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18 **UNITED STATES DISTRICT COURT**
 19 **NORTHERN DISTRICT OF CALIFORNIA**

20

21 IN RE APPLE IPHONE/IPOD
 WARRANTY LITIGATION

No. 10-CV-01610

22 This Document Relates To:

**JOINT CASE MANAGEMENT
 CONFERENCE STATEMENT**

23 All Actions

DATE: March 22, 2012
 TIME: 9:00 a.m.
 COURTROOM: 3
 TRIAL DATE: Not set

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1 Pursuant to Civil Local Rule 16-10(d), the parties respectfully submit this
2 Joint Case Management Conference Statement.

3 **Plaintiffs' Statement:**

4 The original complaint in *Gallion v. Apple, Inc.*, No. 10-CV-01610, was filed
5 in this Court on April 15, 2010, and was later consolidated with two related
6 actions, *Corsi v. Apple, Inc.*, No. 10-CV-03316, and *Calix v. Apple, Inc.*, No. 10-CV-
7 05895, each of which proposed a nationwide class of consumers who had purchased
8 an original iPhone, iPhone 3G, iPhone 3GS, and/or iPod touch device ("Class
9 Devices"). Another, related action had been filed in the Santa Clara County
10 Superior Court, *Pennington, et al. v. Apple, Inc.*, No. 1-10-CV-162659, which
11 proposed a class composed of California residents who had purchased a Class
12 Device.

13 In each of these actions (collectively, the "Actions"), the plaintiffs alleged
14 that Apple had a policy of denying warranty claims on the ground that Class
15 Devices had been damaged by liquid based solely on a Liquid Contact Indicator
16 ("LCI") that had turned pink or red, without inspecting Class Devices for evidence
17 of actual damage by liquid. Plaintiffs also alleged that because Apple relied on a
18 provision in its warranties by which coverage is excluded if the consumer causes
19 damage, Apple bore the burden of proving that the Class Devices had actually been
20 damaged by the consumer, and that Apple could not carry that burden because
21 LCIs are inherently incapable of establishing that a Class Device had been
22 damaged and because Apple failed to maintain records of the majority of these
23 warranty transactions in any event. Apple has answered each of the complaints
24 and has denied all claims of liability.

25 After nearly two years of extensive discovery that included the production of
26 hundreds of thousands of documents by Apple and by third parties (3M Company,
27 the inventor of the material Apple used for the LCIs, and AT&T Wireless
28 Corporation, which sold and provided wireless service for the iPhone), and the

1 depositions of witnesses employed by Apple and 3M, the parties have engaged in a
2 series of mediation sessions before Retired Magistrate Judge Edward Infante and
3 Catherine Yanni of the Judicial Arbitration and Mediation Service (“JAMS”).

4 Plaintiffs will attend the next mediation session on April 13, 2012, if
5 certain conditions have been met. Plaintiffs believe there are issues that would
6 benefit from the Court’s assistance and are prepared to discuss the status of the
7 litigation in detail, including the status of the parties’ mediation efforts in
8 chambers, assuming that Apple agrees to do so notwithstanding the mediation
9 privilege.

10
11 **Defendant’s Statement:**

12 Given that the parties have attended several productive mediation sessions
13 and another session is scheduled for April 13, Apple sees no purpose to be served by
14 responding to plaintiffs’ statements respecting the merits (Apple’s view of the case
15 is set forth in prior case management conference statements). Because the
16 mediation is ongoing, Apple does not believe it is appropriate to waive the
17 mediation privilege. Apple does not believe there are issues to be addressed by the
18 Court at this time, but of course will be prepared to address any issues that the
19 Court may wish to discuss.

20 DATED: March 16, 2012

FAZIO | MICHELETTI LLP

21 by /s/ Jeffrey L. Fazio

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DATED: March 16, 2012

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ATTESTATION OF FILER

I, Jeffrey L. Fazio, 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 ¶ X(B).

Dated: March 16, 2012 **FAZIO MICHELETTI LLP**

by: /s/ Jeffrey Fazio
Jeffrey L. Fazio