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Interim Co-Lead Class Counsel

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

IN RE APPLE IPHONE/IPOD WARRANTY
LITIGATION

This Document Relates To:
ALL ACTIONS

No. CV 10-01610-RS

**STIPULATION AND [PROPOSED]
ORDER EXTENDING CLASS
CERTIFICATION BRIEFING
SCHEDULE**

1 **RECITALS**

2 1. The Stipulation and Order Regarding Schedule Governing Motion for Class
3 Certification, filed on April 20, 2011 (Dock. No. 47) ("April Order") states as follows:

4 The current schedule is based on the parties' understanding that Apple will
5 complete its initial document production by the end of June, 2011; that no
6 substantial follow-up discovery or modifications to the key-word searches that
7 informed Apple's discovery efforts will be necessary in order to draft Plaintiffs'
8 class-certification brief; that the schedules of counsel and various witnesses will
9 allow for the taking of depositions following the completion of Apple's initial
document production; and that Plaintiffs will be able to obtain necessary third-
party discovery prior to the filing of their motion for class certification. In the
event circumstances warrant it, this schedule is subject to modification.

10 2. Pursuant to the April Order, the current deadline for plaintiffs to file their motion
11 for class certification is October 21, 2011.

12 3. Discovery in this case is still ongoing. Depositions of Apple's FRCP 30(b)(6)
13 designees began on September 6, 2011, are still in progress as of the filing of this stipulation.
14 For various reasons, including the schedules of Apple's designees, those depositions are not
15 expected to be completed until after the date on which Plaintiffs' class certification brief is
16 presently due. Additionally, document production is not complete. Apple produced significant
17 documents in August, which are still being reviewed by plaintiffs' counsel, and additional
18 documents are being collected and produced by Apple.

19 4. Third-party discovery is not complete. While third-party deposition subpoenas
20 were served on 3M Company and AT&T Mobility LLC, protective orders were not finalized for
21 those parties' production until May 31 and August 19, 2011, respectively. A motion to compel
22 was required to resolve substantive disputes with 3M Company regarding the scope of its
23 production, and was not finally resolved until August 31, 2011, when Judge David S. Doty of the
24 U.S. District Court for the District of Minnesota overruled 3M's objection to the Magistrate
25 Judge's order granting in part plaintiffs' motion to compel. 3M produced documents on August
26 12, September 12, and September 26, 2011. AT&T Mobility produced documents comprising
27 over 58,000 pages on August 26, 2011. Plaintiffs' counsel are still in the process of reviewing
28 all of this production and anticipate that the production may be found incomplete, requiring

1 further “meet and confer” discussions and possible motion practice. Plaintiffs have also served a
2 third-party deposition subpoena on Hon Hai Corporation, and are in the process of conferring
3 with counsel for that entity regarding its anticipated production.

4 5. The parties have agreed to participate in a mediation on October 13, 2011 with the
5 Hon. Edward A. Infante (Ret.) of JAMS. This was the earliest workable date available after the
6 parties (including plaintiffs’ counsel in the parallel state court action) agreed to participate in
7 mediation. Plaintiffs reasonably have been focusing their efforts on preparing for the mediation
8 rather than preparing their class certification motion papers. If the matter does not settle during
9 the scheduled mediation, the eight days remaining to prepare the class certification motion
10 papers will be insufficient.

11 6. The parties agree that circumstances warrant modification of this deadline and the
12 remaining briefing schedule.

13 **STIPULATION**

14 Accordingly, by and through their counsel, the parties hereby stipulate to modify the
15 Stipulation and Order Regarding Schedule Governing Motion for Class Certification, filed on
16 April 20, 2011 (Dock. No. 47) by extending all deadlines by approximately three months, as
17 follows:

18 1. Plaintiffs will file their motion for class certification on or before January 31,
19 2012.

20 2. In the event Plaintiffs submit testimony in support of their opening brief,
21 Defendant Apple, Inc. (“Apple”) shall file its opposition to the motion for class certification on
22 April 2, 2012, so as to provide Apple with sufficient opportunity to depose Plaintiffs’ declarants
23 about the matters set forth in their declarations, to the extent those declarants have not already
24 been deposed about those matters. If Plaintiffs do not submit testimony in support of their
25 opening brief, Apple’s opposition papers shall be due March 2, 2012.

26 3. In the event Apple submits testimony in support of its opposition brief and
27 Plaintiffs have submitted testimony in support of their opening brief, Plaintiffs’ reply papers
28 shall be filed on June 4, 2012, so as to provide Plaintiffs with sufficient opportunity to depose

Apple's declarants about the matters set forth in their declarations, to the extent those declarants have not already been deposed about those matters. If Apple submits testimony in support of its opposition brief, but Plaintiffs have not submitted testimony in support of their opening brief, Plaintiffs' reply brief shall be due May 2, 2012. If Apple does not submit testimony in support of its opposition brief, but Plaintiffs have submitted testimony in support of their opening brief, Plaintiffs' reply brief shall be due May 2, 2012. If neither party submits testimony in support of the opening and opposition briefs, Plaintiffs' reply brief shall be due April 2, 2012.

4. Plaintiffs shall have the opportunity to submit expert rebuttal testimony in support of their reply brief.

5. The hearing date for Plaintiffs' class-certification motion shall be set on or about the time Plaintiffs file their reply brief.

DATED: October 12, 2011

Jeffrey L. Fazio
Dina E. Micheletti
FAZIO | MICHELETTI LLP

by /s/ Jeffrey L. Fazio
Jeffrey L. Fazio

Interim Co-Lead Class Counsel

DATED: October 12, 2011

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Attorneys for Defendant, Apple, Inc.

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2 **ATTESTATION OF FILER**

3 I, Kimberly A. Kralowec, hereby attest that concurrence in the filing of this document has
4 been obtained from each of the other signatories. See N.D. Cal. Gen. Order No. 45, para. X(B).

5 Dated: October 12, 2011

By: /s/ Kimberly A. Kralowec

6 Kimberly A. Kralowec

7 THE KRALOWEC LAW GROUP

8
9 PURSUANT TO STIPULATION, AND GOOD CAUSE APPEARING, IT IS SO
10 ORDERED.

11 Dated: _____, 2011

12 The Honorable Richard Seeborg
13 United States District Judge
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