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8 Similarly Situated

9  
10 **UNITED STATES DISTRICT COURT**  
**FOR THE NORTHERN DISTRICT OF CALIFORNIA**

11 ANTHONY VENTURA, on behalf of himself  
12 and all others similarly situated,

13 Plaintiff,

14 v.

15 SONY COMPUTER ENTERTAINMENT  
16 AMERICA INC.,

17 Defendant.  
18  
19

Case No. 3:10-CV-01811 EMC

**NOTICE OF MOTION AND  
MEMORANDUM OF POINTS AND  
AUTHORITIES IN SUPPORT OF  
PLAINTIFF VENTURA'S MOTION FOR  
ORDER:**

- (1) FINDING CASES RELATED,
- (2) CONSOLIDATING RELATED  
CASES,
- (3) APPOINTING INTERIM CO-LEAD  
COUNSEL, AND
- (4) SETTING CASE MANAGEMENT  
DATES

Date: June 23, 2010  
Time: 10:30 a.m.  
Dept: C

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1 **NOTICE OF MOTION**

2 TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD IN THE MATTERS OF  
3 Ventura v. Sony Computer Entertainment America, Inc., No. CV-01811-EMC, Wright v. Sony  
4 Computer Entertainment America, Inc., et al., No. CV-01975-JL, Baker v. Sony Computer  
5 Entertainment America, LLC, No. CV-01897-SC, and Densmore v. Sony Computer  
6 Entertainment America, Inc., No. CV-01945-EDL:

7 Please take notice that pursuant to Northern District of California Local Rule 3-12 and  
8 Rules 23 and 42 of the Federal Rules of Civil Procedure, on June 23, 2010 at 10:30 a.m. in  
9 Courtroom C of the above-captioned court, Plaintiff Anthony Ventura will and hereby does  
10 move for an order finding each of the foregoing cases related, consolidating the four foregoing  
11 cases, appointing Meiselman, Denlea, Packman, Carton & Eberz P.C. and Calvo & Clark, LLP  
12 as Interim Co-Lead Counsel, and setting case management dates. This motion is based on this  
13 Notice of Motion and Memorandum of Points and Authorities, the Declaration of Jeffrey I.  
14 Carton, the Declaration of James Quadra, the papers on file in this matter and the arguments of  
15 counsel.

16 **INTRODUCTION AND REQUEST FOR RELIEF**

17 Four class action lawsuits, including this action, are currently pending in the Northern  
18 District of California against Sony Computer Entertainment America, Inc. and/or Sony  
19 Computer Entertainment America, LLC.

- 20 • Ventura v. Sony Computer Entertainment America, Inc., Northern District of California  
21 Case Number 3:10-CV-01811-EMC ("Ventura") (the instant matter, which was first  
22 filed);  
23 • Wright v. Sony Computer Entertainment America, Inc., Northern District of California  
24 Case Number 3:10-CV-01975-JL ("Wright");  
25  
26  
27  
28

- 1 • Baker v. Sony Computer Entertainment America, LLC, Northern District of California  
2 Case Number 3:10-CV-01897-SC (“Baker”)<sup>1</sup>;
- 3 • Densmore v. Sony Computer Entertainment America, Inc., Northern District of  
4 California Case Number 3:10-CV-01945-EDL (“Densmore”);
- 5 Plaintiff Anthony Ventura, with the full agreement and cooperation of Wright counsel,  
6 hereby requests that this Court take the following actions:
- 7 1. Find that the foregoing cases are related pursuant to Northern District of California  
8 Local Rule 3-12;
  - 9 2. Consolidate the foregoing cases pursuant to Federal Rule of Civil Procedure 42;
  - 10 3. Appoint Meiselman, Denlea, Packman, Carton & Eberz P.C. (“MDPCE”) and Calvo  
11 & Clark, LLP (“Calvo & Clark”) as interim co-lead counsel, pursuant to Federal Rule  
12 of Civil Procedure 23(g)(3); and
  - 13 4. Set case management dates, including a schedule for a Master Consolidated  
14 Complaint.

15 All four of the complaints in the above cases assert essentially the same claims on behalf  
16 of the same Class, are based on similar factual allegations, and name the same defendants, Sony  
17 Computer Entertainment America, Inc. and/or Sony Computer Entertainment America, LLC  
18 (collectively, “Sony”). Consolidation of these actions will promote judicial efficiency while  
19 ensuring effective representation of the proposed class, and the interim leadership structure  
20 proposed by Plaintiff is appropriate based on the vast consumer class action experience of the  
21 attorneys litigating this matter.

## 22 MEMORANDUM OF POINTS AND AUTHORITIES

### 23 I. FACTUAL AND PROCEDURAL BACKGROUND

24 As alleged in the Complaint in this matter, and in the complaints of each of the three  
25 other related cases identified above, the Sony Playstation®3 video game console (the “PS3”) was  
26

27 <sup>1</sup> Plaintiff Baker filed a Motion to Relate the Baker and Ventura matters on May 14,  
28 2010. (See Docket No. 7.)

1 released in the United States with great fanfare on November 17, 2006. At the time of its launch,  
2 the PS3 was the most expensive gaming console available, in part because it was capable of far  
3 more than merely playing games at home. With the growing homogenization of consumer  
4 technology and increased competition, Sony's PS3 offered more.

5 Specifically, Sony advertised that the PS3's "Other OS" function would allow users to  
6 install another operating system, such as a Linux operating system, alongside the main PS3  
7 system software. The "Other OS" function allowed the PS3 to be used as a personal computer.  
8 Simultaneously, Sony promised that the PS3 would offer a unique online gaming service, the  
9 PlayStation Network, together with robust multimedia capabilities, a high-definition optical Blu-  
10 ray Disc as its primary storage medium, and a Blu-ray 2.0-compliant Blu-ray player ("the Other  
11 Advertised Features").

12 Until recently, Sony promoted both the Other OS feature and the Other Advertised  
13 Features in its marketing of the PS3. Indeed, Sony stated on its website "playstation.com" that  
14 when it designed the PS3, "it was fully intended that you, a PS3 owner, could play games, watch  
15 movies, view photos, listen to music, and run a full-featured Linux operating system that  
16 transforms your PS3 into a home computer." Thus, Sony persuaded consumers that the PS3  
17 could be used as a home personal computer with a direct connection to the Internet, while  
18 retaining its other gaming and multimedia features.

19 On March 28, 2010, Sony announced that it would no longer honor its obligation to  
20 support the Other OS feature. On playstation.com, Sony announced that it would release  
21 software update 3.21 ("Update 3.21"), which would disable the Other OS feature. PS3 owners  
22 are not technically required to install Update 3.21. However, Sony has built a vast and sticky  
23 web of restrictions that will prevent users from accessing many of the PS3's other features for  
24 anyone who declines the "upgrade." In particular, for users who refuse to install update 3.21:

- 25 • It will be impossible to access the Playstation Network;
- 26 • It will be impossible to play PS3 games online;
- 27 • It will be impossible to play new PS3 games;

- 1 • It will be impossible to watch new Blu-ray videos;
- 2 • New Blu-ray discs could disable the Blu-ray drive entirely if they contain an
- 3 AACS Host Revocation List that affects the old software version; and
- 4 • Videos on DTCP-IP media servers will be disabled.

5 By forcing users to choose between the Other Advertised Features and the Other OS  
6 feature, Sony effectively downgraded PS3s already sold to consumers.

7 As a result of Sony's wrongful conduct, four class actions have been filed in the Northern  
8 District of California. The action filed by Ventura on behalf of himself and the putative Class,  
9 on April 27, 2010, was the first and earliest of the four actions to be filed. The Baker, Densmore,  
10 and Wright matters were each filed within ten days thereafter.

## 11 **II. ARGUMENT**

### 12 **A. THE COURT SHOULD FIND THE WRIGHT, BAKER, AND DENSMORE** 13 **MATTERS TO BE RELATED TO THIS CASE.**

14 Pursuant to Northern District of California Local Rule 3-12, Plaintiff Anthony Ventura,  
15 on behalf of himself and all those similarly situated, requests that this Court find that the Wright  
16 case, the Baker case, and the Densmore case are related to the above-captioned matter.

17 Actions are related when (1) the actions concern substantially the same parties, property,  
18 transaction or event, and (2) it appears likely that there will be an unduly burdensome duplication  
19 of labor and expense or conflicting results if the cases are conducted before different judges.

20 N.D. Cal. Local Rule 3-12.

21 In this case, the Wright, Baker and Densmore matters are related to this case. The claims  
22 in each case are similar or identical to one another. (See Carton Declaration Exhibits 1, 2, 3, 4  
23 [Complaints].) All four cases seek relief for losses caused by Sony's intentional disablement of  
24 the valuable functionalities originally advertised as available with the PS3 console. In addition,  
25 despite minor discrepancies in the language of the proposed class definitions, the putative class  
26 in each case is comprised of persons who purchased PS3 game consoles. Finally, the defendant  
27 in each case is also either the same or related. Each of the actions name either Sony Computer  
28

1 Entertainment America, Inc. or Sony Computer Entertainment America, LLC (as a successor to  
2 Sony Computer Entertainment America, Inc.), or both, as defendants. Counsel in each matter  
3 has filed a Notice of Related Case, with the exception of the Densmore Plaintiffs. (See Carton  
4 Declaration Exhibits 5, 6.) The Baker plaintiffs filed a Motion to Relate the Ventura and Baker  
5 cases on May 14, 2010. (See Docket No. 7.)

6 **B. THE COURT SHOULD CONSOLIDATE THE FOUR MATTERS.**

7 Consolidation is proper when the actions involve common questions of law and fact.  
8 Fed. R. Civ. P. 42. A court has broad discretion to consolidate matters within a district, even  
9 when the matters are pending before different judges. Investors Research Co. v. U.S. Dist. Court  
10 for Cent. Dist. of California, 877 F.2d 777 (9th Cir. 1989).

11 In this case, the four actions involve common questions of fact. Each case is brought on  
12 behalf of a class of owners of the PS3. Each case also involves the common questions of (1)  
13 whether Sony marketed the PS3 as having both the “Other OS” feature (which allowed the  
14 system to be used as a personal computer) and the “Other Advertised Features” (which includes  
15 the ability to play games online with other PS3 users) as detailed above, and (2) whether Sony  
16 later forced consumers to choose between the advertised “Other OS” feature and the “Other  
17 Advertised Features.”

18 The four actions also involve common questions of law, including whether consumers are  
19 entitled to relief for Sony’s wrongful act of forcing consumers to decide between the two sets of  
20 features. Each of the cases assert that Sony violated the Consumer Legal Remedies Act and the  
21 Unfair Competition Law, and that Sony breached contracts with consumers and violated the  
22 covenant of good faith and fair dealing. Though other causes of action have been asserted, these  
23 four claims are the central assertions of all four complaints.

24 Accordingly, Plaintiff Ventura requests that the Court consolidate the Wright case, the  
25 Baker case, and the Densmore case with this matter, direct that the filings in each matter shall  
26 carry the case number of this matter, and direct that the filings shall bear the caption “In re Sony  
27 PS3 Litigation.”  
28



1                   **C.     THE COURT SHOULD APPOINT MDPCE AND CALVO & CLARK AS**  
2                   **INTERIM CO-LEAD COUNSEL.**

3                   A court may designate interim counsel to act on behalf of the putative class before  
4 determining whether to certify the action as a class action. Fed. R. Civ. P. 23(g)(3). In  
5 appointing interim lead counsel, the court should “ensure that counsel appointed to leading roles  
6 are qualified and responsible, that they will fairly and adequately represent all of the parties on  
7 their side, and that their charges will be reasonable.” Manual for Complex Litigation (4th ed.  
8 2009) at § 10.22. “If more than one adequate applicant seeks appointment as counsel, the court  
9 must appoint the applicant best able to represent the interests of the class.” Federal Rule  
10 23(g)(2). The “selection and activity of class counsel are often critically important to the  
11 successful handling of a class action.” In re TD Ameritrade Accountholder Litig., No. 07-2852,  
12 2009 WL 6057238, at \*6 (N.D. Cal. Oct. 23, 2009) (citing FRCP 23(g), 2003 Advisory  
13 Committee Notes).

14                  Fed R. Civ. P. 23(g)(1)(A) articulates four factors the Court must consider when selecting  
15 lead counsel. These factors are:

- 16                  • the work counsel has done in identifying or investigation potential claims in the  
17 action;
- 18                  • counsel’s experience in handling class actions, other complex litigation, and claims of  
19 the type asserted in the action;
- 20                  • counsel’s knowledge of the applicable law; and
- 21                  • the resources counsel will commit to representing the class.

22                  The four factors articulated in Rule 23(g)(1)(A) support the appointment of MDPCE and  
23 Calvo & Clark as Interim Co-Lead Counsel of the PS3 Actions. MDPCE and Calvo & Clark are  
24 prepared to lead this case, fairly direct and organize the contributions of other counsel who are  
25 involved, and, as they have done in many similar cases, ensure that the litigation is conducted  
26 efficiently and effectively.

1                   **1. Proposed Interim Co-Lead Counsel Have Demonstrated a Commitment**  
2                   **to Identifying and Investigating Potential Claims in this Action.**

3                   The first Fed. R. Civ. P. 23(g)(1)(A) factor, which focuses on the work counsel has done  
4                   to identify and investigate the potential claims, strongly favors the appointment of MDPCE and  
5                   Calvo & Clark as Interim Co-Lead Counsel. In analyzing the first Rule 23(g) factor, the Court  
6                   should consider which firm has done the majority of the preparation work leading to the filing of  
7                   the class actions. See Carlin v. DairyAmerica, Inc., No. 09-0430, 2009 WL 1518058, \*2 (E.D.  
8                   Cal. May 29, 2009) (holding that where two firms had adequate experience in class actions, the  
9                   firm that filed first, and that had done the majority of preparation work leading to filing actions,  
10                  should be appointed interim class counsel).

11                 In this case, MDPCE has already devoted many hours and substantial resources to this  
12                 case. MDPCE extensively investigated Sony's alleged wrongful actions, and reviewed Sony's  
13                 marketing materials, website materials, public statements, and other publicly available materials  
14                 and communications. (Carton Decl. ¶16.) After a thorough investigation, MDPCE was the first  
15                 law firm to file an action against Sony, and included in its Complaint detailed allegations relating  
16                 to Sony's marketing strategy and wrongful after-market modification of the PS3's capabilities.  
17                 (Id.) Since filing its lawsuit, MDPCE has fielded inquiries from hundreds of PS3 owners  
18                 concerning the nature of the allegations in the Complaint and how they may participate in the  
19                 lawsuit, as well as offering additional information concerning the impact of Sony's wrongful  
20                 actions. (Id. ¶17.) Calvo & Clark has also devoted significant time conducting additional  
21                 research regarding claims and details of the PS3's functionalities, and in consulting with  
22                 MDPCE regarding appropriate next steps to move this litigation forward. (Quadra Decl. ¶12.)

23                 Based on their investigation, and their extensive knowledge of California consumer  
24                 protection laws, MDPCE and Calvo & Clark are fully prepared to litigate this action efficiently  
25                 and effectively. Accordingly, the first Rule 23(g)(1)(A) factor strongly supports the appointment  
26                 of MDPCE and Calvo & Clark as Co-Lead Counsel of the PS3 Actions.

1                   **2. Proposed Interim Co-Lead Counsel Have Extensive Experience in Class**  
2                   **Actions and Other Complex Litigation, the Type of Claims Asserted in**  
3                   **this Case and Have Knowledge of the Applicable Law.**

4           The second and third factors in determining appropriate lead counsel appointments  
5 address (a) counsel's relevant class action experience and (b) knowledge of applicable law. See  
6 Fed. R. Civ. P. 23(g)(1)(A). These factors likewise support the appointment of MDPCE and  
7 Calvo & Clark as Interim Co-Lead Counsel.

8           Attorneys at MDPCE and Calvo & Clark are national leaders in consumer class action  
9 litigation, and their work as class counsel in consumer protection cases has been widely  
10 recognized by federal and state courts. (See Carton Decl. ¶¶4-10 and Quadra Decl. ¶¶9-11).

11           As set forth in the Declaration of Jeffrey I. Carton, MDPCE has been class counsel or  
12 lead class counsel in numerous matters, including consumer class actions involving electronic  
13 products. (Carton Decl. ¶¶7-10.) MDPCE has committed its resources to the vigorous litigation  
14 of these cases, has identified appropriate claims, and has aggressively pursued discovery to  
15 establish the evidence necessary to obtain class certification and to prevail on the merits. (Id.)

16           Mr. Carton is the chairman of MDPCE's commercial litigation department. (Carton  
17 Decl. ¶6.) He has successfully prosecuted class action lawsuits against, among others, Costco,  
18 Blue Cross/Blue Shield, CortiSlim, Shell, Hollywood Tanning Systems, Inc., The Gap, Inc., and  
19 its subsidiary Old Navy LLC. (Id.) He graduated from Dartmouth College in 1988 and  
20 Columbia University Law School in 1991. (Id.) He is admitted to the New York and  
21 Connecticut state bars, as well as several federal district courts. (Id.) Mr. Carton has also been  
22 published on the subject matter of class actions. See "A New Battleground For The Class Action  
23 War," New York Law Journal (Oct. 2006). (Id.)

24           Ms. Coll, another senior attorney at MDPCE, is an experienced class action and trial  
25 lawyer licensed to practice in California, New York, and the District of Columbia. (Carton Decl.  
26 ¶6.) Ms. Coll practiced almost exclusively in California for more than twelve years. (Id.) Ms.  
27 Coll played an active role in San Francisco's successful litigation against the tobacco industry in  
28 the 1990s. (Id.) Since that time she has litigated numerous multi-million dollar plaintiffs' class

1 actions, including nationwide consumer fraud cases involving health products, automobiles,  
2 software and electronic equipment. (Id.) Ms. Coll is a 1996 graduate of Boalt Hall School of  
3 Law at University of California at Berkeley. (Id.)

4 Two other senior attorneys at MDPCE are working on this matter. D. Greg Blankinship  
5 has significant class action experience. (Carton Decl. ¶6.) Prior to joining the firm, Mr.  
6 Blankinship was an attorney with Skadden, Arps, Slate, Meagher & Flom LLP and Greenberg  
7 Traurig, LLP. (Id.) Mr. Blankinship has worked on numerous nationwide, multi-district class  
8 actions, including securities, consumer fraud and wage and hour matters. (Id.) Jerome Noll also  
9 has extensive class action experience. (Id.) Prior to joining MDPCE, Mr. Noll was a founding  
10 member of his own firm, and was lead counsel in a number of nationwide class actions,  
11 including consumer class actions. (Id.) The National Consumer Law Center has recognized Mr.  
12 Noll as being among the leading practitioners in the country representing plaintiffs in these  
13 matters by inviting him to sit on that organization's Partner Round Table. (Id.) MDPCE's  
14 attorneys thus have the requisite knowledge of the substantive and procedural law to prosecute  
15 this class action.

16 Calvo & Clark is similarly well qualified to serve as Interim Co-Lead Counsel. Mr.  
17 Quadra, the lead attorney at Calvo & Clark, LLP responsible for this matter, graduated from  
18 Boalt Hall School of Law at University of California at Berkeley in 1987. (Quadra Decl. ¶5.)  
19 He became Chief of General Litigation at the San Francisco City Attorney's Office, and oversaw  
20 approximately 30 deputy city attorneys involved in a range of litigation on behalf of San  
21 Francisco, including class actions. (Id.) He then moved on to start his own law firm in 1998,  
22 Moscone, Emblidge & Quadra, LLP, where he litigated class actions for 12 years before moving  
23 to his current position as Partner at Calvo & Clark. (Id., ¶4.)

24 Mr. Quadra has extensive litigation experience and has successfully tried cases in state  
25 and federal courts, including two class action trials. (Quadra Decl. ¶6.) As detailed in his  
26 accompanying declaration, Mr. Quadra has served as class counsel or lead class counsel in  
27 multiple matters, including consumer class actions involving electronic products. (Id., ¶9.)  
28

1 Mr. Quadra is AV® rated by Martindale Hubell. (Quadra Decl. ¶7.) At the requests of  
2 the Consumer Attorneys of California, the San Francisco City Attorney's Office, the San Mateo  
3 County Bar Association, and CEB, he has made presentations on various topics including those  
4 related to class actions in California. (Id.) He serves as a mediator for the San Francisco Bar  
5 Association Early Settlement Program and the San Francisco Superior Court Pre-Arbitration  
6 Settlement Program. (Id., ¶8) He is also a member of the Board of Directors of the San  
7 Francisco Legal Aid Society-Employment Law Center and the Chairperson of the San Francisco  
8 Unified School District's Citizens' Bond Oversight Committee. (Id.)

9 Kathleen Fisher, the managing partner of Calvo & Clark's San Francisco office, is also  
10 working on this matter. (Quadra Decl. ¶11.) Ms. Fisher is experienced in complex and class  
11 action litigation. (Id.) She was formerly worldwide Chair of Morrison & Foerster's Litigation  
12 Department and a member of Morrison & Foerster's Board of Directors. (Id.) Ms. Fisher has  
13 authored books and numerous articles on trial and ADR topics. (Id.) She is also a frequent  
14 lecturer and panelist on a variety of topics in the civil litigation area for organizations such as the  
15 National Institute for Trial Advocacy, the American Bar Association, Continuing Education of  
16 the Bar, and the Northern District of California Federal Practice Program. (Id.) The Daily  
17 Journal recently named Ms. Fisher one of California's top women litigators for 2009. (Id.)

18 Moreover, MDPCE and Calvo & Clark attorneys have a long history of working  
19 cooperatively with other law firms in class actions, including the firms involved in this case.  
20 (Carton Decl., ¶¶10-12; Quadra Decl., ¶9.) Ms. Coll has worked collaboratively with Calvo &  
21 Clark attorneys in prior litigation, and MDPCE and Calvo & Clark are ready to coordinate their  
22 efforts to ensure that the matters are prosecuted efficiently. (Carton Decl., ¶12.) Both firms are  
23 prepared to devote the necessary resources to achieve the best results for the class. (Id.; Quadra  
24 Decl. ¶12.) The appointment of both MDPCE and Calvo & Clark as Interim Co-Lead Counsel  
25 will result in the efficient and effective resolution of these matters. In addition, both MDPCE  
26 and Calvo & Clark are committed to ensuring that all qualified firms representing potential class  
27  
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1 members have a significant opportunity to participate in the prosecution of this matter. (Carton  
2 Decl. ¶11; Quadra Decl. ¶12.)

3 In addition to the cooperative relationship between MDPCE and Calvo & Clark, MDPCE  
4 has worked cooperatively in the past with Finkelstein Thompson, counsel for the Densmore  
5 plaintiffs. (Carton Decl. ¶12.) In addition, MDPCE and Calvo & Clark have already spoken  
6 with local counsel for the Baker plaintiffs, and have left a telephone message for additional  
7 counsel for the Baker plaintiffs, who is seeking to be admitted *pro hac vice*. (*Id.*) MDPCE is  
8 committed to establishing and maintaining professional and courteous relationships among  
9 counsel in consolidated class actions, and believes that doing so is always in the best interest of  
10 the Class. (*Id.*) Toward that end, MDPCE and Calvo & Clark will ensure that there are  
11 meaningful opportunities for the plaintiffs' counsel in all four actions to contribute to this  
12 litigation.

13 As a result of MDPCE's and Calvo & Clark's broad experience litigating consumer  
14 protection class cases of these various types, they are uniquely qualified to vigorously and  
15 effectively prosecute the PS3 action.

16 **3. Proposed Interim Co-Lead Counsel Have the Resources Necessary to**  
17 **Represent the Class.**

18 The final Fed. R. Civ. P. 23(g)(1)(A) factor, concerning the resources counsel will  
19 commit to the case, also supports the Plaintiffs' motion to appoint MDPCE and Calvo & Clark as  
20 Interim Co-Lead Counsel.

21 MDPCE is a well-established and successful law firm which first opened its doors nearly  
22 35 years ago. (Carton Decl. ¶5.) It has the resources and personnel necessary to pursue a case of  
23 this magnitude, and has financed and successfully pursued numerous large-scale class actions  
24 from start to finish. (*Id.*, ¶¶16-19.) It has a proven track record of managing consumer class  
25 actions and has invested substantial resources in these efforts. Similarly, Calvo & Clark is a  
26 well-established, international firm. (Quadra Decl. ¶10.)

MDPCE and Calvo & Clark are prepared to continue to devote the time and attention of their senior attorneys to litigating this matter thoroughly and efficiently, and of their staff to assist in keeping the case running smoothly. (Carton Decl. ¶¶17-19; Quadra Decl. ¶12.) For example, in just the past three weeks since this case has been filed, MDPCE has fielded hundreds of telephone calls and email messages from putative class members. (Carton Decl. ¶17.) MDPCE has an infrastructure in place that is fully capable of managing large class actions, and its systems are honed to effectively communicate with class members. (*Id.*)

MDPCE and Calvo & Clark are also well equipped and financially able to manage and organize large scale document productions. (Carton Decl. ¶18; Quadra Decl. ¶12.) The firms' attorneys are experienced with working with all of the most commonly used document and record management electronic databases, including iCONNECT, Summation, Concordance, and LiveNote. (*Id.*) Both firms are well-established, and have the financial resources to fund this class action. (*Id.*) The proposed Interim Co-Lead Counsel will dedicate the resources necessary to zealously represent the interests of the proposed Class in this action as well.

Accordingly, Plaintiff Ventura respectfully submits that it would be in the best interests of the proposed class to appoint MDPCE and Calvo & Clark as Interim Co-Lead Counsel.

**D. THE COURT SHOULD SET CASE MANAGEMENT DATES.**

In the event that the Court grants Plaintiff's request to consolidate the foregoing matters, Plaintiff requests that the Court order that a Master Consolidated Complaint shall be filed within fourteen (14) days of the entry of the Court's order, that Defendants need not respond to the currently pending complaints in the four filed matters, and that Defendants shall respond to the Master Consolidated Complaint within twenty-one (21) days of receipt thereof.

**III. CONCLUSION**

For these and the other reasons stated above, Plaintiff respectfully requests that the Court enter the Proposed Order submitted herewith finding the Wright, Baker, and Densmore cases related to this case, consolidating all four cases, appointing MDPCE and Calvo & Clark as

1 Interim Co-Lead Counsel to act on behalf of the proposed Class, and setting case management  
2 dates.

3 Dated: May 17, 2010

Respectfully submitted,

4  
5 /s/Rebecca Coll  
6 Rebecca Coll, Esq.

7 David J. Meiselman, Esq.  
8 Jeffrey I. Carton, Esq.  
9 D. Greg Blankinship, Esq.  
10 Jerome Noll, Esq.  
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On Behalf of Himself and All Those Similarly Situated

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