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6 Attorneys for Plaintiff Anthony Ventura  
and all others similarly situated

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9 **UNITED STATES DISTRICT COURT**  
10 **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  
AMERICA INC.,

16 Defendant.

Case No. C10-01811 (EMC)

**DECLARATION OF JEFFREY I.  
CARTON 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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22 Jeffrey I. Carton declares pursuant to 28 U.S.C. § 1746 as follows:

23 1. I am a member of the law firm of Meiselman, Denlea, Packman, Carton & Eberz  
24 P.C. ("MDPCE"), attorneys for Plaintiff Anthony Ventura and the putative class members in  
25 Ventura v. Sony Computer Entertainment America Inc., No. 10 Civ. 1811 (N.D. Cal) (EMC). I  
26 submit this declaration in support of Plaintiff Ventura's Motion for Order Finding Cases Related,  
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1 to Consolidate Related Cases, for Appointment of MDPCE and Calvo & Clark, LLP (“Calvo &  
2 Clark”) as Interim Co-Lead Counsel, and setting case management deadlines.

3 2. MDPCE attorneys can offer significant benefits and value to the prosecution of this  
4 action. This is an important case affecting millions of consumers and one of the largest electronics  
5 manufacturers in the world. MDPCE attorneys are experienced trial lawyers, and our prior service  
6 on leadership positions in various class actions provides the necessary skills and qualifications to  
7 serve as Interim Co-Lead Counsel. In short, MDPCE attorneys, along with Calvo & Clark, are  
8 well equipped to efficiently and effectively prosecute this matter because they (i) have the required  
9 substantive legal experience and resources, (ii) have litigated a number of class actions in  
10 California courts, and (iii) have demonstrated their ability to work cooperatively with other firms  
11 in a number of large and complex class actions.

12 3. MDPCE and Calvo & Clark can thus efficiently and effectively represent the  
13 interests of the members of the proposed class.

14 **MDPCE HAS SUBSTANTIAL KNOWLEDGE AND EXPERIENCE**  
15 **IN PROSECUTING COMPLEX CLASS ACTIONS**

16 4. As recognized by jurists before whom they have practiced, MDPCE attorneys are  
17 highly qualified and have extensive experience in complex civil litigation and consumer class  
18 actions. We understand the duties imposed upon class counsel in consumer fraud class actions,  
19 and we have proven adept at all phases of such litigation, from discovery and motion practice to  
20 trial and appeal or settlement.

21 5. MDPCE was established approximately 35 years ago. Many of the firm’s  
22 attorneys graduated with honors from the Boalt Hall School of Law, Harvard, Columbia, New  
23 York University, and other top law schools, and previously practiced at prominent national firms.

24 6. The attorneys principally involved in this matter are very experienced, having  
25 litigated numerous complex civil actions, including many class action and consumer lawsuits in  
26 state and federal courts throughout the country (including in California).

- 27 • I am the chairman of MDPCE’s commercial litigation department. I have  
28 successfully prosecuted class action lawsuits against, among others, Costco, Blue

1 Cross/Blue Shield, CortiSlim, Shell, Hollywood Tanning Systems, Inc., The Gap,  
2 Inc., and its subsidiary Old Navy LLC. I graduated from Dartmouth College in  
3 1988 and Columbia University Law School in 1991. I am admitted to the New  
4 York and Connecticut state bars, as well as several federal district courts. I have  
5 also been published on the subject matter of class actions. See "A New  
6 Battleground For The Class Action War," New York Law Journal (Oct. 2006). I  
7 intend to request that this Court admit me to litigate this matter *pro hac vice*, as I  
8 am an active member in good standing of the New York and Connecticut state  
9 bars.

- 10 • Rebecca Coll is an experienced class action and trial lawyer licensed to practice in  
11 California, New York, and the District of Columbia. Ms. Coll practiced almost  
12 exclusively in California for more than twelve years. She has represented  
13 businesses and individuals in cases involving fraud, unfair business practice  
14 claims, employment matters, and a wide variety of tort claims. Ms. Coll played  
15 an active role in San Francisco's successful litigation against the tobacco industry  
16 in the 1990s. Since that time she has litigated numerous multi-million dollar  
17 plaintiffs' class actions, including nationwide consumer fraud cases involving  
18 health products, automobiles, software and electronic equipment. Ms. Coll is a  
19 1996 graduate of Boalt Hall School of Law at the University of California at  
20 Berkeley, and has a Bachelor of Arts from the University of Michigan.
- 21 • Jerome Noll is a member of the New York State Bar, the United States District  
22 Court for the Southern and Eastern Districts of New York and the United States  
23 Court of Appeals, Second Circuit. Mr. Noll specializes in complex commercial  
24 litigation, class actions and derivative suits in state and federal courts. As a  
25 founding member of his own firm in New York, Mr. Noll was lead counsel in a  
26 number of nationwide class actions, including a consumer class action brought  
27 under the Delaware Consumer Fraud Act wherein the Superior Court certified a  
28 nationwide class of approximately 28 million consumers and approved a class-

1 wide settlement valued at more than \$30 million. The National Consumer Law  
2 Center has recognized Mr. Noll as being among the leading practitioners in the  
3 country representing plaintiffs in these matters by inviting him to sit on that  
4 organization's Partner Round Table. Mr. Noll received his B.A., cum laude, in  
5 Politics and History from Brandeis University in 1991. He attended law school at  
6 the Benjamin N. Cardozo School of Law, and earned his J.D. in 1994. While in  
7 law school, he was a Samuel Belkin Scholar, editor of the Cardozo Studies in Law  
8 and Literature and a member of the Cardozo Women's Law Journal. Mr. Noll  
9 intends to request that this Court admit him to litigate this matter *pro hac vice*, as  
10 he is an active member in good standing of the New York bar.

- 11 • D. Greg Blankinship is a member of the Massachusetts bar, the United States  
12 District Court for the Districts of Massachusetts and the United States Court of  
13 Appeals, First Circuit. Mr. Blankinship specializes in complex commercial  
14 litigation, class actions and securities suits in state and federal courts. Prior to  
15 joining the firm, Mr. Blankinship was an Associate with Skadden, Arps, Slate,  
16 Meagher & Flom LLP and Greenberg Traurig, LLP. Mr. Blankinship has worked  
17 on numerous nationwide, multi-district class actions, including securities,  
18 consumer fraud and wage and hour matters. Mr. Blankinship received his B.A.  
19 from Emory University in 1991 and his M.A. from the University of North  
20 Carolina in 1995. He attended law school at the University of Washington, where  
21 he earned his J.D. in 2001. While in law school, Mr. Blankinship was a member  
22 of the University of Washington Law Review. Mr. Blankinship intends to request  
23 that this Court admit him to litigate this matter *pro hac vice*, as he is an active  
24 member in good standing of the Massachusetts bar.

1                                   **MDPCE ATTORNEYS' EXPERIENCE IN HANDLING NUMEROUS**  
2                                   **PENDING AND PRIOR CLASS ACTIONS DEMONSTRATES THEIR**  
3                                   **ADEQUACY AS CO-LEAD COUNSEL**

4           7.       MDPCE has been certified class counsel in numerous consumer class action cases,  
5 and is experienced in handling complex and large class actions, including the following pending  
6 matters:

- 7           •   Dupler v. Costco Wholesale Corp., Civ. No. 06-3141 (JFB) (ETB) (E.D.N.Y.).  
8           Statewide class action alleging that Costco backdates membership renewals  
9           purchased after the prior membership period's expiration date, in violation of  
10           New York Gen. Bus. L. § 349 and Costco's membership contracts. Class  
11           certification was granted on January 31, 2008, and MDPCE was certified as class  
12           counsel. A settlement in this matter, which received final approval on April 15,  
13           2010, provided \$38.8 million in direct economic benefits to the class as well as  
14           expected savings of \$87.2 million over the next seven years. In approving the  
15           settlement and the entirety of MDPCE's requested legal fees, the Dupler court  
16           emphasised the high quality of MDPCE's representation of the class:

17                                   Class counsel spent over 3,500 hours during the three and one-half  
18                                   year period prosecuting this action. MDPCE conducted discovery,  
19                                   brought a parallel action in California, and successfully moved for  
20                                   class certification . . . this litigation is complex and has entailed  
21                                   substantial risk for MDPCE. The Court finds that MDPCE's  
22                                   representation has been of high quality.

23           Dupler v. Costco Wholesale Corp., No. 06-3141, 2010 WL 1506923, at \*9  
24           (E.D.N.Y. April 15, 2010).

- 25           •   Argento v. Sam's Club, No. 06-22850 (N.Y. Sup. Ct., Westchester County).  
26           Statewide class action alleging that Sam's Club backdates membership renewals  
27           purchased after the prior membership period's expiration date, in violation of  
28           New York Gen. Bus. L. § 349 and Sam's Club's membership contracts. Class  
          certification was granted on October 27, 2009, and MDPCE was certified as class  
          counsel.

- 1 • Llanos v. Shell Oil Co. And Shell Oil Products US, Index No. SU-2006-009404  
2 (N.Y. Sup. Ct., Rockland County). Statewide class action alleging that Shell  
3 improperly imposed monthly inactivity or dormancy fees on Shell Gift Cards in  
4 violation of New York Gen. Bus. L. § 349 and Shell's contracts with its  
5 customers. The court certified the class and approved a settlement on March 31,  
6 2010, and MDPCE was certified as class counsel.
- 7 • Nafar v. Hollywood Tanning Sys. Inc., 06-CV-03826 (D. N.J.). Nationwide  
8 consumer class action alleging that the defendant's tanning salons are deceptively  
9 marketed. MDPCE was appointed class counsel on August 11, 2008.
- 10 • Hager v. Vertrue, Inc., No. 09-11245 (D. Mass.). Statewide class action alleging  
11 that Defendant's practice of imposing unauthorized charges upon unsuspecting  
12 consumers who order credit protection services without the customer's  
13 permission.

14 8. MDPCE attorneys have also been certified class counsel in the following cases  
15 successfully resolved to the substantial benefit of the class members:

- 16 • Duronslet v. TransWorld Sys., Inc., No. 12685 (DDP) (C.D. Cal.). Nationwide  
17 class action brought on behalf of 1.5 million consumers against a debt collection  
18 firm alleging violations of the FDPCA. The Court approved a substantial  
19 settlement for the class and an injunction prohibiting further violations of the Act.
- 20 • Breedlove v. Window Rock Ent., Inc., No. 04 CC 00610 (Cal. Super. Ct. Orange  
21 Cty.). Consumer class action challenging false and deceptive advertising for the  
22 popular diet supplement CortiSlim. The case was resolved on a nationwide class  
23 basis, including the creation of a \$6 million consumer redress fund.
- 24 • Luks v. Empire Blue Cross/Blue Shield, No. 03/64337 (N.Y. Sup. Ct. N.Y. Cty.).  
25 Statewide class action brought on behalf of more than 1,000 surgeons that  
26 compelled insurer to revoke its policy, commonly referred to as the "single  
27 incision" policy, of refusing to cover certain medically appropriate surgical  
28

1 procedures. The settlement resulted in millions of dollars of reimbursable claims  
2 being paid to New York surgeons.

- 3 • Fox v. Cheminova, Inc., No. 00-5145 (E.D.N.Y.). Class action brought against  
4 pesticide manufacturer on behalf of commercial lobstermen on Long Island  
5 Sound, alleging destruction of lobster stock. The court certified the class and  
6 approved a \$15 million settlement.
- 7 • Dupler v. Old Navy LLC and The Gap, Inc., No. 06/008356 (N.Y. Sup. Ct.,  
8 Nassau Cty.). Consumer class action brought under N.Y. Gen. Bus. L. § 349 and  
9 other legal theories, alleging consumers were short-changed when returning  
10 merchandise bought with store-issued coupons. On August 6, 2007, the court  
11 approved a settlement providing a benefit of \$14 million to class members.
- 12 • Rinaldi v. Iomega Corp., No. 98C-09-064RRC (Del. Super. Ct.). Nationwide  
13 consumer class action alleging that the defendant's Zip Disk Drive product  
14 contained manufacturing and design defects which rendered the drives potentially  
15 inoperable, in violation of the Delaware Consumer Fraud Act and common law.  
16 The court certified a nationwide class of approximately 28 million consumers,  
17 approved a settlement valued in the tens of millions of dollars, and awarded class  
18 counsel more than \$4.7 million in legal fees.

19 **MDPCE ATTORNEYS HAVE SUBSTANTIAL EXPERIENCE**  
20 **PROSECUTING CONSUMER ELECTRONICS CLASS ACTIONS**

21 9. In addition to MDPCE's substantial experience prosecuting consumer class actions,  
22 MDPCE attorneys also have substantial experience in class actions concerning consumer  
23 electronic matters, both in the Northern District of California and elsewhere:

- 24 • Berenblatt v. Apple, Inc., No. 08-4969 (JF) (N.D. Cal.). Proposed nationwide  
25 class action alleging that Apple's PowerBook G4 computers have a known,  
26 widespread and commonplace characteristic defect and design flaw which renders  
27 one or more of the PowerBook G4's memory slots inoperative.

- 1 • Wilson v. Gateway, Inc., No. 09-07560 (GW) (C.D. Cal.). Proposed nationwide  
2 class action alleging that Gateway improperly assigned its warranties to an  
3 insolvent company in an effort to impair its customers' ability to obtain the  
4 services for which they paid considerable sums.
- 5 • Create-A-Card v. Intuit, No. 07-6452 (WHA) (N.D. Cal.). Nationwide class  
6 action alleging that Intuit's faulty programming caused QuickBooks for Mac  
7 users to lose the contents of their desktops.
- 8 • Nikolin V. Samsung Electronics America, Inc., No. 10-01456 (GEB) (MCA)  
9 (D.N.J.). Proposed nationwide class action alleging that Samsung misled  
10 consumers by misleadingly and confusingly calling certain televisions "LED  
11 TVs" or light emitting diode televisions when they are not.
- 12 • In re Mercedes-Benz Tele-Aid Contract Litig., MDL 1914 (D.N.J.). Nationwide  
13 class action alleging that Mercedes-Benz misled consumers regarding an  
14 emergency-response system that Mercedes-Benz knew would soon become  
15 obsolete.

16 **MDPCE ATTORNEYS HAVE DEMONSTRATED THEIR**  
17 **ABILITY TO LEAD A COOPERATIVE LEADERSHIP STRUCTURE**

18 10. MDPCE attorneys have substantial experience in participating in cooperative  
19 leadership structures in class actions:

- 20 • In re: TicketMaster Sales Practices Litig., No. 09 CV 912 (ABC) (C.D. Cal.)  
21 Nationwide class action alleging that TicketMaster's deceptive practices misled  
22 consumers into paying well above face value for tickets when tickets were  
23 available at face value. MDPCE was named Co-Lead counsel on July 17, 2009.
- 24 • In re: VistaPrint Corp. Mktg and Sales Practices Litig., No. 08-md-1994 (NFA)  
25 (S.D. Tex.). Nationwide class action alleging that VistaPrint's practice of  
26 imposing unauthorized charges upon unsuspecting consumers who order services  
27 or merchandise from VistaPrint and whose personal and confidential credit card  
28

1 and bank account information is then accessed by third party marketers without  
2 the customer's permission. MDPCE was appointed Co-Lead counsel in this  
3 multidistrict litigation.

- 4 • In Re: Principal U.S. Property Account Litigation, No. 09-cv-9889 (CM)  
5 (S.D.N.Y.). Nationwide class action alleging Principal breached its fiduciary  
6 duties under ERISA by improperly managing retirement assets. MDPCE is  
7 working cooperatively with Wolf Pooper, LLP and Keller Rohrback L.L.P. in the  
8 management and prosecution of this case.
- 9 • In Re: Bayer Corp. Combination Aspirin Products Marketing And Sales Practices  
10 Litigation, No. 09-02023 (BMC) (JMA) (E.D.N.Y.). Nationwide consumer fraud  
11 class action alleging that Bayer Healthcare LLC's deceptive practices misled  
12 consumers in connection with the marketing of "Bayer Women's Low Dose +  
13 Calcium" and "Bayer Aspirin With Heart Advantage." MDPCE was been  
14 appointed to the Plaintiffs' Steering Committee responsible for prosecuting the  
15 litigation.
- 16 • Albert v. Fletcher, (Cal. Super. Ct. Los Angeles Cty.). Nationwide class action  
17 alleging that Defendants engaged in self-dealing and breached their fiduciary duty  
18 to Plaintiffs. Judge Marvin Lager made specific note of counsel's "top notch"  
19 work and "superior" level of advocacy. Jerome Noll was co-lead counsel for the  
20 Class and served on the Executive Committee.
- 21 • In re: Window Rock Enter. Inc. 05-bk-5004 (RK) (Bankr. C.D. Cal.). During  
22 the pendency of the Breedlove class action, defendant Window Rock filed for  
23 bankruptcy protection. MDPCE was appointed to the Official Creditors  
24 Committee and was further appointed Vice Chair of that committee. Through  
25 MDPCE's efforts, a consensual plan of reorganization was reached.

26 11. In fact, MDPCE attorneys have a long history of working cooperatively with other  
27 law firms in class actions. Ms. Coll has worked collaboratively with Calvo & Clark attorneys in  
28 prior litigation, and MDPCE is prepared to coordinated its efforts with Calvo & Clark in the

1 present actions to ensure that the matters are prosecuted efficiently. Both firms are prepared to  
2 devote the necessary resources to achieve the best results for the class. MDPCE believes that the  
3 appointment of both MDPCE and Calvo & Clark as co-lead counsel will result in the efficient and  
4 effective resolution of these matters. Moreover, both MDPCE and Calvo & Clark are committed  
5 to ensuring that all qualified firms representing potential class members have an opportunity to  
6 participate in the prosecution of this matter.

7 12. In addition to the cooperative relationship between MDPCE and Calvo & Clark, I  
8 have worked cooperatively in the past with Finkelstein Thompson, counsel for the Densmore  
9 plaintiffs. Moreover, my office and Calvo & Clark have already spoken with local counsel for the  
10 Baker plaintiffs, and have left a telephone message for additional counsel for the Baker plaintiffs,  
11 who are seeking admission *pro hac vice*. MDPCE is committed to establishing and maintaining  
12 professional and courteous relationships among counsel in consolidated class actions. I believe  
13 that doing so is always in the best interest of the Class.

14 **MDPCE ATTORNEYS HAVE SUBSTANTIAL EXPERIENCE**  
15 **PROSECUTING CLASS ACTIONS IN CALIFORNIA COURTS**

16 13. As noted above, MDPCE attorneys have litigated numerous class actions in state  
17 and federal courts in California, including Duronslet v. TransWord Sys., Inc., Berenblatt v. Apple,  
18 Inc., Wilson v. Gateway, Inc., Create-A-Card v. Intuit, In re: TicketMaster Sales Practices Litig.,  
19 and Albert v. Fletcher. In addition, MDPCE is currently litigating Thompson v. Automobile Club  
20 of Southern California, No. 30-2009 00285190 (Cal. Super. Ct. Orange County), a proposed class  
21 action brought on behalf of all members of the Automobile Club of Southern California who paid  
22 to renew their annual membership but received less than a full annual membership in return.

23 14. Breedlove provides another example of MDPCE's experience litigating class  
24 actions in California Courts. There, MDPCE commenced a consumer fraud class action in Orange  
25 County Superior Court in July 2004, to redress the fraudulent, deceptive and improper marketing  
26 and advertising claims made by defendants in support of the purported weight loss supplement  
27  
28

1 “CortiSlim.” After aggressively litigating the action in the Complex Civil Litigation Department,  
2 MDPCE achieved a nationwide recovery for the class.

3 15. In approving an award of \$1 million in attorneys’ fees in the Breedlove action, the  
4 Superior Court in Orange County praised MDPCE’s work as class counsel:

5 An award of \$1,000,000.00 is appropriate in this case in light of the  
6 substantial benefit conferred on the Settlement Class Members; the risks  
7 undertaken; the quality and extent of the services performed by Class  
8 Counsel; the duration and extent of the litigation; the complex issues  
9 presented; the fact that Class Counsel took this case on an entirely  
10 contingent basis and assumed all litigation expenses; the lengthy and  
11 numerous settlement negotiations conducted by Class Counsel; and the  
12 fact that there were no objections to the Agreement or to Class Counsel’s  
13 request for attorneys’ fees and expenses.

14  
15 **MDPCE HAS THE ABILITY AND WILLINGNESS TO COMMIT**  
16 **SUBSTANTIAL RESOURCES TO THIS CASE**

17 16. MDPCE is ready and able to commit substantial resources to this action. The firm  
18 has already devoted substantial resources extensively investigating this matter, including the  
19 review of Sony’s marketing materials, website materials, public statements, and other publicly  
20 available materials and communications. The firm also researched and analyzed appropriate  
21 claims to bring based on Sony’s wrongful conduct. After thorough investigation and research,  
22 MDPCE was the first law firm to file an action against Sony, and included in its Complaint  
23 detailed allegations relating to Sony’s marketing strategy and wrongful after-market modification  
24 of the PS3’s capabilities.

25 17. The firm is prepared to continue to devote the time and attention of its senior  
26 attorneys to litigating this matter thoroughly and efficiently, and its staff to assist in keeping the  
27 case running smoothly. For example, in just the past three weeks since this case has been filed,  
28 this firm has fielded hundreds of telephone calls and email messages from putative class members

1 concerning (i) the nature of the allegations contained in the Complaint, (ii) how they may  
2 participate in the lawsuit, and (iii) offering additional information concerning the impact of Sony's  
3 actions. MDPCE has an infrastructure in place that is fully capable of managing large class  
4 actions, and its systems are honed to effectively communicate with class members.

5 18. This firm is also well equipped and financially able to manage and organize large  
6 scale document productions. The firm's attorneys are experienced with working with all of the  
7 most commonly used document and record management electronic databases, including  
8 iCONNECT, Summation, Concordance, and LiveNote. The firm is a well-established professional  
9 corporation that has existed for 30 years, and has the financial resources to fund this class action  
10 just as it has funded previous class actions.

11 19. MDPCE's attorneys thus have the requisite knowledge of the substantive and  
12 procedural law to prosecute this class action. MDPCE has committed its resources to the vigorous  
13 litigation of this case, has identified appropriate claims, and is prepared to aggressively pursue  
14 discovery to establish the evidence necessary to obtain class certification and to prevail on the  
15 merits.

16 20. Attached hereto as Exhibit 1, for the Court's convenience, is a true and correct copy  
17 of the complaint filed in this matter.

18 21. Attached hereto as Exhibit 2 is a true and correct copy of the complaint filed in  
19 Wright v. Sony Computer Entertainment America, Inc., et al., Northern District of California Case  
20 Number 3:10-CV-01975-JL.

21 22. Attached hereto as Exhibit 3 is a true and correct copy of the complaint filed in  
22 Baker v. Sony Computer Entertainment America, LLC, Northern District of California Case  
23 Number 3:10-CV-01897-SC.

24 23. Attached hereto as Exhibit 4 is a true and correct copy of the complaint filed in  
25 Densmore v. Sony Computer Entertainment America, Inc., Northern District of California Case  
26 Number 3:10-CV-01945-EDL.

27 24. Attached hereto as Exhibit 5 is a true and correct copy of the Notice of Related  
28 Cases filed in the Wright matter.

