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Co-Lead Counsel for Plaintiffs

UNITED STATES DISTRICT COURT
 NORTHERN DISTRICT OF CALIFORNIA
 SAN JOSE DIVISION

THE APPLE IPOD ITUNES ANTI-TRUST
 LITIGATION

) Lead Case No. C-05-00037-JW(RS)

) CLASS ACTION

This Document Relates To:

ALL ACTIONS.

) DECLARATION OF THOMAS R.
) MERRICK IN SUPPORT OF PLAINTIFFS'
) MEMORANDUM IN OPPOSITION TO
) DEFENDANT'S MOTION FOR
) DECERTIFICATION OF RULE 23(b)(3)
) CLASS

Judge: Hon. James Ware
 Date: November 23, 2009
 Time: 9:00 a.m.
 CTRM: 8-4th Floor

1 I, THOMAS R. MERRICK, hereby declare as follows:

2 1. I am an attorney duly licensed to practice before all of the courts of the State of
3 California and am associated with the law firm of Coughlin Stoia Geller Rudman & Robbins LLP. I
4 have personal knowledge of the matters stated herein, and, if called upon, I could and would
5 competently testify thereto.

6 2. I am Co-Lead Counsel on behalf of plaintiffs Melanie Tucker, Mariana Rosen, and
7 Somtai Troy Charoensak in the above-captioned action.

8 3. I submit this declaration in support of Plaintiffs' Memorandum in Opposition to
9 Defendant's Motion for Decertification of Rule 23(b)(3) Class.

10 4. Attached hereto are true and correct copies of the following documents:

11 Exhibit 1: Relevant excerpts from the deposition transcript of Roger G. Noll, taken
12 September 19, 2008;

13 Exhibit 2: Relevant excerpts from the deposition transcript of Michelle M. Burtis,
14 Ph.D., taken September 30, 2009;

15 Exhibit 3: David L. Rubinfeld, *Quantitative Methods in Antitrust*, 1 Issues in
16 Competition Law & Policy 723 (ABA Section of Antitrust Law) (2008); and

17 Exhibit 4: Relevant excerpts from the transcript of proceeding regarding plaintiffs'
18 Motion for Class Certification, held December 16, 2008.

19 I declare under penalty of perjury under the laws of the United States of America that the
20 foregoing is true and correct. Executed this 19th day of October, 2009, at San Diego, California.

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s/ Thomas R. Merrick
THOMAS R. MERRICK

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CERTIFICATE OF SERVICE

I hereby certify that on October 19, 2009, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the e-mail addresses denoted on the attached Electronic Mail Notice List, and I hereby certify that I have mailed the foregoing document or paper via the United States Postal Service to the non-CM/ECF participants indicated on the attached Manual Notice List.

I certify under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on October 19, 2009.

s/ Thomas R. Merrick

THOMAS R. MERRICK

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Mailing Information for a Case 5:05-cv-00037-JW

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Manual Notice List

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