

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

TIM BATCHELOR, individually and on behalf of all  
others similarly situated,

*Plaintiff,*

v.

AOL, INC., a Delaware corporation, and SDC  
SOFTWARE., INC., a Delaware corporation,

*Defendants.*

Civil Action No. 12-cv-00963 (JSR)

ECF CASE

**NOTICE OF MOTION TO DISMISS**

**PLEASE TAKE NOTICE** that upon the Class Action Complaint and Jury Demand (the “Complaint”), the annexed Declaration of John M. Lundin (“Lundin Decl.”) and the exhibits attached thereto, the Declaration of Hassan Sudler (“Sudler Aff.”) and the exhibits attached thereto, and the accompanying Memorandum of Law, Defendants AOL, Inc. and SDC.Com (“Defendants”) will move this Court, at the Courthouse located at 500 Pearl Street, New York, New York 10007, before the Honorable Jed S. Rakoff, United States District Judge, on May 8, 2012 at 4:30 p.m., or on such other date and at such other time as the Court may set, for an Order pursuant to Federal Rule of Civil Procedure 12(b)(6) dismissing the Complaint for failure to state a claim upon which relief can be granted, together with such other and further relief as the Court deems just and proper; and

**TAKE FURTHER NOTICE** that, pursuant to the Court’s order, any papers in opposition to the motion must be served and filed on or before April 20, 2012 and

**TAKE FURTHER NOTICE** that, pursuant to the Court’s order, any reply papers shall be served and filed on or before April 27, 2012; and

**TAKE FURTHER NOTICE** that, pursuant to the Court's order, oral argument of this motion shall be held at 4:30 PM at 500 Pearl Street, New York, New York 10007, Courtroom 14B, before the Honorable Jed S. Rakoff, United States District Judge.

Dated: New York, NY  
April 6, 2012

Respectfully submitted,

**SCHLAM STONE & DOLAN LLP**

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