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**STATE OF NEW YORK
LITIGATION COORDINATING PANEL**

Panel Case No. 0002/2004

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

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KIMBERLY BRISSENDEN, INDIVIDUALLY AND :
ON BEHALF OF ALL OTHERS SIMILARLY :
SITUATED, :

Plaintiff, : Index No. 601587/2004

- against - :

TIME WARNER CABLE OF NEW YORK CITY, :
A DIVISION OF TIME WARNER CABLE, INC., : J.S.C.
and TIME WARNER CABLE, INC., :

Defendants. :
-----X

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF QUEENS

-----X
JOHN SAMUEL, INDIVIDUALLY AND :
ON BEHALF OF ALL OTHERS SIMILARLY :
SITUATED, :

Plaintiff, : Index No. 397/2004

- against - :

TIME WARNER, INC. D/B/A/ TIME WARNER :
CABLE OF NEW YORK CITY, :

Defendants. :
-----X

Hon. Richard B. Lowe, III

J.S.C.

Hon. Peter J. Kelly, J.S.C.

DECISION AND ORDER

The defendants in the two actions cited above have moved the Litigation Coordinating Panel (“the Panel”), pursuant to Uniform Rule 202.69, for an order of coordination. These cases are clearly related and counsel for plaintiffs in the two actions have consented to issuance of such an order. The predecessor of the two actions was commenced in New York County. For this and other reasons, it is appropriate for the coordination to take place in New York County. No party has opposed such an assignment.

The papers submitted raise some issues that are not proper for action by the Panel, such as which case might be the “lead case” and who might be lead counsel, possible consolidation of the actions, and the effect of orders previously issued in the original action, Saunders v. AOL Time Warner, Inc., Index No. 601544/2003 (N.Y. County). The Panel will not resolve these questions.

Accordingly, it is hereby

(1) ORDERED that the application is granted and the actions set forth above shall be coordinated, pursuant to Section 202.69 of the Uniform Rules for the Trial Courts, in the Supreme Court of the State of New York, County of New York, before a Coordinating Justice of that County; and it is further

(2) ORDERED that, pursuant to Section 202.69 (c) (1), the Administrative Judge of the First Judicial District shall designate the Coordinating Justice; and it is further

(3) ORDERED that the Clerk of the Panel shall forthwith transmit a copy of this

Decision and Order of the Panel to counsel for all parties herein, the Justices to whom each of the above actions is currently assigned, and Honorable Jacqueline W. Silbermann, Administrative Judge of the First Judicial District; and it is further

(4) ORDERED that, within 15 days from receipt of a copy of this Decision and Order, counsel for the applicants shall serve a copy of the Decision and Order with notice of entry upon the Clerk of the Supreme Court for Queens County, who is directed, upon payment of appropriate fees, if any, to transmit the file in the Samuel action listed above to the Clerk of the Supreme Court, New York County; and it is further

(5) ORDERED that, the Clerk of the Supreme Court, New York County, shall assign a New York County index number without fee to the Samuel action and such number shall serve as a means of identification and orderly processing of the case while it remains in New York County for the purpose of coordination; and it is further

(6) ORDERED that, counsel for plaintiff in Samuel shall file a Request for Judicial Intervention (“RJI”) (for which the Clerk shall charge no fee, one having already been paid in Queens County) promptly after assignment of a New York County index number to the Samuel case, and a copy of this Decision and Order shall be annexed to the RJI.

The Presiding Justice of the Panel signs this Decision and Order on her own behalf and with the authorization and on behalf of all of the other Members of the Panel.

Dated: New York, New York
November 4, 2004

JUSTICES OF THE PANEL

HON. HELEN E. FREEDMAN
Presiding Justice, First Department

HON. RAYMOND E. CORNELIUS
Associate Justice, Fourth Department

HON. E. MICHAEL KAVANAGH
Associate Justice, Third Department

HON. JOSEPH J. MALTESE
Associate Justice, Second Department

FOR THE PANEL:



HON. HELEN E. FREEDMAN
Presiding Justice, First Department

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