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11 Attorneys for Defendant  
 12 PODFITNESS, INC.

13 UNITED STATES DISTRICT COURT  
 14 NORTHERN DISTRICT OF CALIFORNIA  
 15 SAN FRANCISCO DIVISION

17 APPLE, INC.,

18 Plaintiff,

19 v.

20 PODFITNESS, INC., and DOES 1-100,  
 inclusive

21 Defendants.

Civil Action No. 4:06-cv-05805 SBA

**NOTICE OF DEPARTURE OF  
 22 PODFITNESS' IN-HOUSE COUNSEL,  
 STEVE HUTCHINSON**

23 The undersigned hereby provides notice to this Court and to Plaintiff, Apple, Inc.  
 24 ("Apple") that Mr. Steve Hutchinson, Esq., in-house counsel for Defendant, Podfitness, Inc.  
 25 ("Podfitness"), is no longer employed by Podfitness. The presence of in-house counsel at  
 26 Podfitness is a fact that is implicated in the Notice and Motion for Leave to Withdraw of  
 27 Workman Nydegger and Collette Erickson Farmer & O'Neill (Dkt. No. 59) and Apple's

1 Opposition to Podfitness' Motion To Stay Proceedings For Thirty Days Pending Engagement Of  
2 Substitute Counsel (Dkt. No. 65).

3 In support of its motion for leave to withdraw, counsel for Podfitness ("Counsel"),  
4 directed the Court to the following facts:

- 5 1. Irreconcilable differences have developed between Counsel and Podfitness, which  
6 differences make it impossible for Counsel to effectively represent Podfitness in  
7 this action;
- 8 2. Ample time remains for Podfitness to engage substitute outside counsel; and
- 9 3. If Podfitness chooses not to engage substitute outside counsel, it can proceed in  
10 this matter through representation by its full-time in-house counsel, Mr. Steve  
11 Hutchinson, Esq.

12 While the first two facts remain true, Counsel was notified yesterday, October 15, 2007,  
13 that Podfitness' in-house counsel, Steve Hutchinson, is no longer employed by Podfitness.

14 Counsel has confirmed with Podfitness' management that Mr. Hutchinson did not retain  
15 substitute outside counsel before he left Podfitness. Counsel has also confirmed that Podfitness  
16 is actively seeking substitute counsel. However, Podfitness has not yet engaged substitute  
17 outside counsel to represent it in this matter. Counsel submits that Mr. Hutchinson's departure  
18 from Podfitness does not materially alter the circumstance supporting its motion for leave to  
19 withdraw.

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1 DATED: October 16, 2007.

2 Respectfully submitted,

3 WORKMAN | NYDEGGER

4  
5 /s/ Charles J. Veverka  
6 1000 Eagle Gate Tower  
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14 Attorneys for Defendant and Counterclaimant  
15 Podfitness, Inc.

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**PROOF OF SERVICE**

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I hereby certify that on October 16, 2007, I electronically filed the foregoing with the Clerk of the Court by using the CM/ECF system which sent notification of such filing to the following: [Abrams@fr.com](mailto:Abrams@fr.com); [jacobalpren@quinnemanuel.com](mailto:jacobalpren@quinnemanuel.com); [raycock@wnlaw.com](mailto:raycock@wnlaw.com); [wfarmer@collette.com](mailto:wfarmer@collette.com); [rlawrence@collette.com](mailto:rlawrence@collette.com); [llaycock@wnlaw.com](mailto:llaycock@wnlaw.com); [jlewis@wnlaw.com](mailto:jlewis@wnlaw.com); [martens@fr.com](mailto:martens@fr.com); [miclean@fr.com](mailto:miclean@fr.com); [cveverka@wnlaw.com](mailto:cveverka@wnlaw.com) and served Podfitness separately at [hchays@podfitness.com](mailto:hchays@podfitness.com).

DATED October 16, 2007.

WORKMAN | NYDEGGER

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