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12 PODFITNESS, INC.

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

16 APPLE, INC.,  
17  
18 Plaintiff,  
19 v.  
20 PODFITNESS, INC., and DOES 1-100,  
21 inclusive  
22 Defendants.

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

**DECLARATION OF JEFF HAYS IN  
SUPPORT OF PODFITNESS' MOTION  
TO STAY PROCEEDINGS FOR THIRTY  
DAYS PENDING ENGAGEMENT  
OF SUBSTITUTE COUNSEL**

Judge: Hon. Sandra B. Armstrong

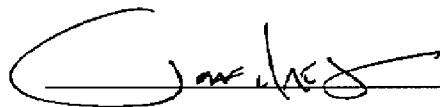
26 I, Jeff Hays, have personal knowledge of the facts stated below and, under penalty of perjury,  
27 hereby declare as follows:

- 28 1. I am competent to testify about the following statements from my own personal knowledge.

**DECLARATION OF JEFF HAYS**

- 1 2. I am the current President of Podfitness, Inc.
- 2 3. On Monday, October 15, 2007, Steven R. Hutchinson, Podfitness Vice President of Business
- 3 and Legal Affairs and in-house counsel for Podfitness, Inc., notified me that he was resigning,
- 4 with his resignation to be effective immediately.
- 5 4. At the time of his departure on Monday, October 15, 2007, Steven R. Hutchinson had not
- 6 found and/or engaged substitute legal counsel to represent Podfitness, Inc.
- 7 5. As a result of his abrupt departure, I have undertaken the task of locating and engaging
- 8 substitute legal counsel.
- 9 6. Unfortunately, since the location and engagement of substitute legal counsel was solely Mr.
- 10 Hutchinson's responsibility, I have had to start the search for legal counsel from square one.
- 11 7. I anticipate that educating substitute counsel, once found and retained, will take longer without
- 12 Mr. Hutchinson available to facilitate the transition.
- 13 8. Since Mr. Hutchinson's departure I have been searching for substitute outside counsel
- 14 9. As of the date of this declaration I have not yet been unable to locate and engage replacement
- 15 legal counsel.

16  
17 DATED this 22<sup>nd</sup> day of October 2007.

18  
19 

20 Jeff Hays  
21 President, Podfitness, Inc.