

Other courts across the country have similarly held that filing a motion to dismiss addressing the merits of a dispute may constitute litigation conduct inconsistent with the right to

arbitrate. *See, e.g., Forby v. One Techs., L.P.*, 909 F.3d 780, 785–86 (5th Cir. 2018) (finding waiver where the defendant’s motion to dismiss went directly to the merits of the plaintiff’s claims and asked the court to resolve the key issues presented by the case); *In re Pawn Am. Consumer Data Breach Litig.*, 108 F.4th 610, 615 (8th Cir. 2024) (finding waiver where defendants sought “immediate and total victory” through a motion to dismiss arguing that the complaint failed to state a claim).

Samsung’s simultaneous requests for dismissal with prejudice and arbitration meet this standard. A dismissal with prejudice would permanently extinguish the claims in every forum, including arbitration. A party that genuinely believes arbitration is the exclusive forum for adjudication does not simultaneously ask a federal court to permanently terminate those claims before any arbitrator can hear them.

A dismissal with prejudice is a final adjudication on the merits. It extinguishes the claims with res judicata effect in every forum, including arbitration. Fed. R. Civ. P. 41(b). If Samsung obtained the relief it requests in its Motion to Dismiss, no claims would remain for arbitration. The arbitration motion would therefore be moot by Samsung’s own success.

That posture is not alternative pleading. It is a request for mutually incompatible outcomes. A party that genuinely believes arbitration is the exclusive forum for adjudication does not simultaneously ask a court to permanently extinguish the claims before any arbitrator can hear them. Nor does a party that believes claims must be arbitrated ask a court to adjudicate their merits with prejudice.

**A. Samsung Seeks To Extinguish Claims Arising From Ongoing Conduct.**

The claims Samsung seeks to extinguish cover conduct that is ongoing. The FAC alleges that the challenged Lock-and-Key architecture has been progressively reinforced through

successive operating-system releases, including iOS 26 (September 2025) and Android 16 (June 2025), conditioning native telephony access on carrier entitlements through newly compiled firmware and operating-system code. FAC ¶¶ 83–86, 100–108.

Samsung's Platform Motion to Dismiss seeks dismissal with prejudice of the FAC's claims. Platform MTD at 6–31. In the arbitration motion, Samsung invokes the FAC's allegation that Samsung firmware would "facilitate carrier dominance" and separately argues that Plaintiffs alleged "concerted misconduct" for estoppel purposes. SEA Mot. at 18, 19–22.

Samsung therefore seeks to permanently extinguish claims arising from conduct that its own arbitration filings characterize as ongoing concerted misconduct while simultaneously asking the Court to compel arbitration of those same claims. This dual posture compounds the inconsistency under *Morgan*.

**B. Samsung Designates This Court As Its Fallback Merits Tribunal.**

Platform MTD footnote 5 confirms that, if arbitration is denied, Samsung expects this Court to decide its Rule 12(b)(6) merits arguments. Platform MTD at 6 n.5.

Samsung's filings designate this Court as the fallback forum for merits adjudication if arbitration is denied, while its arbitration motion separately seeks to compel Richard Inza's and Ray Leon's claims to bilateral arbitration and stay proceedings against SEA. Platform MTD at 6 n.5; SEA Mot. at 26–29, 45.

A party that designates a federal court as the proper forum for adjudicating the merits cannot simultaneously maintain that arbitration is the exclusive forum for resolving the same dispute. This is precisely the type of litigation conduct *Morgan* describes as inconsistent with a genuine commitment to arbitration.

**C. Samsung's Inconsistent Characterizations Further Undermine Its Arbitration Position.**

Samsung's simultaneously filed briefs do not present a single consistent account of the challenged conduct. In the Platform Motion to Dismiss, Samsung characterizes the challenged firmware decisions as unilateral product-design conduct—effectively a refusal to redesign—and argues that they are “not exclusionary as a matter of law.” Platform MTD at 16–19. For arbitration, Samsung invokes the FAC's allegation that Samsung firmware would “facilitate carrier dominance,” but for estoppel purposes reframes the same alleged conduct as concerted misconduct arising from consumer subscriber agreements. SEA Mot. at 18, 19–22. For merits relief, Samsung asks this Court to dismiss the FAC's claims with prejudice in their entirety. Platform MTD at 6–31. Neither the unilateral nor the concerted characterization describes the performance of obligations under a consumer device agreement. Both describe engineering and architectural conduct embedded in Samsung firmware. Samsung cannot simultaneously cast the same challenged firmware conduct as unilateral product-design conduct for merits purposes, alleged “concerted misconduct” for estoppel purposes, and grounds for dismissal with prejudice. Those materially different litigation positions reinforce the mismatch between Samsung's merits and arbitration theories. These contradictions evidence waiver under *Morgan*.

**D. Samsung Seeks Three Mutually Incompatible Outcomes.**

Taken together, Samsung's filings ask the Court to dismiss the claims with prejudice, permanently extinguishing them; to compel arbitration of those same claims; and to adjudicate the merits itself if arbitration is denied. The first request would eliminate the second. The third concedes that this Court is a proper merits forum.

Under *Morgan*, the relevant question is whether the party's conduct reflects a genuine commitment to arbitration. A party that simultaneously seeks judicial extinguishment of claims

affecting approximately 373 million consumers, arbitral adjudication of those same claims, and fallback judicial merits review has not made such a commitment.

Samsung frames the dispute as one requiring individual arbitration under bilateral consumer agreements. SEA Mot. at 1–2. It separately seeks a stay pending arbitration. SEA Mot. at 26–29. At the same time, Samsung seeks dismissal with prejudice of the FAC’s claims. Platform MTD at 6–31.

**E. The Court May Deny Arbitration On This Ground Alone.**

The Court may deny the motion on waiver grounds alone. Alternatively, Samsung’s inconsistent litigation posture reinforces the conclusions reached in the preceding sections. It confirms that the dispute concerns coordinated platform architecture affecting multiple defendants rather than bilateral consumer contract disputes. And it further underscores that the FAC seeks class-wide damages and coordinated injunctive relief spanning multiple defendants and platforms. FAC ¶¶ 170, 234–236. That remedial structure reinforces the mismatch with bilateral Samsung-only arbitration. Samsung’s own litigation conduct therefore supports the conclusion that this Court, not a bilateral arbitration panel, is the proper forum for adjudicating the claims.

**VII. FAA § 3 DOES NOT AUTHORIZE A STAY WHERE NO CLAIMS ARE REFERABLE TO ARBITRATION, AND A DISCRETIONARY STAY WOULD FRACTURE RATHER THAN SIMPLIFY THIS ACTION**

Samsung alternatively requests that the Court stay this action pending arbitration. SEA Mot. at 26–29. That request fails both as a matter of statutory authority and discretionary case-management principles.

**A. Section 3 Applies Only When Arbitration Is Properly Ordered.**

Section 3 of the Federal Arbitration Act authorizes a stay only when the Court determines that the issues in the case are “referable to arbitration under an agreement in writing.” 9 U.S.C. §

3. This Court has recently confirmed that the stay provision applies only after a court determines that arbitration must proceed.

“When a district court finds that a lawsuit involves an arbitrable dispute, and a party requests a stay pending arbitration, § 3 of the FAA compels the court to stay the proceeding.” *Smith v. Spizzirri*, 601 U.S. 472, 478 (2024). Accordingly, the Court will stay these proceedings as to plaintiffs' and Fontaine's claims against the Uber defendants.

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But on the other hand, because the Court has determined that Plaintiff Nicoletti's claims are not subject to arbitration, and the Uber defendants have not put forth any significant justification for a stay as to his claims, the Court will not stay the proceedings as to plaintiff Nicoletti.

*Umstead v. Uber Technologies, Inc.*, 2026 WL 412128, \*8 (2026).

Where a motion to compel arbitration is denied, Section 3 provides no independent authority to halt litigation. Section 3 therefore operates only after a court determines that arbitration is required. Where arbitration is denied, the statute provides no independent authority to suspend judicial proceedings. Because the claims asserted here are not referable to arbitration, the Federal Arbitration Act provides no basis for the stay Samsung requests.

Samsung nevertheless requests a stay while simultaneously arguing that the Court should dismiss the claims with prejudice and that the claims should be resolved in arbitration. Platform MTD at 6–31; SEA Mot. at 26–29. Those positions are inconsistent. If Samsung were correct that the claims should be dismissed on the merits, there would be no claims to stay pending arbitration. If Samsung is incorrect and arbitration is denied, Section 3 does not authorize a stay.

Because Samsung's motion to compel fails for the reasons set forth above—including lack of scope, failure of equitable estoppel, formation defects, effective-vindication limitations, Article III sequencing, and waiver—no claims are referable to arbitration within the meaning of Section 3. The statute therefore provides no basis for a stay.

**B. Samsung's Request for a Discretionary Stay Is Unwarranted.**

Samsung invokes discretionary stay principles under *Moses H. Cone Memorial Hospital v. Mercury Construction Corp.* for reasons of judicial economy, arguing that non-arbitrable claims warrant discretionary stays. SEA Mot. at 27–29; ). But that doctrine presupposes the existence of a parallel arbitral proceeding whose outcome may resolve or narrow issues before the Court.

Samsung's argument that related litigation justifies a discretionary stay conflates related court proceedings with the parallel arbitration requirement recognized in *Moses H. Cone*. SEA Mot. at 29–31. If arbitration is denied—as Plaintiffs submit it must be—there will be no parallel forum whose adjudication could narrow the issues before the Court.

A stay would therefore not promote judicial economy. It would instead delay resolution of a nationwide antitrust class action brought on behalf of approximately 373 million device owners while the challenged conduct continues. FAC ¶¶ 26–27, 150–161.

**C. A Stay Would Permit Ongoing Structural Harm.**

The delay Samsung seeks would prolong the very conduct challenged in the FAC. The FAC alleges that the Lock-and-Key architecture is continuously reinforced through successive operating-system releases, including iOS 26 (September 2025) and Android 16 (June 2025), with re-implementations occurring after the filing of this action that compound harm to the class. FAC ¶¶ 83–86, 100–108.

Samsung's own arbitration motion characterizes the architecture as concerted misconduct designed to facilitate carrier dominance. SEA Mot. at 18, 20–22. Yet Samsung simultaneously requests that the Court suspend the only forum adjudicating the consumer injuries arising from that conduct. A stay would suspend the sole consumer forum while the alleged architectural

conditioning continues to operate across the smartphone ecosystem, allowing the overcharge and functional degradation to continue affecting hundreds of millions of device owners.

#### **D. A Stay Would Also Undermine Ongoing Case Coordination**

This case is one of four related proceedings pending before this Court arising from the same alleged structural restraint. On August 19, 2025, the Court denied a prior consolidation request without prejudice and directed the parties to address coordinated case-management issues across the related actions.

A Samsung-only stay would fragment proceedings that the Court has already taken steps to manage in coordination, forcing discovery and motion practice to proceed piecemeal across related actions while Samsung pursues contradictory litigation strategies. Courts routinely decline discretionary stays where they would increase rather than reduce inefficiency. A stay here would do precisely that.

Because no claims are properly referable to arbitration, Section 3 of the Federal Arbitration Act does not authorize a stay. Because no parallel arbitration will proceed, a discretionary stay would not promote judicial economy. It would instead delay adjudication of the only action asserting consumer injury on behalf of the nationwide device-owner class while the challenged architectural conditioning continues.

Samsung's request for a stay should therefore be denied

#### **VIII. SAMSUNG'S ESTOPPEL THEORY WOULD REQUIRE ARBITRATION OF 373 MILLION SUBSCRIBERS — A RESULT THE FAA DOES NOT AUTHORIZE**

Samsung's estoppel theory attempts to bootstrap arbitration through subscriber contracts that govern billing relationships between carriers and their customers—contracts that say nothing about firmware architecture, platform design, or disputes with device manufacturers over parity-

grade native telephony access. The contract-law problem is straightforward. Traditional principles do not allow one party to invoke another entity's arbitration clause merely because the alleged conduct is coordinated or commercially related. See *Arthur Andersen*, 556 U.S. at 631.

Nor may the Court aggregate separate consumer agreements into a synthetic, industry-wide arbitration mandate. Each contract must stand on its own terms, and each asserted right to compel must be traced to actual consent. Samsung offers neither. Its position depends not on a clause that actually binds Samsung and reaches the pleaded claims, but on factual overlap among device conduct, carrier provisioning, and account relationships. That is not enough.

#### **IX. VOIP-PAL CANNOT BE COMPELLED OR STAYED**

VoIP-Pal did not agree to arbitrate with Samsung, and Samsung identifies no contract that would permit it to compel VoIP-Pal into arbitration. That alone defeats any effort to obtain arbitration-based relief against VoIP-Pal.

Any overlap between VoIP-Pal's allegations and the consumer class claims supports coordination, not arbitration-based suspension. The FAA authorizes stays only in aid of arbitration that the parties actually agreed to undertake. It does not authorize a non-signatory plaintiff's claims to be sidelined merely because they share facts with claims a defendant seeks to arbitrate against someone else. If the Court sees efficiency benefits from coordinated management, those are ordinary case-management questions—not a basis to compel or stay VoIP-Pal under the FAA.

That factual overlap does not create arbitral consent. It instead confirms that the related actions arise from a common alleged course of conduct and should, where appropriate, be managed in a coordinated fashion by the Court rather than fragmented through arbitration theories that do not bind VoIP-Pal.

**X. SAMSUNG’S MOTION EVALUATES A THEORY THE FAC DOES NOT PLEAD**

Samsung’s Motion evaluates the FAC as though it pleaded bilateral consumer disputes. The FAC pleads something different: coordinated architectural conditioning implemented through operating-system and firmware rules governing access to native telephony functionality. FAC ¶¶ 12–17, 94–104. Samsung’s motion recasts the FAC as a set of individual consumer arbitration disputes under carrier and Samsung agreements, including disputes relating to the sale, condition, or performance of Samsung products. SEA Mot. at 1–2, 43–45. That reframing substitutes a theory the FAC does not plead. The Complaint alleges coordinated platform architecture operating at a device-level chokepoint that determines whether any voice service may obtain parity-grade native telephony privileges. Because the Court evaluates the claims actually pleaded, not Samsung’s substituted characterization, the arbitration motion fails.

**5. CONCLUSION**

Samsung’s motion to compel arbitration should be denied.

The First Amended Complaint alleges a tying-style architecture that conditions parity-grade native telephony functionality on carrier-bundle validation through the Lock-and-Key system, and that this architecture has been reinforced through successive operating-system releases from 2014 through iOS 26 (September 2025) and Android 16 (June 2025). FAC ¶¶ 26–27, 83–86, 94–104. The claims arise from coordinated device-level firmware architecture and cross-defendant conduct affecting approximately 373 million device owners nationwide, not from the sale, condition, or performance of any individual Samsung device or any carrier subscriber agreement.

The claims fall outside the scope of every arbitration agreement Samsung invokes (Section I). Equitable estoppel does not apply because the challenged engineering design decisions and credential-provisioning conduct are legally independent of any consumer subscriber agreement

(Section II). Independent formation defects also exist under Florida law, including the eighteen-month post-purchase gap in the S9+ agreement, the absence of any Samsung agreement for Michael Inza, and agreements that expressly reserve arbitrability determinations for the Court (Section III).

Compelling arbitration would also be incompatible with the effective-vindication doctrine. The FAC pleads nationwide consumer injury on behalf of a putative class of approximately 373 million device owners, while the related actions assert VoIP-Pal's competitor injury. FAC ¶¶ 24–27, 48–50, 80–81. A Samsung-only arbitral forum would lack authority over Apple, Google, and the carrier defendants, could not grant coordinated Clayton Act injunctive relief, and could not administer class-wide remedies for the nationwide consumer class. FAC ¶ 170; FAC ¶¶ 234–236.

Samsung's litigation conduct independently defeats its motion. By simultaneously seeking dismissal with prejudice, compelling arbitration, and requesting fallback judicial adjudication of the merits, Samsung has taken positions inconsistent with a genuine commitment to arbitration under *Morgan v. Sundance, Inc.*, 596 U.S. 411, 417-18 (2022) (Section VI).

Because no claims are properly referable to arbitration, Section 3 of the Federal Arbitration Act provides no basis for a stay (Section VII). Samsung's estoppel theory would improperly extend arbitration obligations to hundreds of millions of device owners who never entered any arbitration agreement with Samsung (Section VIII). And VoIP-Pal, a non-signatory with no Samsung arbitration agreement, cannot be compelled to arbitrate or stayed (Section IX).

Each of these grounds independently supports denial of the motion.

For these reasons, the Motion to Compel Arbitration and to Stay Proceedings should be denied in its entirety.

Plaintiffs respectfully request oral argument pursuant to LCvR 7(f).

Respectfully submitted,

/s/ Travis Pittman

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**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing Plaintiff's Motion was served on March 16, 2026 to all counsel of record via the Court's electronic filing system.

/s/ Travis Pittman

Travis Pittman