

\*E-Filed 10/12/11\*

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10 **UNITED STATES DISTRICT COURT**  
 11 **NORTHERN DISTRICT OF CALIFORNIA**

12 IN RE APPLE IPHONE/IPOD WARRANTY  
 13 LITIGATION

No. CV 10-01610-RS

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

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 15 This Document Relates To:  
 ALL ACTIONS  
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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

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

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

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

12  
13 DATED: October 12, 2011

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

17 Interim Co-Lead Class Counsel

18 DATED: October 12, 2011

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27 Attorneys for Defendant, Apple, Inc.  
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**ATTESTATION OF FILER**


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

Dated: October 12, 2011

By:           /s/ Kimberly A. Kralowec            
Kimberly A. Kralowec  
THE KRALOWEC LAW GROUP

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

Dated:   10/12  , 2011

  
\_\_\_\_\_  
The Honorable Richard Seeborg  
United States District Judge